

January 2, 2024

VIA ELECTRONIC MAIL TO: jason_rebrook@harvestmidstream.com

Jason Rebrook
Chief Executive Officer
Harvest Alaska, LLC
3800 Centerpoint Dr., Suite 1000
Anchorage, Alaska 99503

Re: CPF No. 5-2023-008-NOPV

Dear Mr. Rebrook:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$0. Accordingly, this case is now closed. Service of the Final Order by e-mail is effective upon the date of transmission and acknowledgement of receipt as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Dustin Hubbard, Director, Western Region, Office of Pipeline Safety, PHMSA
Mr. Andrew Limmer, Vice President, Harvest Alaska, LLC,
alimmer@harvestmidstream.com
Mr. Harold Colgrove, Integrity & Regulatory Compliance Manager, Harvest Alaska,
LLC, harold.colgrove@harvestmidstream.com
Mr. Ben Hagedorn, Regulatory Compliance Specialist, Harvest Alaska, LLC,
ben.hagedorn@harvestmidstream.com

CONFIRMATION OF RECEIPT REQUESTED

**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

In the Matter of

Harvest Alaska, LLC,

Respondent.

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) **CPF No. 5-2023-008-NOPV**
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FINAL ORDER

From July 25 through July 29, 2022, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of Harvest Alaska, LLC's (Harvest or Respondent) Northstar Gas Pipeline in Anchorage, Alaska. Harvest, an affiliate of Harvest Midstream Company, is a privately held midstream services provider based in Anchorage, Alaska. Harvest operates pipeline systems in Alaska's Cook Inlet and on the North Slope, including the Northstar Gas Pipeline, a 10-inch, 16-mile gas transmission pipeline.¹

As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated July 5, 2023, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Harvest had violated 49 C.F.R. § 192.805(b) and proposed assessing a civil penalty of \$33,500 for the alleged violation. The Notice also included a warning item pursuant to 49 C.F.R. § 190.205, which warned the operator to correct the probable violation or face possible future enforcement action

Harvest responded to the Notice by letter dated August 2, 2023 (Response). Harvest did not contest any of the allegations but requested that the proposed civil penalty be reduced. Respondent did not request a hearing and therefore has waived its right to one.

FINDING OF VIOLATION

In its Response, Respondent did not contest the allegation in the Notice that it violated 49 C.F.R. Part 192, as follows:

¹ Harvest Midstream, History: Our Story, <https://www.harvestmidstream.com/about-us/history/> (last visited Sept. 26, 2023); Harvest Midstream, Harvest Alaska Acquires 49 Percent Stake in Taps And Alyeska (Aug. 27, 2019), <https://www.harvestmidstream.com/news/harvest-alaska-acquires-49-percent-stake-in-taps-and-alyeska/>.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.805(b), which states:

§ 192.805 Qualification program.

Each operator shall have and follow a written qualification program. The program shall include provisions to:

- (a)
- (b) Ensure through evaluation that individuals performing covered tasks are qualified;

The Notice alleged that Respondent violated 49 C.F.R. § 192.805(b) by failing to ensure through evaluation that individuals performing covered tasks are qualified. Specifically, the Notice alleged that a contractor completed an inspection of shutdown valve SDV-9420 on August 26, 2020, prior to being qualified to complete this task.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.805(b) by failing to ensure through evaluation that individuals performing covered tasks are qualified.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.²

In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; any effect that the penalty may have on its ability to continue doing business; the good faith of Respondent in attempting to comply with the pipeline safety regulations; and self-disclosure or actions to correct a violation prior to discovery by PHMSA. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require. The Notice proposed a total civil penalty of \$33,500 for the violation cited above.

Item 2: The Notice proposed a civil penalty of \$33,500 for Respondent's violation of 49 C.F.R. § 192.805(b), for failing to ensure through evaluation that individuals performing covered tasks are qualified. Respondent argued the penalty should be reduced for two reasons. First, Harvest argued it faced significant hardship with operator qualifications during the COVID-19 National Emergency. Harvest noted it should have, but failed to notify PHMSA of this hardship, as stated in PHMSA's Notice of Enforcement Discretion.³ Second, Harvest stated it has taken actions to

² These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223 for adjusted amounts.

³ On March 20, 2020, PHMSA issued a "Notice of Stay of Enforcement and Notice of Enforcement Discretion to Operators Affected by the Coronavirus (COVID-19) Outbreak," noting that PHMSA would refrain from enforcing

substantially improve the operator qualification program, including the introduction of automated reporting capabilities to track worker credentials and qualifications. In effect, Harvest notified PHMSA of the operator qualification hardship in its Response, as requested in the Notice of Enforcement Discretion.

Pursuant to the above-mentioned Notice of Enforcement Discretion, I may consider the impact the COVID-19 National Emergency had on Harvest's ability to comply with the operator qualification requirements. The Notice identified one valve inspection that was conducted by an unqualified individual. Two days after that inspection, Harvest qualified the individual. I find it appropriate to reduce the civil penalty because the noncompliance occurred while the Notice of Enforcement Discretion was in place and because the operator took prompt remedial action. Such circumstances warrant assessing a reduced civil penalty under the "other matters as justice may require" assessment criterion. Accordingly, I assess Respondent a reduced civil penalty of \$0 for the violation of 49 C.F.R. § 192.805(b).

WARNING ITEM

With respect to Item 1, the Notice alleged a probable violation of Part 192, but identified it as a warning item pursuant to § 190.205. The warning was for:

49 C.F.R. § 192.605(c)(1)(iii) (**Item 1**) — Respondent's alleged failure to provide a record documenting that an abnormal operating condition (AOC) had occurred after a loss of communications was discovered.

Harvest presented information in its Response showing that it had taken certain actions to address the cited item. If OPS finds a violation of this item in a subsequent inspection, Respondent may be subject to future enforcement action.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

January 2, 2024

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued

probable violations of the pipeline safety regulations if operators notify PHMSA of hardship due to COVID-19. *See* PHMSA, Notice of Stay of Enforcement and Notice of Enforcement Discretion to Operators Affected by the Coronavirus (COVID-19) Outbreak (March 20, 2020), <https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2020-03/PHMSA%20Notice%20on%20Enforcement.pdf>. PHMSA terminated the stay on May 19, 2021. PHMSA, Notice of Termination of the March 20, 2020 Stay of Enforcement and Notice of Enforcement Discretion to Operators Affected by the Coronavirus (COVID-19) Outbreak (May 19, 2021), [https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2021-05/Notice%20of%20Termination%20of%20COVID%20Stay%20of%20Enforcement Discretion.pdf](https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2021-05/Notice%20of%20Termination%20of%20COVID%20Stay%20of%20Enforcement%20Discretion.pdf).