
Pacific Energy & Mining Company

DOCKET NO. 18-2602-01
SECOND HAZARDOUS FACILITY ORDER

ISSUED: January 31, 2020

The Public Service Commission (PSC) issues this Second Hazardous Facility Order against the current and future operator(s) and owner(s) of the subject pipeline.

1. PROCEDURAL AND FACTUAL BACKGROUND

a. The PSC’s Role in Intrastate Natural Gas Pipeline Safety.

Title 54 of the Utah Code charges the PSC with “establishing safety standards and practices for intrastate pipeline transportation.” Utah Code Ann. § 54-13-2. Utah law requires the PSC to “incorporate the safety standards established under the federal Natural Gas Pipeline Safety Act” and to “require persons engaged in intrastate pipeline transportation to ... maintain records and to submit reports and information ... to enable the [PSC] to determine whether the person is acting in compliance” and to “maintain a plan for inspection and maintenance of each pipeline facility that is available to the [PSC] upon [its] request.” *Id.* at § 54-13-3.

As the law requires, the PSC has adopted rules that incorporate pertinent provisions of the Code of Federal Regulations governing pipeline safety and other rules to fulfill the PSC’s obligations under the Utah Code. *See generally* Utah Admin. Code R746-409. The primary enforcement mechanism for these pipeline safety regulations is the Division of Public Utilities’ Pipeline Safety Section (“DPU”). The DPU employs inspectors who are authorized to inspect and examine pipeline facilities and their records. *Id.* at R746-409-3. Such investigations occur as a matter of routine or where a complaint, incident, or other circumstance calls for an

investigation. *Id.* When compliance issues arise, the DPU may issue a warning letter to the responsible party. *Id.* The DPU may also initiate enforcement proceedings before the PSC, though the PSC notes the necessity of such actions historically has been infrequent. *Id.*

b. The Pipeline and the First Hazardous Facility Order.

This docket arises out of an intrastate natural gas transmission pipeline’s persistent failure to comply with its basic obligations under the Utah Code, Utah Administrative Code, and the incorporated federal rules. The pipeline is a 21-mile intrastate gas transmission line near Moab Utah. (*See, e.g.*, Dec. 19, 2019 Hr’g Tr. at 21:2-9; 22:16-8 [hereafter “Hr’g Tr.”].) In this order, the subject pipeline is referred to as the “Pipeline” or occasionally as the “Paradox Pipeline.”

The DPU initiated this docket in 2018, filing a Request for Agency Action on Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order against Pacific Energy & Mining Company (PEMC) on April 12, 2018. At the time, PEMC was the Pipeline’s operator.¹

After extensive process and several hearings, the PSC issued its Hazardous Facility Order (“HFO”) on April 10, 2019, finding PEMC had violated 12 separate subprovisions of 49 C.F.R. § 192 and had failed to cure all but one of them at the time the HFO issued. The violations related to PEMC’s failure to establish, follow, and document essential operations, maintenance, and safety protocols, as the law requires all operators to do. (HFO at 23-24.) Cumulatively, the

¹ An “operator” is simply a “person who engages in the transportation of gas.” 49 C.F.R. § 192.3. An operator of a gas pipeline must obtain an “Operator Identification Number” from the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration (“PHMSA”) identifying the operator as having “primary responsibility” for a pipeline. 49 C.F.R. § 191.22.

violations reflect PEMC's failure to meet its basic and essential obligations to operate its Pipeline in a responsible manner consistent with the public's safety.

The HFO ordered PEMC to "cease operation of its pipeline" within 60 days and to pay a \$100,000 civil penalty within 120 days. (HFO at 30.) The HFO ordered PEMC "may not recommence operation until it successfully petitions the PSC to discontinue the order to cease operations." (*Id.*) To date, PEMC has not tendered the penalty.

c. Attempts to Confirm Compliance with the HFO, PEMC Bankruptcy, and Change in Operator.

The procedural history of the docket is dense with filings subsequent to the HFO, as the DPU attempted to confirm compliance with the HFO, the operator of the Pipeline changed, and PEMC filed bankruptcy. We highlight only the most significant milestones here.

On June 12, 2019, the DPU filed a Status Update, representing an entity called Dead Horse Oil LLC ("Dead Horse") claimed to be the Pipeline's new operator. The DPU further represented its field inspection raised concerns about whether PEMC had taken all necessary actions to cease operations and to do so in a safe manner. On June 14, 2019, the PSC issued notice of the HFO to Dead Horse and directed PEMC to provide confirmation of compliance with the HFO.²

Numerous subsequent filings reflect the DPU's effort to confirm PEMC and/or Dead Horse had complied with the HFO.

² Notice of HFO, Order to Provide Confirmation of Compliance, and Action Request to the DPU, issued June 14, 2019.

