



IN RE: PACIFIC ENERGY & MINING COMPANY

Docket No. 18-2602-01

HEARING

December 19, 2019



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Hearing
December 19, 2019

1 BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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7)Docket No. 18-2602-01

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In Re: PACIFIC ENERGY &)Presiding Officer:

MINING COMPANY)Michael Hammer

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10)

11 HEARING

12 Taken on Thursday, December 19, 2019

13 at 9:00 A.M.

14 At Public Service Commission of Utah

15 160 East 300 South

16 4th Floor

17 Salt Lake City, Utah 84111

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23 Reported by: Kellie Peterson, RPR, CSR

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1 December 19, 2019 9:00 A.M.

P R O C E E D I N G S

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3 PRESIDING OFFICER HAMMER: Good morning.

4 Let's go on the record, please. This is the time and
5 place noticed for hearing in the matter of Pacific Energy
6 & Mining Company, Commission Docket No. 18-2602-01.

7 My name is Michael Hammer. I'm the
8 Commission's designated presiding officer. Let's go
9 ahead and take appearances, please.

10 MS. SCHMID: Patricia E. Schmid, with the
11 Utah Attorney General's Office for the Division of Public
12 Utilities.

13 MR. TROUSDALE: Jeffrey Trousdale. I
14 represent George Hofmann, the Chapter 7 Trustee for the
15 bankruptcy estate for Pacific Energy & Mining Company.

16 PRESIDING OFFICER HAMMER: Are there any
17 other parties present? Has anyone -- yes, sir?

18 MR. BEGLEY: Sorry, we filed late yesterday.
19 Board counsel, assistant attorney general for Board of
20 Oil, Gas and Mining.

21 PRESIDING OFFICER HAMMER: Your name one more
22 time, sir?

23 MR. BEGLEY: Mike Begley.

24 PRESIDING OFFICER HAMMER: Mr. Begley, you
25 have not been granted an intervention, so I note your

1 appearance in the room.

2 Do you intend to participate in the
3 proceeding? You can come to counsel table and I'll hear
4 your motion to intervene, if that's your preference.

5 MR. BEGLEY: That is our preference. We
6 would like to move to intervene.

7 PRESIDING OFFICER HAMMER: Well, why don't
8 you go ahead and come to counsel table, and we will hear
9 from the other parties.

10 I will allow you to speak first, Mr. Begley.

11 MR. BEGLEY: Thank you, Mr. Hammer. I know
12 these are sensitive, so I hope I'm not shouting. Our
13 apologies for the late filing yesterday. We filed a
14 motion to intervene.

15 Again, I'm representing the Board of Oil, Gas
16 and Mining in this dispute. Although, the Division of
17 Oil, Gas and Mining counsel is here as well, the board is
18 the entity or agency that filed yesterday, and the reason
19 of which was that this matter involving Wesco, which is,
20 I believe, a gas producer around the area of this
21 pipeline.

22 In fact, I believe they have 18 wells that
23 are going into the gas -- a gas plant around Moab. And
24 on December 11, I believe in the regular scheduled board
25 hearing, the Wesco matter was brought to the board's

1 attention. And with respect to the issue at hand, their
2 gas plant was -- and Wesco moved for relief for the board
3 to actually allow flaring of gas, which is statutorily
4 defined or, at least with respect to the board's
5 perspective, a waste of a natural -- a vital natural
6 resource.

7 And in following up after the board hearing,
8 we've come to understand that there is quite the
9 complexity involving the pipeline at issue. I've had, at
10 least, one conference call with -- forgive me, with
11 Patricia, trying to get the background of the dispute.

12 And so the board wants to, at least,
13 intervene for the purpose of seeing whether or not there
14 is -- at least for the hearing officer and for the Public
15 Service Commission, to understand and appreciate the
16 difficult situation the board is in, when the pipeline
17 may be decommissioned, or at least that's the relief, I
18 believe, that's being requested.

19 And that the board would want to be able to
20 be on the record to be able to say a couple of different
21 things. One is that the board is not in the situation
22 that -- their statutory mandate is that they cannot allow
23 waste to occur or flaring for only -- excuse me, for very
24 limited, temporary, emergency-type situations.

25 And the facts as we know them seem to

1 indicate that either a bankruptcy proceeding or ownership
2 issues or issues regarding the safety of a pipeline all
3 would create a situation and scenario where it would be
4 untenable for the board to then allow flaring to
5 perpetuity.

6 So the board would like to intervene and make
7 sure that everybody, at least, understands the factual
8 context regarding the situation, regarding the pipeline
9 and other players and other state agencies within Utah.
10 And that's the principal reason we're here.

11 And also to -- secondarily, there has been
12 litigation involving boards being sued for flaring by
13 various other groups. This particular gas plant is right
14 adjacent to our -- close in proximity to the town of
15 Moab, and so we're also here to protect the interests of
16 the Board of Oil, Gas and Mining to the extent there is
17 any exposure going forward for a decommission pipeline
18 that has no clear answer in terms of when gas will be
19 flowing again.

20 PRESIDING OFFICER HAMMER: All right. I have
21 some questions for you, but before we do that, I would
22 like to hear from the other parties, just on the matter
23 of intervention and whether there is any objection to
24 Mr. Begley's participation today. Ms. Schmid?

25 MS. SCHMID: The Division has no objection to

1 the intervention and his participation today but requests
2 that the Division be able to make a statement concerning
3 the points that he has raised in his statements so far
4 this morning as some point.

5 PRESIDING OFFICER HAMMER: I'll allow you to
6 do that. Let me hear from Mr. Trousdale.

7 MR. TROUSDALE: No objection.

8 PRESIDING OFFICER HAMMER: All right. I
9 suppose we will go back to you, Ms. Schmid. Go ahead
10 make your statement.

11 MS. SCHMID: Thank you. The Division of
12 Public Utilities is concerned about public safety. The
13 Division of Public Utilities is also concerned about
14 waste, the effect on the environment, the effect on
15 taxes, royalties and impacts on local communities.

16 However paramount, in our minds, is the
17 public safety, and it is because of that, that we are
18 requesting the Commission order deactivation and a
19 penalty assessed today. Thank you.

20 PRESIDING OFFICER HAMMER: Mr. Trousdale, do
21 you have anything you would like to say?

22 MR. TROUSDALE: I believe my role here is
23 relatively limited, to be frank.

24 PRESIDING OFFICER HAMMER: Understood.

25 I suppose my question for you, Mr. Begley,

1 then, forgive me, I'm not terribly familiar with the
2 Board of Oil, Gas and Mining, the company you refer to
3 that is engaged in -- is it oil drilling? Wesco, is that
4 the name of the company?

5 MR. BEGLEY: Yes, Mr. Hammer. Wesco is the
6 entity that is before the board in various different
7 matters, but they are apparently the operator and/or
8 owner of the gas plant.

