

PATRICIA E. SCHMID (#4908)
JUSTIN C. JETTER (#13257)
Counsel for the DIVISION OF PUBLIC UTILITIES
SEAN D. REYES (#7969)
Attorney General of Utah
160 E 300 S, 5th Floor
P.O. Box 140857
Salt Lake City, UT 84114-0857
Telephone (801) 366-0380
pschmid@agutah.gov
jjetter@agutah.gov

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

**IN THE MATTER OF PACIFIC ENERGY &
MINING COMPANY**

Docket No. 18-2602-01

**UTAH DIVISION OF PUBLIC
UTILITIES' RESPONSE TO THE
COMMISSION'S JULY 26, 2019 NOTICE**

On July 26, 2019, the Public Service Commission of Utah (PSC or Commission) issued a notice to the Division of Public Utilities (DPU or Division) stating, inter alia, that "If the DPU believes additional violations exist, the DPU may file a request for agency action to initiate a proceeding to adjudicate the alleged violations" and that "If the DPU believes circumstances exist that render the pipeline imminently unsafe or that injunctive relief from a court of appropriate jurisdiction is otherwise necessary, the DPU may file a request with the PSC to seek such relief, outlining the actions the DPU believes a court should compel PEMC¹ to take to render the pipeline compliant" (Notice).² The Division files the following response to that Notice.

¹ PEMC is Pacific Energy & Mining Company.

² See Notice at pp. 1-2. The Notice's full title is "Notice to the Division of Public Utilities and Order Denying Motion for an Order Requiring Review of Documents."

The Division met with certain parties July 16, 2019, to discuss outstanding issues and the Division is hopeful that this meeting will facilitate resolution and may ultimately result in compliance. Nonetheless, and certainly without disparaging the efforts undertaken at that meeting and those to be undertaken thereafter, the Division respectfully requests that the Commission order PEMC; its successor, the current operator (believed to be Dead Horse Oil Company LLC); or the owner of the Pipeline (believed to be JMD Resources Inc. and Entrada Enterprises LLC) to cause a regulatorily compliant monitoring plan for the Pipeline for the duration of this shut-in phase to be filed with the Commission no later than August 21, 2019. This monitoring plan at a minimum should include periodic leak surveys, patrolling, and monitoring of the cathodic system. The results of the first leak survey should be filed with the Commission by August 28, 2019.

It is in the public interest for the Commission to issue such an order because, according to applicable pipeline safety regulations, the Pipeline is still in operation and has not been abandoned or deactivated. As such it is subject to all the relevant pipeline safety laws and regulations.³ The Pipeline has not been purged of gas. The measured pressure of gas in the Pipeline decreased between the Division's initial inspection on June 11, 2019 and its subsequent inspection on June 26, 2019.⁴ A baseline leak survey is necessary to determine if there are any leaks affecting the Pipeline. The Division notes that the absence of a regulatorily compliant leak survey, use of approved leak detection equipment, procedures, and documentation precipitated in part the Division seeking and the Commission issuing its April 10, 2019 Hazardous Facility Order.⁵ This pressure decrease emphasizes the importance of having, and complying with, a

³ See pp. 5-8 of the Division's Report Responding to Commission's June 14, 2019 Order, filed July 9, 2019.

⁴ See p. 4 of the Division's Report Responding to Commission's June 14, 2019 Order, filed July 9, 2019.

⁵ See, e.g., pp. 15, 20, 24-25, and 30 of the Commission's April 10, 2019 Hazardous Facility Order.

minimal plan for the safe maintenance of the Pipeline during this shut-in phase. Without an appropriate plan, including the leak survey, the Division is concerned the pressurized pipeline poses an unacceptable risk to public safety.

The Pipeline's regulatorily compliant leak survey, patrolling, and cathodic monitoring must be consistent with the relevant requirements set forth in 49 C.F.R. § Part 192 and industry standards. The instrument used to conduct the survey must be an industry standard gas detector which detects gas in parts per million (ppm) as opposed to a gas indicator which measures percentages of gas to air. Personnel performing this leak survey must be operator qualified to perform the leak survey pursuant to 49 C.F.R. Subpart N Qualification of Pipeline Personnel.

By making this request, the Division is not waiving its right to file other responses to the Notice or to pursue other appropriate actions.

DATED this 1st day of August 2019.



Patricia E. Schmid
Attorney for the Utah Division
of Public Utilities

CERTIFICATE OF SERVICE

I certify that I caused a true and correct copy of the **UTAH DIVISION OF PUBLIC UTILITIES' RESPONSE TO THE COMMISSION'S JULY 26, 2019 NOTICE** to be delivered this 1st day of August 2019, by email and/or USPS mail, postage prepaid, to the following:

By U.S. Mail:

Rodney Nugent
Registered Agent – PEMC
17 West Main 149
PO Box 149
Green River, UT 84525

Rodney Nugent
Registered Agent – Dead Horse Oil Company LLC
17 West Main 149
PO Box 149
Green River, UT 84525

By Electronic-Mail:

Public Service Commission

psc@utah.gov

Pacific Energy and Mining Company

Terry R. Spencer, Ph.D.
Spencer & Collier, PLLC

terry@spencerandcollier.com

Tariq Ahmed
Dan F. Green

taroil@yahoo.com

Dfgreen1@dslextreme.com

Dead Horse Oil Company LLC

Rodney Nugent
Dan F. Green
Dean Christensen

Rnugel@yahoo.com

Dfgreen1@dslextreme.com

Dirtbag129@gmail.com

Division of Public Utilities

Chris Parker
Al Zadeh
Jimmy Betham
Connie Hendricks
Madison Galt

dpudatarequest@utah.gov

chrisparker@utah.gov

azadeh@utah.gov

JBetham@utah.gov

cshendricks@utah.gov

mgalt@utah.gov

Assistant Utah Attorneys General

Patricia Schmid

Justin Jetter

Robert Moore

Steven Snarr

pschmid@agutah.gov

jjetter@agutah.gov

rmoore@agutah.gov

stevensnarr@agutah.gov

A handwritten signature in blue ink, appearing to read "Patricia E. Schmid", written over a horizontal line.

Patricia E. Schmid