On July 26, 2019, the PSC issued a Notice, explaining “it appears the parties have differences of opinion as to whether PEMC, or the pipeline’s current operator, has fully complied” with the HFO. Namely, while evidence existed the Pipeline had been “shut-in” (*i.e.*, valves were closed such that new gas was not entering or leaving the Pipeline), the DPU remained concerned that the Pipeline was not meaningfully disconnected in a manner to ensure compliance and that residual gas remained, stranded, in the Pipeline.³ Noting that “circumstances [appeared] to be evolving as the parties work to implement the HFO,” the PSC directed the DPU to seek additional agency action to the extent it believed additional violations existed or that such action was necessary to protect the public safety.⁴

On July 30, 2019, PEMC and the DPU submitted notice to the PSC that PEMC had filed for bankruptcy.

d. Failed Attempt to Devise an Interim Monitoring Plan, the DPU’s Request for Additional Action, and the Pipeline Parties’ Request for a Hearing.

On August 1, 2019, the DPU filed its Response to the PSC’s July 26, 2019 Notice, explaining the DPU had met with “certain parties [on] July 16, 2019, to discuss outstanding issues and the [DPU] is hopeful that this meeting will facilitate resolution and may ultimately

³ The DPU maintained: “A pipeline is either active, which means the operator must comply with all the relevant safety requirements, or inactive meaning it is purged, sealed, and abandoned permanently, not to be operated again.” (DPU Report filed July 9, 2019 at 5.) The DPU represented the “Pipeline in its current condition (shut-in at 610 psig) is considered active and the operator must have a current and updated Operations and Maintenance plan and must comply with all the relevant safety requirements that apply to its operation.” (*Id.*)

⁴ Notice to the DPU and Order Denying Motion to Require Review of Documents, issued July 26, 2019, at 1-2.

result in compliance.”⁵ The DPU requested the Pipeline’s operator to file a “regulatorily compliant monitoring plan ... for the duration of this shut-in phase.” (*Id.*) The DPU represented “[t]his monitoring plan at a minimum should include periodic leak surveys, patrolling, and monitoring of the cathodic system.” (*Id.*) On August 13, 2019, PEMC submitted a communication to the PSC representing it would “prepare a monitoring plan by August 21, 2019.” On August 22, 2019, PEMC submitted a short Interim Pipeline Monitoring Program (“Interim Monitoring Program”) to the PSC.⁶ The Interim Monitoring Program consists of approximately a half page explaining the steps that will be taken on a monthly basis to monitor the pipeline in less than 50 words and a second page consisting of a simple table, which the operator presumably intended to fill in as evidence it performed the steps enumerated on the previous page each month. That date, the PSC issued an Action Request to the DPU, asking it to evaluate the filing and make a recommendation.

On September 6, 2019, the DPU submitted its Response to the PSC’s August 22, 2019 Action Request (“Request for Additional Action”).⁷ The DPU represented the Interim Monitoring Program did not satisfy the DPU’s minimum recommendations, concluding the proposal was “insufficient, incomplete, and noncompliant with applicable pipeline safety regulations.” (Request for Additional Action at 2.) Therefore, the DPU recommended and

⁵ DPU’s Response to the PSC’s July 26, 2019 Notice, filed Aug. 1, 2019, at 2.

⁶ PEMC’s counsel filed the Interim Monitoring Program though it is not explicit that it is filed on behalf of PEMC. Notably, as discussed below, Dead Horse appears to have become the legal operator of the Pipeline the day prior to this filing. (*See infra* at 12.)

⁷ While the document is styled as an Action Request Response, the DPU asks the PSC to take additional action, including imposing additional penalties.

requested the PSC “order the Pipeline to be deactivated by October 14, 2019 pursuant to 49 CFR Part 191.727 – Abandonment or deactivation of facilities.” (*Id.* at 9.) The DPU further recommended and requested that “if the Pipeline is not deactivated by October 14, 2019” that the PSC “impose the maximum penalty pursuant to Utah Code Ann. [§] 54-13-8 until the Pipeline has been deactivated consistent with 49 CFR Part 192.727.” (*Id.*)

On September 16, 2019, PEMC filed a Request for Hearing, containing a single sentence and asking the PSC “set a hearing on [PEMC’s] Interim [Monitoring] Program and the [DPU’s] Action Request.” On October 1, 2019, JMD Resources Inc. (“JMD Resources”) submitted a short letter “to confirm [it would] have a representative present to participate in the requested hearing by [PEMC].” On October 3, 2019, PEMC’s counsel submitted a letter to inform the PSC that “[PEMC], [Dead Horse], Entrada and JMD Resources will all have a representative at the hearing requested by [PEMC].”⁸ Finally, on October 4, 2019, Dead Horse independently submitted a request that the PSC hold a hearing and requested the attendance of certain witnesses.

⁸ As discussed further below, the relationship among these parties to the Pipeline remains ambiguous in the record as does the identity of the owner or owners of the Pipeline. Additionally, these parties have not been specific or always consistent in regards to who represents them or is authorized to speak on their behalf. Consequently, in this order, we occasionally use the term “Pipeline Parties” loosely to refer to two or more of the parties that have appeared in the record suggesting an ownership or management interest in the Pipeline.

e. The PSC Conducts a Status and Scheduling Conference, the Pipeline Parties Refuse to Cooperate in a Technical Conference, and the Matter is Set for Hearing.

On October 4, 2019, the PSC issued a Notice of Status and Scheduling Conference to discuss the process to adjudicate the DPU's Request for Additional Action and the purpose of the hearing the Pipeline Parties requested.