9 PRESIDING OFFICER HAMMER: And the concern is
10 that if Wesco continues to conduct its primarily oil
11 drilling operations and the pipeline is unavailable, that
12 flaring will be necessary?

13 MR. BEGLEY: Correct. Actually, the board
14 did, on December 12, issue a 30-day order, temporary
15 order, allowing for flaring at this time.

16 PRESIDING OFFICER HAMMER: Does the board
17 have authority to order Wesco to cease operations if the
18 pipeline is unavailable?

19 MR. BEGLEY: Unfortunately, I think the
20 testimony, particularly in this area, geologically, is
21 that there -- at least from Wesco's perspective, that the
22 shut-in or choking back, the couple of different
23 alternatives to flaring, would actually cause damage to
24 the reservoir.

25 And the testimony before the board is that

1 shutting in or choking back, as those alternatives are
2 not available at the present time with respect to this.
3 So flaring was the only alternative.

4 Q. Okay. Well, I suppose we'll need to develop
5 that factual record much more elaborately than probably
6 is appropriate at this juncture, but I think that will be
7 the question as we weigh the competing interests of this,
8 essentially, public safety issue versus your, obviously,
9 legitimate concerns.

10 I'm a bit concerned that none of the pipeline
11 parties are present today.

12 Does anyone know why? Was anyone provided
13 any notice of their intention to participate?

14 MR. SPENCER: My name is Terry Spencer. I'm
15 counsel for PEMC. I was informed by the bankruptcy
16 trustee that I'm not permitted to participate in the
17 hearing, but I'm here.

18 PRESIDING OFFICER HAMMER: Thank you,
19 Mr. Spencer.

20 What about Dead Horse? Is there a --

21 MR. CHRISTENSEN: I'm Alden Christensen. I'm
22 the operator of Dead Horse Oil, LLC.

23 PRESIDING OFFICER HAMMER: Did you have an
24 intention to participate in the hearing, Mr. Christensen?

25 MR. CHRISTENSEN: No.

1 MS. SCHMID: And if I may, JMD Resources
2 previously indicated it would participate in the hearing,
3 but I do not see its registered agent or others
4 associated in the hearing room today.

5 PRESIDING OFFICER HAMMER: All right. If
6 I --

7 MR. TROUSDALE: If I may as well, I want to
8 make it clear on the record the PEMC is the debtor in a
9 Chapter 7 bankruptcy. The trustee controls that debtor.

10 Mr. Spencer can appear on behalf of other
11 entities. I mean, there is no restriction for that.
12 However, with respect to the entity that is in
13 bankruptcy, only the trustee is authorized to take action
14 on its behalf.

15 PRESIDING OFFICER HAMMER: Understood,
16 Mr. Trousdale.

17 Let me ask, do you know, with respect to the
18 pipeline at issue in this proceeding, who currently owns
19 it?

20 MR. TROUSDALE: We are investigating that but
21 we don't know. There is nothing I have seen that clearly
22 establishes that PEMC owns it. I've received information
23 that suggests that JND Enterprises and -- or James
24 Resources, Inc., and Entrata, LLC, co-own the pipeline.
25 I've seen information contrary to that, but it is all

1 sort of up in the air.

2 There are statutory powers available to a
3 Chapter 7 trustee to undo certain transactions, to look
4 back into the history of the debtor and see what
5 happened, and that is what we are looking at. However,
6 there is nothing conclusive at this time.

7 PRESIDING OFFICER HAMMER: All right. Well,
8 of the parties who are present in this room, I believe
9 the Division of Public Utilities is the only one that
10 has -- that is prepared to participate and complied with
11 the scheduling order and provided a list of issues to be
12 addressed at the hearing today.

13 So unless there are any other preliminary
14 matters, Ms. Schmid, I will allow you to call your first
15 witness.

16 MR. BEGLEY: Mr. Hammer, sorry to interrupt,
17 just for the record, is the motion for the Board of Oil,
18 Gas and Mining granted to participate?

19 PRESIDING OFFICER HAMMER: Yes. And I'm
20 sorry for not stating that earlier.

21 MR. BEGLEY: Thank you.

22 MS. SCHMID: The Division would like to call
23 Mr. Jimmy Betham as its witness.

24 Could he please be sworn and called to the
25 witness stand?

1 PRESIDING OFFICER HAMMER: Yes. Mr. Betham,
2 please approach.

3 DIRECT EXAMINATION

4 JIMMY BETHAM,

5 called as a witness, having been first duly sworn,
6 was examined and testified as follows:

7 BY MS. SCHMID:

8 Q. Good morning.

9 A. Good morning.

10 Q. I have a few preliminary questions. By whom
11 are you employed, what is your title and what is your
12 business address?

13 A. I'm employed by the Division of Public
14 Utilities, pipeline safety sector. My name is Jimmy
15 Betham. I'm a pipeline safety engineer.

16 Q. In conjunction with your employment by the
17 Division, have you participated in this docket?

18 A. Yes.

19 Q. Did you prepare --

20 MS. SCHMID: Or actually, if I may have a
21 moment, I would like to request permission to pass out
22 some hearing exhibit books that we have prepared.

23 PRESIDING OFFICER HAMMER: Of course. While
24 she is doing that, I apologize to the parties. I'm
25 contending with a bout of the flu, but I will do my best

1 from sniffing in the microphone and control my coughing,
2 so please excuse my voice.

3 BY MS. SCHMID:

4 Q. In conjunction with your employment -- or
5 actually, do you have a copy of the hearing book?

6 A. No.

7 (The witness was handed the hearing book.)

8 BY MS. SCHMID:

9 Q. Okay. If you could open what's entitled,
10 "The Division of Public Utilities hearing exhibits for
11 hearing December 19 through 20, 2019," to the first page,
12 which is an index. I will ask you some questions about
13 some documents.

14 A. Okay.

15 Q. Did you participate in providing what is
16 marked for identification as Hearing Exhibit No. 1, the
17 Division's response to the Commission's action request,
18 dated March 26, 2019 and in particular, did you
19 participate in preparing what is marked as Attachment 1
20 to that document? It's a memorandum entitled, "Action
21 request response from the Division to the Commission."

22 A. Yes.

23 MS. SCHMID: The Division would like to
24 request the admission of Hearing Exhibit No. 1.

25 PRESIDING OFFICER HAMMER: It's admitted.

1 (Hearing Exhibit No. 1 was
2 marked for identification.)

3 BY MS. SCHMID:

4 Q. In your conjunction with your employment at
5 the Division, could you please tell us if you are
6 familiar with what has been marked as Hearing Exhibit No.
7 3, which is the PEMC PHMSA operator registry
8 notification, OPID 39049 deactivation?

9 A. Yes.

10 Q. And is it true that this document was
11 provided by Pacific Energy & Mining Company to PHMSA and
12 represents that PEMC will no longer be the operator of
13 what we have been calling the Paradox Pipeline, effective
14 05/14/19? And it is found on the second page of that
15 hearing exhibit?

16 A. Yes, I see that.

17 MS. SCHMID: With that, the Division would
18 like to move for the admission of Hearing Exhibit No. 3.

19 PRESIDING OFFICER HAMMER: Permit me a
20 question.

21 Mr. Betham, do you know how the Division of
22 Public Utilities came to be in possession of this
23 document?

24 THE WITNESS: Whenever an operator submits a
25 change or acquisition of a pipeline, existing pipeline,

1 such as the one in Moab, our federal partners, which is
2 PHMSA, would receive notice from the operator and that
3 notice would be forwarded on to state agents, such as our
4 Division.

5 PRESIDING OFFICER HAMMER: Thank you.

6 THE WITNESS: So that is how we can get into
7 possession of this.

8 PRESIDING OFFICER HAMMER: It's admitted.

9 (Hearing Exhibit No. 3 was
10 marked for identification.)

11 BY MS. SCHMID:

12 Q. Mr. Betham, if you'd turn to what has been
13 marked as Hearing Exhibit No. 6, which is entitled, "The
14 Division status update," dated June 12, 2019.

15 Are you familiar with this document in
16 conjunction with your employment with the Division?

17 A. Yes.

18 Q. Do you know if this was prepared by the
19 Division and its pipeline safety section?

20 A. Yes.

21 Q. And you have personal knowledge of that fact?

22 A. Yes.

23 MS. SCHMID: With that, the Division would
24 like to move for the admission of Hearing Exhibit No. 6.

25 PRESIDING OFFICER HAMMER: It's admitted.

1 (Hearing Exhibit No. 6 was
2 marked for identification.)

3 BY MS. SCHMID:

4 Q. Now let's turn to hearing Exhibit No. 10. It
5 is the Division's report responding to the Commission's
6 June 14, 2019 order.

7 Are you familiar with this document?

8 A. Yes.

9 Q. In conjunction with your employment at the
10 Division, did you participate in the preparation and
11 filing of this document?

12 A. That's correct. Yes.

13 MS. SCHMID: With that, the Division would
14 like to move for the admission for Hearing Exhibit No.
15 10.

16 PRESIDING OFFICER HAMMER: It's admitted.
17 (Hearing Exhibit No. 10 was
18 marked for identification.)

19 MS. SCHMID: And I will note that hearing
20 Exhibit No. 10 has 14 attached exhibits, and I would also
21 like to move that those attached exhibits, which were
22 also filed contemporaneously with the Division's
23 memorandum, be admitted as exhibits as well.

24 PRESIDING OFFICER HAMMER: They are admitted.

25 MS. SCHMID: Thank you.

1 BY MS. SCHMID:

2 Q. Now let's turn to Hearing Exhibit No. 13,
3 please. This is an OPID assignment request, assigning an
4 OPID, which is an operator identification number, to Dead
5 Horse.

6 Are you familiar with this document?

7 A. Yes.

8 Q. Is this a document that the Division would
9 have received from PHMSA in conjunction with the
10 Division's responsibilities under its pipeline safety
11 enforcements and inspection certificate?

12 A. Yes.

13 Q. Is it true that this document represents, on
14 its face, that the new operator is Dead Horse Oil
15 Company?

16 A. Yes.

17 Q. And that the date stated in this document for
18 the OPID assignment request is August 21st of 2019?

19 A. Yes, I can confirm that.

20 MS. SCHMID: With that, the Division would
21 like to move for the admission of Hearing Exhibit No. 13.

22 PRESIDING OFFICER HAMMER: It's admitted.

23 (Hearing Exhibit No. 13 was
24 marked for identification.)

25 BY MS. SCHMID:

1 Q. Let's turn now to Hearing Exhibit No. 14,
2 which has been marked for identification. That is the
3 Paradox Pipeline Interim Pipeline Monitoring Program
4 served by Terry Spencer, and the second page of the
5 program itself is entitled, "Pacific Energy & Mining
6 Company Interim Pipeline Monitoring Program."

7 Are you familiar with this document?

8 A. Yes.

9 MS. SCHMID: With that, I would like to move
10 for the admission of Hearing Exhibit No. 14, which was a
11 document filed by PEMC, I believe, with the Commission.

12 PRESIDING OFFICER HAMMER: It's admitted.

13 (Hearing Exhibit No. 14 was
14 marked for identification.)

15 BY MS. SCHMID:

16 Q. I would now like to move to Hearing Exhibit
17 No. 17, which has been marked for identification as
18 Division's response to the Commission's August 22, 2019
19 action request.

20 Are you familiar with this document?

21 A. Yes.

22 Q. Did you participate in preparation of this
23 document in conjunction with your employment with the
24 Division?

25 A. Yes.

1 MS. SCHMID: With that, the Division would
2 like to move for the admission of what has been marked as
3 Hearing Exhibit No. 17.

4 PRESIDING OFFICER HAMMER: It's admitted.
5 (Hearing Exhibit No. 17 was
6 marked for identification.)

7 BY MS. SCHMID:

8 Q. Mr. Betham, do you adopt the hearing exhibits
9 that have been admitted today as part of your testimony
10 before this Commission and Hearing Officer?

11 A. Yes.

12 Q. With that, I would like to move to the
13 Division's request for deactivation of what we have been
14 calling the Paradox Pipeline. I have some questions with
15 regard to that.

16 A. Okay.

17 Q. First of all, Mr. Betham, are you familiar
18 with the fact that pipeline operations were suspended
19 consistent or in response to the Commission's hazardous
20 facility order of April 10, 2019?

21 A. Was I familiar with it?

22 Q. The fact that operations were suspended?

23 A. We just had the operator's word, but we had
24 to verify that through a field observation.

25 Q. Can you tell us the results of your field

1 **operation?**

2 A. So our field operation took place in June,
3 and we observed the pipeline's condition starting at the
4 west -- the Northwest interconnect, which is located
5 right off the road on the way to Moab. And we started
6 there, and we observed the conditions of their pig
7 receiving outside of the Northwest Pipeline gated area.

8 So we observed there, and we moved on to
9 their block valve, which is near the Moab airport, and
10 then we went to Wesco, observed the condition of the
11 pipeline at the Wesco tie-in point at the Blue Hill's
12 plant and then continued on the way down to the end of
13 the -- or the beginning of the pipeline, which was the
14 pig launcher and the beginning of the transmission line.

15 **Q. Did you review what has been marked and**
16 **admitted as Hearing Exhibit No. 17, which are the**
17 **comments from the DPU regarding the Interim Pipeline**
18 **Monitoring Program?**

19 A. Yes, we did review that.

20 **Q. Could you please summarize for us why the**
21 **Division found the Interim Pipeline Monitoring Program**
22 **insufficient, and it did not bring the Paradox Pipeline**
23 **into compliance?**

24 A. Yes. When we received their interim plan, we
25 found it insufficient because there was some

1 issues -- let me just turn to it, to review the -- there
2 was some issues we had, as far as how they were going to
3 perform the deactivation of the pipeline and the type of
4 equipment that they needed to use, the type of procedure
5 that they were supposed to perform, and to have the
6 documentation records evolved to perform the shutdown of
7 the pipeline.