Consequently, on October 16, 2019, the PSC held a Status and Scheduling Conference. Representatives for Dead Horse, PEMC, and JMD Resources participated, as did several representatives of the DPU.⁹ At the conference, the PSC's "Presiding Officer repeatedly expressed the PSC's willingness to facilitate a technical conference whereby any misunderstandings that may exist between the parties as to what actions [the Pipeline Parties] must take in order to bring the Pipeline ... into compliance might be resolved."¹⁰ The Pipeline Parties declined to participate in such a conference.¹¹ The DPU expressed skepticism as to whether such a conference would be productive, based on its experience thus far in the docket, but manifested its willingness to participate.¹² Noting that a technical conference was not likely to be fruitful without the Pipeline Parties' good faith participation, the PSC set the matter for hearing on December 19, 2019. The PSC also directed the Pipeline Parties, separately or jointly,

⁹ Representatives for the Pipeline Parties were as follows: (1) Terry Spencer for PEMC; (2) Dean Christensen for Dead Horse; (3) Dan Green for PEMC; and (4) Tariq Ahmad for JMD Resources by telephone. During the conference, Mr. Spencer deferred to Mr. Ahmad as his client but Mr. Ahmad later denied that Mr. Spencer represented JMD Resources.

¹⁰ Scheduling Order and Notice of Hearing, issued Oct. 18, 2019, at 1.

¹¹ *See id.*

¹² *See id.*

and the DPU to file a Statement of Facts to be Established, Legal Issues to be Resolved, and Relief Sought at Hearing by November 18, 2019.¹³

f. Parties' Statements of Facts to be Established, Legal Issues to be Resolved, and Relief Sought at Hearing.

On November 18, 2019, Dead Horse, PEMC, and the DPU filed documents reflecting their intentions for the hearing.

Dead Horse filed a short letter stating only that it intended to inquire upon the status of “the violation” and Interim Monitoring Program as well as the “[c]ertification of the inspectors for the inspection” in the years 2013 through 2018. (Correspondence from Dead Horse filed Nov. 18, 2019.)

PEMC’s filing identified the facts it intended to establish, including that “responsibility for operation of the Pipeline ... was transferred from PEMC to Dead Horse” in April 2019. (PEMC’s Statement of Facts, Legal Issues, and Relief Sought, filed Nov. 18, 2019, at 2.) PEMC also represented Dead Horse had reduced the pressure of the Pipeline such that it is now “unregulated.” (*Id.*) PEMC represented it would address at hearing whether: (1) PEMC had satisfied one or more of the violations the PSC found in the HFO; (2) the DPU has “continuing authority to regulate” the Pipeline; and (3) the Interim Monitoring Program was “in conformance with relevant Federal Regulations.” (*Id.*)

The DPU’s filing represented the facts it intended to establish, including that (1) PEMC had resigned and Dead Horse had assumed responsibility for operating the Pipeline as of a

¹³ *Id.*

certain date; (2) the Pipeline is “not scheduled to resume regular operation for many months”; and (3) “[o]wnership of the Paradox Pipeline.” (DPU’s Statement of Facts, Legal Issues, and Relief Sought, filed Nov. 18, 2019, at 2 [hereafter “DPU’s Pre-hearing Statement”].) Consistent with its Request for Additional Action, the DPU identified the relief it sought: “Deactivation of the Paradox Pipeline, in a manner compliant with all applicable regulations, by February 1, 2020” and “a civil penalty of not more than \$100,000 for each violation for each day, but not to exceed \$1,000,000 for any series of related violations, to be assessed, as appropriate, against PEMC; Dead Horse; JMD Resources, Inc.; and Entrada Enterprises [LLC], and any other appropriate person.” (*Id.* at 2.)

g. Trustee’s Reservation of Rights and Request the PSC Not Consider PEMC’s Filing Relating to the Hearing.

On November 18, 2019, George Hofmann (“Trustee”), in his capacity as the court-appointed trustee in PEMC’s bankruptcy proceeding, filed a Notice of Appointment of Bankruptcy Trustee, Ongoing Investigation, and Reservation of Rights. On December 10, 2019, the Trustee filed a Response to Purported Filing of PEMC, arguing PEMC was not authorized, under federal bankruptcy law, to file the Statement of Facts, Legal Issues, and Relief Sought it filed on November 18 and requested the PSC “refuse to consider” PEMC’s filing.

h. Utah Board of Oil, Gas & Mining’s Petition for Leave to Intervene on the Eve of Hearing.

On December 18, 2019, the Utah Board of Oil, Gas & Mining (“Board”) filed a Petition for Leave to Intervene (“Board’s Petition”).

The Board explained that, on December 11, 2019, the Board heard a request from Wesco Operating, Inc. (“Wesco”) for authorization to flare gas, which the Board represents it granted on

a temporary basis. The Board's Petition does not detail the circumstances necessitating the flaring, but it implies that Wesco must flare the gas owing to the Pipeline's closure. The Board's Petition explains it is statutorily charged with preventing waste of natural resources and that it seeks intervention to provide the PSC with context though the Board had "not fully determined the specific positions it will assert and/or maintain and/or any relief it may seek." (Board's Petition at 3.)