8 **Q. Is it true that when the Division filed**
9 **documents addressing the possibility of an interim**
10 **monitoring program, the Division stated that -- and I**
11 **paraphrase, that at a minimum, there needed to be a leak**
12 **survey done, including an initial leak survey, pathotic**
13 **protection, provided, monitored and documented as would**
14 **be done with the leak survey, and patrolling also done,**
15 **monitored and documentation provided?**

16 A. Yes. So starting with the leak survey, a
17 leak survey had to be performed along the 21 miles of the
18 pipeline to identify any leaks. And the pathotic
19 protection had to be performed as well to see the
20 condition of the pipe, to see if it was -- if there was
21 still protection as far as protecting it from corroding.

22 And then the patrolling, to patrol along the
23 pipeline to see if there was any activity, such as part
24 of their -- if anybody was doing any construction
25 activity along the line. So a lot of those things had to

1 be in play to provide safety for the pipeline. So a lot
2 of it wasn't spelled out in their interim plan, so we
3 felt that that was insufficient. It didn't meet those
4 needs.

5 **Q. And focusing just on the leak survey, I**
6 **believe that the filed interim program indicated that**
7 **pressures would be taken at certain points and recorded;**
8 **is that correct? According to your recollection of what**
9 **was filed for the interim monitoring program?**

10 A. That is correct. However, just reading the
11 pressure is not enough to perform a leak survey. A leak
12 survey encompass a lot more steps as far as just reading
13 pressure gauges. You have to literally walk over the
14 pipeline, use approved equipment to pick up any natural
15 gas along the line, and be able to identify those areas
16 that if you do come across a leak along the pipeline,
17 that you know what you need to do in case of an emergency
18 situation.

19 **Q. Did the Division conduct a site visit in**
20 **October of this year of the pipeline?**

21 A. Yes.

22 **Q. I'm going to is ask you a few questions about**
23 **that.**

24 PRESIDING OFFICER HAMMER: Ms. Schmid, can I
25 ask you to put a pin in that for one minute, and do you

1 mind if I ask a question?

2 MS. SCHMID: Of course.

3 PRESIDING OFFICER HAMMER: Mr. Betham -- and
4 Ms. Schmid, this is, essentially, a procedural issue, if
5 you would like to answer as well, that is fine.

6 But can you lay foundation as to the impetus
7 behind the pipeline monitoring program? Help us
8 understand for the record why this was being negotiated
9 and its purpose. And is there a reference in the CFRs or
10 Utah Administrative Code or Statutory Code that requires
11 this or suggest that it be done?

12 MS. SCHMID: I can address that in a limited
13 fashion. To my knowledge, there is not a specific
14 provision in the CFR that has monitoring prescriptive
15 procedures that must be done. Instead what is in the CFR
16 is steps that must be done to comply with the pipeline
17 regulations.

18 Those compliant steps must be taken, and the
19 Division did not waive the necessity of complying with
20 those when it responded to the interim monitoring plan
21 that was filed. During this process, the Division has
22 spoken with various entities involved with the pipeline
23 and has had settlement-type meetings with those entities.

24 Without going too far into what could be
25 considered settlement talks, and I believe that I'm

1 permitted to say this, the interim monitoring program
2 filing came out as a result of some of those.

3 PRESIDING OFFICER HAMMER: Understood. So,
4 essentially, the requirement of the monitoring program
5 were a stipulated compromise as to what would be required
6 for the Division of Public Utilities to be satisfied that
7 the pipeline was compliant with the HFO on a
8 going-forward basis, assuming it wasn't operating?

9 MS. SCHMID: Perhaps "stipulated" is too
10 formal of a word. It was the Division's recommendations.
11 The Division, again, did note that merely having a
12 monitoring program does not absolve a pipeline operator
13 and a pipeline of the responsibility to comply with the
14 pertinent regulations.

15 PRESIDING OFFICER HAMMER: Of course. But my
16 understanding is the HFO ordered the pipeline to cease
17 operations, but there were concerns about the fact that
18 it was still packed with gas and remained unsafe.

19 So was the intent of the monitoring program
20 to alleviate those concerns?

21 MS. SCHMID: As I understand it, the intent
22 of the monitoring program was to help move the pipeline
23 and operators into compliance. It is -- although, it is
24 not mentioned in the CFR, it is an industry standard for
25 pipeline and pipeline operators to employ an interim

1 monitoring program when something happens.

2 In our case, the something that happened was
3 the imposition of the hazardous facility order and the
4 fact that compliance had not yet been obtained by the
5 pipeline. Often, an interim monitoring program is a
6 result of some sort of third-party damage or something.
7 It is something that an operator undertakes as an extra
8 and to provide a status report on an ongoing basis of
9 what is exactly happening with the pipeline.

10 Again, it does not supplant the other things.
11 What the Division had talked with parties about was the
12 three specific things as a minimum and the monitoring
13 plan did not meet those minimum things.

14 PRESIDING OFFICER HAMMER: I think I
15 understand. Thank you.

16 MS. SCHMID: And actually, let's just turn
17 to -- let's do this: I'm putting before you what let's
18 mark as Hearing Exhibit No. -- and let's just start at --

19 PRESIDING OFFICER HAMMER: You left off at
20 22. 23 would be the next number.

21 MS. SCHMID: Perfect. Let's mark it as 23.

22 BY MS. SCHMID:

23 **Q. Does what I have put before you and marked**
24 **for identification as Hearing Exhibit No. 23 represent**
25 **copies of photographs that you took when you did your**

1 compliance verification site visit on October 18, 2019?

2 A. Yes, that's correct.

3 Q. Are there any points in this packet that you
4 would like to emphasize, or would you like the Commission
5 to just review the packet as a whole?

6 A. To review the packet as a whole.

7 Q. Okay.

8 MS. SCHMID: With that, I would like to move
9 for the admission of DPU Hearing Exhibit No. 23.

10 PRESIDING OFFICER HAMMER: It's admitted.

11 (Hearing Exhibit No. 23 was
12 marked for identification.)

13 BY MS. SCHMID:

14 Q. And also did the Division, and you in
15 particular, participate in a site visit of the pipeline
16 on December 13, 2019?

17 A. Yes.

18 MS. SCHMID: And if I can have those
19 distributed and marked for identification as DPU Hearing
20 Exhibit No. 23, we will discuss it.

21 PRESIDING OFFICER HAMMER: Excuse me, this
22 will be 24 that you are about to distribute.

23 MS. SCHMID: 24? Thank you.

24 BY MS. SCHMID:

25 Q. While that is being passed out, I'm just

1 going to ask you some questions about your observations
2 and recollections from that site visit.

3 Do you recall if there was a physical
4 separation between what I'm going to call the top of the
5 plant or the top of the pipeline on the end where the
6 Dead Horse and Greentown Oil and Gas wells are, if there
7 was a physical separation, such as a separation of the
8 Pipe A and B so there was a gap in between, or temporary
9 phalanges put in place?

10 A. Are you referring to the Northwest
11 interconnect?

12 Q. No, I'm referring to the top of the pipeline.

13 A. Top of the pipeline? So at the top of the
14 pipeline, we did not observe any physical separation from
15 the gathering system to the start of the transmission
16 line.

17 Q. Perfect. Was there any physical separation
18 at the bottom of the pipeline, where it would go into the
19 Northwest Pipeline facilities?

20 A. During the site visits, we did not observe
21 any physical separation from the Northwest interconnect
22 from the two points of the pipeline.

23 Q. Is it your testimony that the 11 outstanding
24 violations that were noted in the hazardous facility
25 ordered April 10, 2019 are still uncured?

1 A. Yes.

2 Q. Is it your testimony that as a matter of
3 public safety, deactivation of this pipeline is required?

4 A. Required and our only option that we had.

5 Q. Let's talk a little bit -- and please indulge
6 me because I'm not an engineer. I try to be one every
7 now and then but I'm not.

8 Could you explain what "deactivation" is in
9 layman's terms?

10 A. I'll try to be simple as possible.

11 Q. Thank you.

12 A. So deactivation starts with the reduction of
13 pressure, for one, and reduction of pressure requires
14 that all the valves remain in a closed position, locked
15 and secured. And once that is accomplished, then the
16 remaining residual gas that is left within the pipeline
17 needs to be purged completely so that there is no natural
18 gas that's left in the pipeline, because we're concerned
19 about that.

20 So there had to be procedures to purge the
21 pipeline of natural gas to replace it with either a
22 medium, such as water or air or nitrogen. And once that
23 is completed, then it is disconnected from the other
24 points of entry and points of exit, where you put a cap
25 or some kind of a mechanism to separate the pipeline from

1 any distribution of gas within the pipeline.

2 **Q. So there are specific steps that must be**
3 **taken to do that. Correct?**

4 A. Yes.

5 **Q. Once those steps have been taken and the**
6 **pipeline is deactivated, can the pipeline be restored to**
7 **what I'm going to call "normal operations" or its regular**
8 **active status?**

9 A. Yes, it can be restored after doing
10 modifications, such as removing the phalange that kept
11 the pipeline from distributing gas or transporting gas.

12 **Q. Is it your testimony then that deactivation**
13 **is required now or as soon as possible?**

14 A. That is correct, because we don't -- we're
15 not confident, based on -- typically, we would have
16 records of the work that's being done, such as the
17 maintenance and work that was done. Because none of
18 those records have been provided to us, we don't have
19 that confidence that this pipeline is operated in a safe
20 manner.

21 **Q. And let's just go back for a moment, why is**
22 **having records and documentations of policies and**
23 **procedures and training important?**

24 A. It's important because from my line of work,
25 we don't -- we don't hold the hand of the operator and

1 because our resources -- we do our best to arrive onsite
2 and our duty is to look at their procedures. If they
3 have good procedures of operating the pipeline, once we
4 inspect that, we move forward to how well are they
5 following those procedures through their records.

6 And the records is a good indication that
7 they are a prudent and a proactive operator, to want to
8 try to keep the pipeline safe. And once those records
9 are reviewed, then we do a site visit on their facilities
10 to determine that those records are in conjunction with
11 what they are doing out in the field.

12 And if the records are not provided at the
13 time of inspection, it doesn't give us an indication or
14 confidence, again, to know they are operating this
15 pipeline safely.

16 **Q. At some point -- and I'm not sure of the**
17 **exact date, but at some point, Dead Horse Oil Company,**
18 **LLC, became the operator of the pipeline.**

19 **Do you have confidence that this new operator**
20 **is making meaningful progress towards compliance?**

21 A. Well, in order for my confidence to be
22 assured, for one, we would have to have the procedures
23 that we would request from the operator and that they
24 would start to use those procedures as part of their
25 documentation in maintaining the pipeline.

1 But because we didn't receive those
2 procedures or have any recollection of if they were going
3 to adopt the previous operator's procedures, we just
4 didn't know. And because we didn't know, we just don't
5 have that assurance that the new operators of the
6 pipeline are operating in a safe manner.

7 **Q. Does the fact that the new operator Dead
8 Horse -- let me rephrase the question, just a minute.**

9 MS. SCHMID: Could I have just a moment,
10 please?

11 PRESIDING OFFICER HAMMER: Of course. Would
12 you like a recess or --

13 MS. SCHMID: Just a couple moments, thank
14 you. I will just continue.

15 BY MS. SCHMID:

16 **Q. We talked earlier about how PHMSA provides
17 copies of certain documents to the Division as part of
18 the Division's records and its duties to do the
19 enforcement and inspection of the intrastate pipelines.
20 Do you remember that discussion?**

21 A. Yes.

22 **Q. Do you recall if PHMSA sent a letter to Dead
23 Horse indicating that Dead Horse had been, I will use the
24 word, "derelict" in not requesting, of its own volition,
25 an operator ID?**

1 A. I believe the discussion was that because
2 there was a new operator, it required them to request
3 PHMSA to have a new OPID.

4 And because that OPID had a certain time
5 limit after they took over the pipeline -- that time
6 limit, I believe, was 30 days, and because they didn't
7 meet that 30 days, PHMSA came back and said they were in
8 violation of that for not reporting that they were the
9 new operator and a new OPID had to be submitted.

10 **Q. Does the fact that Dead Horse did not comply**
11 **with the OPID number request procedures install**
12 **confidence in the Division that Dead Horse will be a**
13 **prudent operator?**

14 A. Yes, because it's required that any --

15 **Q. Pardon me, let me rephrase. It does or does**
16 **not install confidence that Dead Horse will follow the**
17 **rules and regulations?**

18 A. No.

19 **Q. Turning now to the second part of the**
20 **Division's plea for relief, the Division has requested**
21 **that if deactivation is not achieved and proven, and**
22 **proven is a very important point, by the date specified**
23 **by the Commission, the Commission assessed penalties for**
24 **that failure; do you recall that?**

25 A. Yes.

1 **Q. Do you recall the nature of amount of**
2 **penalties that the Division requested be assessed?**

3 A. Was that during the hazardous facility order
4 or the request now?

5 **Q. It was the request for this hearing and --**

6 A. I believe it is the maximum penalty, and the
7 maximum penalty -- would you like me to give the amount?

8 **Q. No. But can we turn to the Commission's**
9 **statutes and see that in regulations?**

10 A. Yes.

11 **Q. Okay. If you know it offhand, that would be**
12 **helpful, though.**

13 A. I believe the maximum penalty would be
14 \$1 million.

15 **Q. Okay. Why is the Division convinced that**
16 **deactivation is needed? Are there other methods that the**
17 **Division could have tried that would accomplish a safe**
18 **and compliant pipeline?**

19 A. I would say that we tried to explore
20 different options, what needed to be done, but because we
21 didn't receive procedures and records of how this
22 pipeline was maintained, we just don't know. And because
23 we didn't know, we erred on the side of caution and
24 believed this was the best option for us, to request a
25 deactivation of this pipeline.