2. TESTIMONY, EVIDENCE, AND POSITION STATEMENTS AT THE DECEMBER 19, 2019 HEARING.

The PSC conducted a hearing on December 19, 2019. When the Presiding Officer invited appearances, the DPU, the Board, and the Trustee appeared through their respective counsel. Hearing no opposition, the PSC granted the Board's Petition to Intervene and allowed its counsel to participate in the hearing. (Hr'g Tr. at 12:16-20.)

After the Presiding Officer expressed concern none of the Pipeline Parties had appeared at the hearing, counsel for PEMC, seated in the gallery, stood and represented that the Trustee had informed him he was not allowed to participate in the proceeding. (*Id.* at 10:10-17.) A representative from Dead Horse similarly stood from the gallery and noted his presence. When the Presiding Officer asked if he intended to participate in the proceeding, Dead Horse's representative responded "No." (*Id.* at 10:20-25.) No representative from JMD Resources indicated its presence at the hearing. (*See id.* at 11:1-4.)

Consequently, the PSC only heard testimony from one witness, Jimmy Betham, for the DPU. However, counsel for the Board and the Trustee each made statements concerning their clients' respective positions and interests in the matter.

a. The Trustee Represented that It Has Not Discerned the Identity of the Pipeline's Owner.

Though the Trustee offered no testimony, the Presiding Officer asked Trustee's counsel early in the hearing whether the Trustee knew the identity of the Pipeline's legal owner. The Trustee responded: "We are investigating that but we don't know." (Hr'g Tr. at 11:20-21.) The Trustee's counsel represented "[t]here is nothing I have seen that clearly establishes that PEMC owns it," noting that he'd received conflicting information as to the identity of the owner. (*Id.* at 11:21-25.) The Trustee's counsel noted that the Trustee is empowered under federal bankruptcy law to unwind certain transactions under certain circumstances, but represented "there is nothing conclusive at this time." (*Id.* at 12:2-6.)

b. The Board is Concerned Indefinite Closure of the Pipeline will Have Ramifications that are Contrary to the State's Policy Not to Waste Natural Resources, Harmful to the Environment, and Harmful to Innocent Third Parties.

Although the Board did not call a witness, it participated in the hearing through its counsel. The Board represented it has authorized Wesco to temporarily flare gas owing to the Pipeline being "shut-in." Wesco is engaged primarily in oil drilling for which natural gas is a byproduct and without access to the Pipeline, the gas must be flared. (*See* Hr'g Tr. at 9:9-15.) When the Presiding Officer inquired whether the Board has authority to order Wesco to cease the operations that necessitate flaring gas, the Board suggested it has received testimony from Wesco that flaring is the only alternative and that "shut[ting] in or choking back ... would actually cause damage to the reservoir." (*Id.* at 9:22-24.)

At hearing, the Presiding Officer asked the Board if it had "a proposed process" for "[incorporating the Board's] concerns into this proceeding, given the [B]oard only moved for

intervention” the day before the hearing. (*Id.* at 50:13-19.) The Board did not have a specific proposal and emphasized it “understands the [DPU’s] need to ... make sure that the public health and safety is assured” and that the Board “has no objection to that type of relief.” (Hr’g. Tr. at 50:20-51:1.) The Board is concerned that deactivation would be “open ended” such that “flaring goes well beyond” what the Board has already authorized. (*Id.* at 51:20-52:1.)

While the DPU generally expressed appreciation for the Board’s concerns, the DPU responded that “safety of the public is paramount.” (*Id.* at 52:13-15.)

c. The DPU Introduced Evidence Relating to the Pipeline’s Continued Non-Compliance with Applicable Regulations and the Risk It Poses to Public Safety.

As an initial matter, to establish the identity of the legal operator, the DPU introduced several forms submitted to PHMSA and subsequently forwarded to the DPU. (Hr’g Tr. at 15:14-16:4.) First, the DPU introduced an Operator Registry Notification form that PEMC appears to have submitted to PHMSA on May 9, 2019, confirming that PEMC requested to cease being the Pipeline’s registered operator effective May 14, 2019. (Hr’g Ex. 3.) The DPU similarly introduced a form Dead Horse appears to have submitted to PHMSA on August 21, 2019, registering Dead Horse as the Pipeline’s operator and identifying PEMC as the previous operator. (Hr’g Ex. 13.) The PSC notes this is one day prior to PEMC’s counsel filing the Interim Monitoring Plan, expressly referring to it as “PEMC’s Paradox Pipeline Interim Pipeline Monitoring Program.” (Interim Monitoring Program, filed Aug. 22, 2019, at 1.)

- i. The DPU introduced evidence and testimony to show the Pipeline remains non-compliant.

The DPU testified it has conducted multiple field investigations since the HFO issued and the 11 violations the PSC found to exist in the HFO remain uncured. (Hr’g Tr. 28:23-29:1.) The new operator, Dead Horse, has not provided the DPU with copies of the required procedures or otherwise provided evidence that it has cured any of the violations the PSC found to exist under PEMC’s operation. (*See, e.g., id.* at 31:19-32:6.)

The DPU emphasized that although the violations relate to records and documentation, they are “more than [just] paperwork” violations. (*Id.* at 48:25-49:2.) An operators’ adoption of required procedures and documented implementation of them is a matter of public safety. (*See, e.g., id.* at 35:15-20.) The DPU testified it does not have the resources to “hold the hand of the operator,” the DPU must largely rely on inspection of the operators’ records to ensure responsible, safe operation of the Pipeline. (*Id.* at 30:21-31:15.) The DPU’s expert witness testified that, in his view, compliance with the pertinent regulations is not unduly onerous, and a reasonably prudent operator could bring the Pipeline into compliance in a relatively short time.¹⁴

The DPU testified it has conducted site visits and observed that the Pipeline’s valves “were in a closed position and that they were locked and secured” but there was no “physical separation from the gathering system to the start of the transmission line” nor did the DPU observe any “physical separation from the Northwest interconnect.” (*Id.* at 28:3-22; 43:19-23.)

¹⁴ Hr’g Tr. at 45:15-18 (“I don’t think it will take that long because those 11 violations were documentation and records issues”); *see also id.* at 49:9-14 (answering affirmatively that a “dedicated, committed new operator could relatively quickly renew the pipeline and bring the pipeline back into regular active status”).

However, the DPU presented evidence showing the Pipeline remained packed “at approximately 680 psig.” (Hr’g Ex. 6 at 1.)

- ii. The DPU introduced testimony and evidence to show it had attempted, repeatedly, to work with the Pipeline Parties, but the Pipeline Parties failed to make good faith efforts to comply, necessitating the DPU recommend the Pipeline’s deactivation.

To address the DPU’s concerns, the DPU attempted to work with Dead Horse to establish an Interim Monitoring Program.¹⁵ However, the Interim Monitoring Program that Dead Horse provided “was about half a page long” and omitted items the DPU considers essential, such as a periodic “leak survey.” (Hr’g Tr. at 22:8-23:4; 39:15.) The DPU testified that compliance with an acceptable interim monitoring program could be achieved within a matter of days. (Hr’g Tr. at 45:24-46:4.)

In light of the operator’s continued failure to demonstrate it is able and willing to lawfully and responsibly operate the Pipeline, the DPU is concerned the Pipeline poses a threat to public safety, as it remains connected (though valves are closed) from points of entry and remains packed with gas. (Hr’g Tr. at 29:2-30:1; 35:1-3.). Having attempted to work with the Pipeline Parties for many months to achieve compliance or, at least, an acceptable interim monitoring program, the DPU concluded “deactivation,” consistent with 49 CFR Part 191.727, was the only responsible option to render the Pipeline safe pending evidence the operator is prepared to responsibly operate it. (See Hr’g Tr. at 34:15-35:5.)

¹⁵ According to the DPU, the Code of Federal Regulations does not contemplate an “interim monitoring plan,” but such plans are implemented as an “industry standard” under certain circumstances, and the DPU communicated with the Pipeline Parties about the establishment of such a plan during the course of privileged settlement discussions. (Hr’g Tr. at 24:12-26:1.)

- iii. The DPU testified as to what must occur for the Pipeline to be responsibly and lawfully deactivated, observing deactivation was not an optimal outcome but that a reasonable and prudent operator could restore the Pipeline to active status relatively quickly.

Broadly, the DPU described the process for deactivation as requiring “the remaining residual gas” to be “purged completely so that there is no natural gas . . . left in the pipeline.” (Hr’g Tr. at 29:15-19.) The pipeline is disconnected from the “points of entry and points of exit” and “a cap or some kind of a mechanism to separate the pipeline” is placed at those points. (*Id.* at 29:23-30:1.)

The DPU concedes that deactivation is not ideal because flaring or venting of gas that would normally flow into the pipeline may be necessary. (Hr’g Tr. at 35:25-36:5.) The DPU shares the Board’s environmental concerns about flaring, but it sees no alternative to deactivation to ensure the public safety. (*See* Hr’g Tr. at 36:8-14; *see also id.* at 49:15-18.) Asked by the Board whether the DPU would support the appointment of a “temporary, prudent operator in the form of a receivership,” the DPU’s witness answered it “would love a prudent operator to take over this pipeline.” (*Id.* at 40:21-41:12.)

Finally, the DPU testified deactivation need not be permanent; a deactivated pipeline may be restored to normal operation relatively quickly. (Hr’g Tr. at 30:5-11; 40:8-16 (testifying that, contingent on the manner of physical separation of the lines, gas flow might be restored “within a day”).)

3. ANALYSIS, FINDINGS, AND CONCLUSIONS

a. While the Pipeline Parties Have “Ceased Operations,” the PSC Finds They Have Manifested No Intention of Bringing the Pipeline into Compliance and Recommencing Operations.

Finding PEMC had violated 12 separate subprovisions of 49 C.F.R. § 192 and had failed to cure all but one of them, the PSC’s HFO, issued in April 2019, ordered PEMC to “cease operation of its pipeline” within 60 days and not to recommence until it successfully petitions the PSC to do so. (HFO at 30.)

While the Pipeline Parties appear to have ceased operations consistent with the HFO, they have apparently done so on an open-ended basis, leaving the Pipeline that the PSC has found to be hazardous connected to points of entry and exit and packed with gas. Further, the record contains no evidence suggesting the Pipeline Parties have made or intend to make a meaningful effort to rectify the violations such that they might seek leave of the HFO and recommence operations. Rather, the PSC finds the Pipeline Parties have continued the pattern of willful non-compliance that PEMC established in the proceedings leading to the HFO.