1 Now, the operator did provide that they shut
2 the pipeline in. However, we did have concerns about the
3 gas still being under the ground or within the pipeline.
4 And because of that, we felt that that was our only
5 option, to request deactivation of the line.

6 **Q. Are there particular characteristics of this**
7 **pipeline, such as its location, that make deactivation**
8 **the only option?**

9 A. Yes. Although it is in a Class 1 location, a
10 Class 1 location means that there is not very many people
11 who physically live around the pipeline. However, Moab
12 is one of the heaviest outdoor recreation activities,
13 where you have Jeep Safari, you have cyclists, you have
14 many people in outdoor activities near that pipeline.

15 And we felt that that pipeline could be a
16 safety concern. If not being kept according to its
17 maintenance and operation procedures, that it can be a
18 concern to the public.

19 **Q. And a public safety concern; is that right?**

20 A. That is correct.

21 **Q. Does the Division recognize that having a**
22 **pipeline shut-in can affect reservoir pressures and**
23 **production and can result in flaring or venting of gas?**

24 A. Restate that question again.

25 **Q. Does the Division recognize that if a**

1 pipeline is shut-in and gas that normally flows into the
2 pipeline can't get into the pipeline anymore, that
3 venting or flaring of gas may be required or that if the
4 wells are shut-in. There can be reservoir damage?

5 A. Yes.

6 Q. With that, why is the Division recommending
7 that the pipeline be deactivated now?

8 A. We want to deactivate it because we want to
9 keep the pipeline safe -- well, not the pipeline, the
10 public safe. And although we don't want flaring, because
11 we're concerned about the environment as well, but
12 deactivation allows us to have that confidence and
13 assurance that this pipeline will be in a safe condition
14 for the public safety.

15 Q. Thank you. Is there a time by which the
16 Division would request the Commission order deactivation?

17 A. As soon as possible.

18 MS. SCHMID: With that, the Division has no
19 more questions for this witness at this time and makes
20 Mr. Betham available for cross-examination questions from
21 the parties and from the Hearing Officer.

22 Actually, we may come back once we
23 have -- actually, can I circulate and then move for the
24 admission of what has been -- what we would like to mark
25 as DPU Hearing Exhibit No. 24?

1 PRESIDING OFFICER HAMMER: Yes, go ahead and
2 circulate it, please.

3 MS. SCHMID: I apologize, these copies have
4 not been premarked with a hearing exhibit number.

5 PRESIDING OFFICER HAMMER: We will mark it
6 Exhibit 24.

7 MS. SCHMID: Thank you.

8 BY MS. SCHMID:

9 **Q. Mr. Betham, earlier this morning, we talked a**
10 **little bit about the Division site visit to the pipeline**
11 **on December 13, 2019.**

12 Do you recall that discussion?

13 A. Yes.

14 **Q. As part of that site visit, did the Division**
15 **take pictures and prepare -- of things it saw and then**
16 **prepare what has been marked as DPU Hearing Exhibit No.**
17 **24?**

18 A. Yes.

19 **Q. If you could quickly look through what I have**
20 **passed you and just make sure that I have the correct**
21 **pictures?**

22 MS SCHMID: With that, the Division would
23 like to move for the admission of Hearing Exhibit No. 24.

24 PRESIDING OFFICER HAMMER: It's admitted.

25 MS. SCHMID: Thank you.

1 (Hearing Exhibit No. 24 was
2 marked for identification.)

3 MS. SCHMID: With that, Mr. Betham is
4 available for cross-examination questions from the
5 parties and questions from the Hearing Officer.

6 PRESIDING OFFICER HAMMER: We will turn to
7 Mr. Begley first.

8 Do you have any questions, sir?

9 MR. BEGLEY: Thank you, Mr. Hammer. I just
10 have several.

11 CROSS-EXAMINATION

12 BY MR. BEGLEY:

13 **Q. Forgive me, I'm kind of learning as I go, so,**
14 **hopefully, you can help me understand this as well.**

15 **So if there was a prudent operator in place,**
16 **how long would it take, typically, to cure the 11**
17 **outstanding violations, in your opinion?**

18 A. It may take some time to review the documents
19 that they submit, as far as their procedures and then the
20 type of documentation that they are going to perform.
21 While we do that review, we can expedite that as quickly
22 as possible. I can't put a date on that, depending on
23 how well we review the information that we receive from
24 the new operator or a prudent operator of the pipeline.

25 **Q. Can you, at least, guesstimate for a range?**

1 **Is it less than a month? more than a month?**

2 A. I think it would be quicker than that. Maybe
3 a couple days after reviewing the documents. Maybe we
4 can speed that up. As far as the review process of those
5 documents submitted by the operator, gives us some time
6 to review that.

7 Q. Thank you. And in terms of the -- there was
8 a workable or, at least, some sort of interim plan that
9 was arrived at between the parties and the Division. And
10 apparently, there was a breakdown with respect to that
11 interim plan. Is that what I understand your testimony
12 to be?

13 A. Yes. So the interim plan that we received
14 for the Division, we reviewed that plan and found it
15 insufficient. It was about half a page long. And
16 typical procedures like that require several
17 documentations, as well as coordination with outside
18 sources, to ensure emergency response to the pipeline if
19 anything were to go wrong.

20 And so that's what we were concerned about,
21 is that they didn't have that kind of procedure in place
22 to do that.

23 Q. And a similar question: How long would it
24 have taken a prudent operator, if one was in place, to
25 arrive at a workable interim plan?

1 A. If they received help from other sources,
2 like consultants, I'm pretty sure within a couple of
3 days, they were able to figure that out. But because
4 this took some substantial time in receiving this
5 information, we just didn't have that confidence that the
6 plan that we received was in compliance with the
7 regulation.

8 **Q. Thank you. And if you know, out of**
9 **curiosity's sake and for the record, if this pipeline is**
10 **deactivated, how long would it then take for it to be**
11 **activated?**

12 A. With the removal of the phalange, I think
13 within a day, if it is just a removal of those phalanges.
14 And then restoring the valves in its operational open
15 position, you can restore the flow of gas immediately,
16 from my experience.

17 **Q. Thank you. And then you testified or, at**
18 **least, answered some questions on other available options**
19 **that you've explored with respect to this, outside of**
20 **decommissioning or deactivating the pipeline.**

21 One of those avenues that was explored was
22 somehow appointing a temporary, prudent operator in the
23 form of a receivership for this pipeline so that safety
24 violations, safety testing, all of that could be cured
25 and on an interim basis?

1 MS. SCHMID: I will object to that question
2 to the extent that it asks for a legal conclusion
3 concerning the authority of the Division to make such a
4 request or the Commission to grant such a request.