The Pipeline Parties’ conduct should be contextualized with their actions prior to the HFO. In assessing the appropriate remedy for the HFO, the PSC evaluated, among other items, the nature and gravity of the violations and “any good faith in attempting to achieve compliance.” With respect to the former, the PSC concluded that the violations amounted to failure to abide “the legal requirements for PEMC to demonstrate safe operations” and therefore have “grave health and safety implications.” With respect to good faith efforts at compliance, the PSC found that, with limited exceptions, “the record [was] devoid of any evidence of good faith in attempting to achieve compliance.” Indeed, the PSC observed that the DPU commenced “non-

compliance action against PEMC in 2016” and PEMC had corrected only two of 13 observed violations in the interim.

Since the HFO issued, rather than accepting responsibility for the gravity of the problems and working in good faith to resolve them, the Pipeline Parties have doubled down on their contemptuous disregard for the regulations that exist to protect the public. Not only does the record continue to be devoid of evidence showing any good faith effort of the Pipeline Parties to comply, but the Pipeline Parties have stubbornly declined to avail themselves of the DPU’s and the PSC’s repeated attempts to work with them to address the problems. For example, the DPU attempted to work with the Pipeline Parties to devise an Interim Monitoring Program, but the Pipeline Parties repaid the DPU’s efforts by submitting an unserious proposal filling a half page that contained some poorly explained bullet points, amounting to less than 50 words. (Interim Monitoring Program, filed Aug. 22, 2019, at 2.) Worse still, when the PSC “repeatedly expressed [its] willingness to facilitate a technical conference whereby any misunderstandings that may exist between the parties as to what actions [the Pipeline Parties] must take in order to bring the [Pipeline] ... into compliance might be resolved,” the Pipeline Parties flatly declined to participate and demanded a hearing.¹⁶ The “PSC encourage[d] the Pipeline Parties to reconsider and remain[ed] willing to schedule such a conference” on notice the parties wished to

¹⁶ Scheduling Order and Notice of Hearing, issued Oct. 18, 2019.

participate.¹⁷ The Pipeline Parties refused to reconsider and subsequently failed to appear and participate at the hearing they demanded be held.¹⁸

b. The Pipeline Parties' Election Not to Maintain the Pipeline in Accordance with Applicable Regulations Requires It to Comply with the Process for Deactivation.

Concerned that the Pipeline remains packed with gas and connected to points of entry and exit and faced with the Pipeline Parties' persistent, willful refusal to comply with basic regulations that protect the public safety, the DPU has asked the PSC to issue an order "mandating ... [d]eactivation of the Paradox Pipeline, in a manner compliant with all applicable regulations." (DPU's Pre-hearing Statement at 2.)

The DPU points to 49 CFR 192.727, titled "Abandonment or deactivation of facilities," which the Utah Admin. Code incorporates by reference alongside the numerous regulations the PSC found PEMC violated in the HFO. (Request for Additional Action at 2.) "Abandoned" is an expressly defined term, meaning "permanently removed from service." 49 CFR § 192.3. With respect to inactive pipelines, the rule provides in pertinent part:

Except for service lines, *each inactive pipeline that is not being maintained under this part* must be disconnected from all sources and supplies of gas; purged of gas; in the case of offshore pipelines, filled with water or inert materials; and sealed at the ends. However, the pipeline need not be purged when the volume of gas is so small that there is no potential hazard.

¹⁷ *Id.*

¹⁸ We note that PEMC's counsel represented the Trustee precluded PEMC from participating. Dead Horse's representative announced his presence in the gallery, made no representation that he was precluded from testifying, but nevertheless declined to participate in the hearing that Dead Horse, in addition to other Pipeline Parties, had demanded.

Id. at 192.727(c) (emphasis added; hereafter the “Deactivation Rule”). The rule also requires that “[i]f air is used for purging, the operator shall insure that a combustible mixture is not present after purging.” *Id.* at 192.727(e).

The point is subtle, but worth making, that the PSC ordered PEMC to cease operations consistent with its authority to order suspended or restricted use under Utah Admin. Code R746-409-6(B).¹⁹ A question exists as to whether any exercise of the PSC’s authority to suspend use triggers, by definition and necessity, an operator’s duty to comply with the Deactivation Rule. We expect the answer is negative insofar as scenarios may be envisioned wherein the PSC suspends use either for a very small period of time or, perhaps more likely, a reasonable and responsible operator responds to such an order by immediately taking whatever action is necessary to bring a Pipeline into compliance and seeking leave of the suspension.

We need not reach this issue here, however, as the Pipeline Parties shut-in the Pipeline many months ago and have made no effort to demonstrate they are maintaining the Pipeline consistent with the regulations in Part 192. We conclude a pipeline that is shut-in without gas inflows or outflows for so many months is inactive within the meaning of the Deactivation Rule. Moreover, the record in this case demonstrates nothing more clearly than the Pipeline Parties’ failure to maintain the Pipeline in accordance with Part 192. PEMC’s failure to do so with respect to a dozen different subparts led to the suspension in the first place. No evidence exists

¹⁹ We conclude our order to “cease operations” in the HFO to be synonymous with ordering “suspended use,” as R746-409-6 contemplates.

the Pipeline Parties have rectified, or even meaningfully attempted to rectify, any of these violations.