5 However, I do not object if Mr. Betham
6 answers the question from a layman's perspective.

7 PRESIDING OFFICER HAMMER: Overruled.

8 Mr. Betham, if you are aware of whether or
9 not the DPU has considered that as an alternative, you
10 are welcome to answer.

11 THE WITNESS: We would love a prudent
12 operator to take over this pipeline. However, due to the
13 circumstances that we're in, we just -- I guess -- could
14 you restate that question again?

15 BY MR. BEGLEY:

16 **Q. Yes. If you had it within your means -- and**
17 **it is a fair point with respect to the jurisdictional**
18 **authority question that Counsel has offered. But if**
19 **there was a prudent operator available, would that be**
20 **something that -- an avenue to explore, in your opinion,**
21 **to get this pipeline back online and compliant with any**
22 **safety issues?**

23 A. Oh, I'm all in favor of an operator who is
24 willing to do the right things and willing to take the
25 initiative of being in compliance with the regulation and

1 keeping their pipeline safe by doing the required
2 recommendation of the minimum standards of our federal
3 codes, so yes.

4 **Q. Thank you. And with respect to your site**
5 **visit, when you are inspecting this pipeline, tie-ins,**
6 **all the infrastructure associated with that, did you also**
7 **inspect any of Wesco's facilities or infrastructure that**
8 **is operated by Wesco?**

9 A. Our line of work only requires us to inspect
10 the jurisdiction-ality of the transmission line, which is
11 an intrastate transmission line. Wesco is an operator
12 that is a gathering operator, so we would not inspect
13 their facilities.

14 However, we do inspect where they start to
15 tie in into the transmission line at the Blue Hill's
16 plant.

17 **Q. Was there any issue with respect to any of**
18 **Wesco's infrastructure and those tie-in points?**

19 A. From my observation, if you look at the
20 pictures that I have taken, there is a physical
21 disconnection of Wesco's pipeline into the Northwest
22 interconnect -- or sorry, not the Northwest, into the
23 transmission line, a physical disconnection that we
24 observed there.

25 **Q. And, again, for someone that represents the**

1 **board and not a technical pipeline expert, what does that**
2 **mean?**

3 A. A physical disconnection is when they remove
4 the phalanges that connect the pipeline to the
5 transmission pipeline and replace it with a cap on both
6 ends to prevent any transportation of gas between the two
7 entities, between Wesco and the transmission pipeline.

8 **Q. Thank you. I have no further questions.**

9 PRESIDING OFFICER HAMMER: Mr. Trousdale?

10 MR. TROUSDALE: Just a couple of questions.

11 CROSS-EXAMINATION

12 BY MR. TROUSDALE:

13 **Q. Did you communicate with any representative**
14 **of Pacific Energy & Mining Company while you were doing**
15 **this inspection?**

16 A. We did not communicate with the operator
17 because this was just a site visit.

18 **Q. Okay.**

19 A. And because this was just a site visit, we
20 did not tamper with any of the equipment. However, we
21 were just up there to observe the condition of the
22 valves, which we observed they were in a closed position
23 and that they were locked and secured, and that we also
24 observed the pressure gauge and that is all that we were
25 there to do, is just to do a site visit and to look at

1 the condition of the pipeline facilities.

2 Q. Okay. Have you ever had communications with
3 representatives of Pacific Energy & Mining Company?

4 A. We -- to my knowledge, we did not communicate
5 that with them.

6 Q. At least, not you personally?

7 A. No.

8 Q. Okay. Have you ever had any communications
9 with a representative from Greentown Oil Company?

10 A. No, we did not, as far as doing the site
11 visit.

12 Q. Okay. That's all.

13 PRESIDING OFFICER HAMMER: And I just have a
14 couple questions, Mr. Betham.

15 This one may be a little redundant of some of
16 Mr. Begley's questions, but he asked you about how long a
17 prudent operator, in your opinion, would require in order
18 to remedy the 11 violations.

19 And when I heard your answer to that specific
20 question, you answered with respect how long it might
21 take the Division of Public utilities to review any
22 documents they prepare.

23 In your experience and in your opinion, how
24 long would it take a prudent operator, on the operator's
25 side, to amend the manuals and conduct the inspections

1 and do the other activities required to bring those 11
2 violations into compliance?

3 THE WITNESS: I didn't want to give a time
4 frame, but because we needed to review those -- the
5 information that the new operator submitted to us, it
6 just takes some time to see how well their procedure and
7 how they are going to document is going to comply with
8 the minimum standards. So that will take some time.

9 PRESIDING OFFICER HAMMER: No, I understand
10 that. My question is directed to the time the operator
11 would be required in order to do the things that become
12 compliant. I understand you are not in their position,
13 but in your professional opinion, is that an onerous task
14 and would it require a lengthy amount of time?

15 THE WITNESS: I don't think it will take that
16 long because those 11 violations were documentation and
17 records issues that we did not receive from the operator
18 at the time of inspection.

19 So if the operator can demonstrate to us that
20 that documentation can be taken care of or that they are
21 going to follow that, then we wouldn't see a problem then
22 of having -- you know, assume the acquisition of the
23 pipeline within a short time frame.

24 PRESIDING OFFICER HAMMER: And I believe when
25 Mr. Begley asked you about making the improvements or

1 taking the actions required to comply with the interim
2 monitoring plan, you answered that in your opinion, that
3 could be done possibly within days?

4 THE WITNESS: That's correct.

5 PRESIDING OFFICER HAMMER: And you're welcome
6 not to answer this question if it exceeds your area of
7 expertise, and I recognize that it may, but if the Public
8 Service Commission granted the Division's request and the
9 lines were completely purged and shut in, what are the
10 ramifications of purging all of the gas out of the line?

11 Are there alternatives, for example, to
12 purging it into the atmosphere, and do you have any
13 opinion as to the consequences of that act?

14 THE WITNESS: Well, we don't like to vent.
15 However, there are ways that you could truck the gas out
16 of the pipeline and replace it with nitrogen or with
17 water. However, those are the options that can be
18 considered, but we don't like to waste any natural
19 resources, such as natural gas.

20 And, you know, venting, that is an
21 environmental issue, but if it comes down and that is our
22 only option, then that's probably where it needs to be.
23 But we can explore other options, such as trucking the
24 natural gas out of there and putting it in another
25 system, or we just have to review other options.

1 But that was our only option, either to vent
2 out the gas or to truck it out.

3 PRESIDING OFFICER HAMMER: Do you have a
4 conception of the volume of gas in the pipeline and the
5 feasibility of trucking it out?

6 THE WITNESS: Well, it is a 16-inch diameter
7 steel pipeline. If you calculate that and the distance
8 of 21 miles, you can calculate the volume, how many
9 truckloads that need to be done to remove that natural
10 gas out of there.

11 I can't calculate that. I don't have the
12 calculation now, but doing some sound engineering
13 calculations, we can come up with a determination of how
14 long that would take.

15 PRESIDING OFFICER HAMMER: Do you have a
16 preliminary opinion as to whether that would be
17 prohibitively expensive?

18 THE WITNESS: There is a cost associated with
19 that, but I can't determine that right now without doing
20 some calculations.

21 PRESIDING OFFICER HAMMER: Understood. I
22 have no other questions.

23 Ms. Schmid, do you have any redirect?

24 MS. SCHMID: Very limited, thank you.

25 FURTHER DIRECT EXAMINATION

1 BY MS. SCHMID:

2 Q. Mr. Betham, Mr. Trousdale asked you some
3 questions about communications with PEMC. Do you recall
4 that conversation?

5 A. Yes.

6 Q. Is it true that the Division, at least since
7 2016, has had communications with PEMC about the 11
8 outstanding violation?

9 A. We did have communications with that, yes.

10 Q. And is it true that -- if you know, if the
11 Division has continued to copy PEMC on filings it had
12 made with the Commission, even after PEMC resigned as
13 operator?

14 A. Yes.

15 Q. And is it your experience that at least up
16 until today, PEMC participated in this proceeding -- in
17 this docket? Sorry.

18 A. Yes.

19 Q. You were asked by the Hearing Officer about
20 the nature of the violations. And is it true that
21 although there are records and documentation violations,
22 having those records and following those procedures is
23 essential to protect the public?

24 A. Yes.

25 Q. And so it is more than just paperwork; is

1 **that correct?**

2 A. It is more than paperwork. Actually, there's
3 the work that needs to go into -- on the operator side to
4 perform that work according to their procedures.

5 Q. And you were asked some questions about a
6 hypothetical new operator. Do you recall that
7 discussion?

8 A. Yes.

9 Q. We talked, and you indicated that it is
10 possible that a dedicated, committed new operator could
11 relatively quickly renew the pipeline and bring the
12 pipeline back into regular active status; is that a fair
13 laywoman's characterization of your testimony?

14 A. If they had the right resources and -- yes.

15 Q. Does the Division still stand by its
16 recommendation that the pipeline be deactivated now in
17 order to protect the public safety?

18 A. Yes.

19 Q. Thank you. Those are all my redirect
20 questions.

21 PRESIDING OFFICER HAMMER: Thank you.

22 Mr. Betham, you're excused.

23 Mr. Begley, you do not intend to call a
24 witness; is that right?

25 MR. BEGLEY: No, Mr. Hammer, but we do have

1 counsel for the Division that has a more accurate
2 understanding of the chronology in front of the Board of
3 Oil, Gas and Mining with respect to the issue of the
4 flaring, if the Hearing Examiner would like to hear from
5 him at all.

6 PRESIDING OFFICER HAMMER: We will come back
7 to that.

8 Mr. Trousdale, you don't expect to call a
9 witness. Correct?

10 MR. TROUSDALE: No.

11 PRESIDING OFFICER HAMMER: Thank you. We
12 will move on then.

13 I suppose my question, Mr. Begley, is has the
14 board contemplated a process that it would like to see
15 happen for the PSC to incorporate its concerns into this
16 proceeding, given the board only moved for intervention
17 yesterday. Obviously, in the Division's view, the public
18 safety circumstances are rather exigent.

19 Do you have a proposed process?

20 MR. BEGLEY: Mr. Hammer, the board would want
21 to make sure and clarify that we -- that the board
22 completely understands the Division's need to end and
23 mandate itself to make sure that the public health and
24 safety is assured. That relief and remedy is certainly
25 within the Division's purview and the board has no

1 objection to that type of relief.

2 My marching orders, if you will, came as a
3 result of the Wesco proceeding and the concern over
4 flaring and continuation of that flaring issue involving
5 an innocent third party, which is Wesco, in this dispute,
6 a deactivation of a pipeline that could be in perpetuity
7 because we do not know how long this would take, and that
8 the board made at least an effort to say, "Well, we want
9 to do a resolution to see if whether or not, A., the
10 Public Service Commission understands and appreciates the
11 bind the board is in when there is a general disdain for
12 wasting natural resources, first, a concern over the
13 environment, second, and third, getting in the middle of
14 some sort of dispute involving multiple parties."

15 The testimony before the board was that it's
16 not only a situation with respect to waste being a
17 concern but it is elevated to the fact that Wesco, before
18 the board, actually has to pay royalties to gas that is
19 going to be flaring.

20 So it is a compounded issue, compounded
21 problem, and that the board's real concern is that there
22 is not an open -- it is an open-ended deactivation period
23 and that the flaring goes well beyond -- right now, we
24 only have a 30-day flaring order that is allowing, I
25 believe, 400 MCF allowances for the next board hearing,

1 which will be the end of January.

2 And so, again, I think the Public Service
3 Division is in a bind, the board is in a bind, the
4 Division is in a bind, and we just want to at least see
5 if there's, A., clarification that the record is
6 completely clear that there is a situation here, and the
7 board is involved in it, and that whether or not to the
8 extent, they can add to the factual record our
9 understanding of the scenario and help arrive at the
10 solution, that would be wonderful too.

11 PRESIDING OFFICER HAMMER: Ms. Schmid, do you
12 have anything to say on that matter?

13 MS. SCHMID: Just that it is the position of
14 the Division that public safety and safety of the public
15 is paramount. Thank you.

16 MR. BEGLEY: Mr. Hammer, if I may, I
17 did -- you asked, and I don't believe I effectively
18 addressed your question, as to whether or not there is
19 some sort of plan. I apologize for that.

20 The only plan that is basically from counsel
21 for the Division and board, wondering whether or not
22 there could be and we do not know this, the appointment
23 of some sort of temporary receiver-type scenario, where a
24 prudent operator is appointed to procure all the safety
25 violations. And because a prudent operator is in place,

1 whether or not that could then resolve and cure all the
2 outstanding safety violations in a somewhat expedited
3 manner. And also allow then to also satisfy the
4 Division's concern for any safety violation, and then
5 someone could get back up to speed, the gas could be
6 allowed to flow and the flaring could be alleviated.

7 PRESIDING OFFICER HAMMER: Understood. Well,
8 of course, you are all welcome to have those discussions
9 at length outside of this official proceeding. I
10 encourage you to do so.

11 If there is nothing else, we will adjourn.

12 MS. SCHMID: Thank you.

13 (The hearing was adjourned at 10:16 A.M.)

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REPORTER'S CERTIFICATE

State of Utah)
)
County of Salt Lake)

I hereby certify that the witnesses in the foregoing hearing were duly sworn to testify to the truth, the whole truth, and nothing but the truth in the within-entitled cause;

That said hearing was taken at the time and place herein named;

That the testimony of said witnesses were reported by me in stenotype and thereafter transcribed into typewritten form.

I further certify that I am not of kin or otherwise associated with any of the parties of said cause of action and that I am not interested in the events thereof.

IN WITNESS WHEREOF, I set my hand this 24th day of December, 2019.



Kellie Peterson, RPR

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