We conclude that by electing not to maintain the Pipeline consistent with Part 192 and electing not to make efforts to become compliant such that it might resume operations, the Pipeline Parties have deactivated the Pipeline, triggering their duty to comply with the Deactivation Rule.

c. The PSC Finds the Pipeline Parties Have Not Complied with the Deactivation Rule.

The Deactivation Rule requires the subject pipeline “be disconnected from all sources and supplies of gas,” “purged of gas,” and “sealed at the ends.” 49 CFR § 192.727(c). “However, the pipeline need not be purged when the volume of gas is so small that there is no potential hazard.” *Id.*

The record shows the Pipeline Parties have shut in the Pipeline by closing and locking valves, but no physical separation exists between the Pipeline and points of entry and exit. (*See, e.g., Hr’g Tr. at 28:3-16; 43:20-23.*)

We conclude merely closing and locking the valves does not constitute “disconnect[ing] from all sources and supplies of gas” within the meaning of the Deactivation Rule. The Code of Federal Regulations does not define “disconnected,” but the DPU’s witness testified the industry use of the term requires “a cap or some kind of a mechanism to separate the pipeline.” (*Hr’g Tr. at 29:22-30:1.*) This is consistent with the common understanding of the term and the dictionary

definition.²⁰ We conclude closing and locking the valves, which are pre-existing components of the Pipeline that may simply be unlocked and opened, does not constitute disconnecting the Pipeline from all sources and supplies of gas. Some physical separation must exist consistent with industry standards through the placement of a cap or other appropriate mechanism. Similarly, the Deactivation Rule unambiguously requires the Pipeline to be sealed at the ends, and the DPU testified the ends are not sealed. (*See* Hr’g Tr. at 28:3-22.)

With respect to the Deactivation Rule’s requirement the Pipeline be purged of gas unless “the volume of gas is so small that there is no potential hazard,” no testimony was offered concerning what threshold might be acceptable such that the line need not be purged. The DPU represented that after the Pipeline was shut-in, it remained packed at “at approximately 680 psig.” (Hr’g Ex. 6 at 1.) In conjunction with the DPU’s repeated testimony that the packed Pipeline presents a threat to public safety, common sense compels us to find that this pressure level does not reflect a volume so small as to pose no potential hazard. Moreover, absent affirmative evidence that the pressure level does not pose a threat, we conclude the rule should be applied to err on the side of caution as regards the threat to public safety.

Accordingly, we find and conclude the Pipeline Parties were and are obliged to comply with the Deactivation Rule but have failed to do so. This constitutes a new violation pursuant to 49 CFR § 192.727(c).

²⁰ Merriam-Webster defines the word as “not connected” or “separate,” available at <https://www.merriam-webster.com/dictionary/disconnected>.

d. The PSC Concludes a Second Hazardous Facility Order is Necessary and Appropriate to Ensure the Public Safety.

The PSC’s primary function is to regulate public utilities, and the Utah Code grants the PSC broad jurisdiction to regulate their business. *See* Utah Code Ann. § 54-3-23. By contrast, the PSC’s role in regulating intrastate natural gas pipelines is much more circumscribed, being limited to establishing “safety standards and practices” and “mak[ing] and enforc[ing] rules” required by federal law. Utah Code Ann. § 54-13-2. To fulfill its statutory obligation, the PSC adopted and endeavors to enforce Utah Admin. Code R746-409 and its subparts.

Where the PSC finds, “after notice and a hearing, that a particular intrastate pipeline facility is hazardous to life or property, it may issue a Hazardous Facility Order requiring the owner or operator of the intrastate pipeline facility to take corrective action.” Utah Admin. Code R746-409-6(B). “Corrective action may include suspended or restricted use of the facility, physical inspection, testing, repair, replacement, or other action as may be appropriate.” *Id.* The PSC may also impose civil penalties in a hazardous facility order consistent with its authority to do so under Utah Code Ann. § 54-13-8. *Id.*

- i. The PSC finds the Pipeline continues to be hazardous to life or property, as it remains connected to points of entry and exit and is packed with gas in violation of the Deactivation Rule.

As the record is devoid of evidence showing the Pipeline Parties have rectified any violations we found to exist in our HFO, we find the Pipeline remains hazardous to life or property for all of the reasons we found to exist there and we incorporate those findings here. (HFO at 10.) Additionally, while new gas may not be flowing into the Pipeline, the record contains no evidence suggesting the Pipeline is meaningfully more safe packed with stagnant gas

as opposed to flowing gas. We conclude the Deactivation Rule requires physical separation of the Pipeline, purging of gas, and testing to ensure the remaining air is not combustible because public safety requires these steps. Accordingly, we find the Pipeline Parties' election to indefinitely suspend operations without complying with the Deactivation Rule is an additional violation that renders the Pipeline hazardous to life or property. Consistent with Utah Admin. Code R746-409-6(B), the PSC conducted a hearing, for which all of the Pipeline Parties had notice, prior to making these findings.

- ii. The PSC finds the Pipeline Parties' violation of the Deactivation Rule warrants an accruing penalty designed to incent compliance and operation of the Pipeline in a manner consistent with the public safety.

A person who violates any provision of applicable statute, rule, or PSC order governing intrastate pipeline transportation is liable "for a civil penalty of not more than \$100,000 for each violation for each day the violation persists." Utah Code Ann. § 54-13-8. "The maximum civil penalty assessed ... may not exceed \$1,000,000 for any related series of violations." *Id.*

In determining the amount of the penalty, the PSC must consider "the nature, circumstances, and gravity of the violation." *Id.* With respect to the person who committed the violation, the PSC must further consider (1) the degree of culpability; (2) any history of prior violations; (3) the effect on the person's ability to continue to do business; (4) any good faith in attempting to achieve compliance; (5) the person's ability to pay the penalty; (6) and any other matter justice requires.

As we concluded in the HFO, we again conclude that the Pipeline Parties' failure to maintain the Pipeline in compliance with Part 192 presents a significant threat to the public's health and safety, which is to say the gravity of the violation is heavy and warrants deployment

of the highest penalties necessary to obtain compliance. As further illustrated in the HFO, the Pipeline has a history of significant violations. Worse still, as discussed above, the Pipeline Parties persist in their refusal to make good faith efforts to maintain the Pipeline in accord with the public safety. Having considered the statutory factors, no question exists that an additional penalty is warranted.

The more complex question, we believe, is what penalty structure is most likely to result in compliance and against whom the penalty should be assessed.

1. Pursuant to statute and rule, the PSC finds and concludes the penalties should be and are imposed on the Pipeline's owner(s) and its operator(s).

The Utah Code allows the PSC to assess a penalty against “[a]ny person engaged in intrastate pipeline transportation who is determined by the [PSC] ... to have violated any provision” of applicable statute, rule, or order. Utah Code Ann. § 54-13-8(1). The applicable administrative rule permits the PSC to “issue a Hazardous Facility Order requiring the owner or operator of the intrastate pipeline facility to take corrective action” and provides in the following sentence that “[c]ivil penalties set forth in Section 54-13-8 may also be imposed.”

The PSC's HFO was directed to PEMC, which was at the time the Pipeline's registered operator. Since the HFO issued, PEMC resigned as operator, declared bankruptcy, and Dead Horse registered as the operator with PHMSA.²¹ As the record in the docket reflects, the HFO

²¹ In an effort to ensure the compliance of whoever is responsible for the Pipeline, the PSC issued an Express Notice of the HFO to Dead Horse and Any Successor Operators on June 14, 2019.

directed to PEMC proved ineffective at attaining compliance, and the penalty remains unpaid as PEMC has declared bankruptcy.²²

As discussed *supra* at 6, the Pipeline Parties' respective roles with respect to the Pipeline are ambiguous in the record, perhaps deliberately. Prior to hearing, the DPU represented that it intended to establish "[o]wnership of the Paradox Pipeline" at hearing. (DPU's Pre-hearing Statement at 2.) The DPU was apparently unable to obtain evidence of ownership as it presented no such evidence at hearing. Additionally, the Trustee represented at hearing that it also could not confirm the identity of the Pipeline's owner. (Hr'g Tr. at 11:20-12:1.) The Trustee represented he "received information that suggests that [JMD Resources, Inc. and Entrada Enterprises, LLC] co-own the [P]ipeline" but also that he has "seen information contrary to that."²³ (*Id.*) According to the Trustee, "it is all sort of up in the air." The Trustee alluded to its power to unwind certain transactions under federal bankruptcy law.

Because the penalty against PEMC remains uncollected and, more importantly, has failed to succeed in attaining compliance, the PSC finds cause for concern exists that the Pipeline's owner (or owners) are gaming the existence of numerous entities that it may or may not control

²² The PSC does not suggest the penalty is dischargeable in the bankruptcy, only notes that it remains unpaid.

²³ The transcript reads: "I've received information that suggests that JND Enterprises and – or James Resources, Inc., and Entrata, LLC, co-own the [P]ipeline." After reviewing the audio file, which is available on the PSC's website, the PSC is confident this is a transcription error. The witness testified he had seen information that JMD Resources, Inc. and Entrada Enterprises, LLC, co-own the Pipeline, and notes these company names are consistent with other documents in the record. *See, e.g.*, DPU's Pre-hearing Statement at 2 (requesting the PSC assess penalties against "PEMC; Dead Horse; JMD Resources, Inc.; and Entrada Enterprises LLC"); *see also* Spencer & Jensen's letter submitted October 3, 2019, representing that "[PEMC], [Dead Horse], Entrada and JMD Resources" would be present at hearing.

to avoid responsibility for correcting the issues at the Pipeline. The DPU appears to share this concern insofar as it requests the PSC assess a civil penalty “as appropriate, against PEMC; Dead Horse; JMD Resources, Inc.; and Entrada Enterprises LLC, and any other appropriate person.” (DPU’s Pre-hearing Statement at 2.)

Under the circumstances, the PSC finds, in addition to the designated operator, the Pipeline’s owner or owners are culpable for the Pipeline’s violation. Indeed, changing operators appears to simply be a matter of submitting the appropriate forms to PHMSA. The PSC could issue endless orders and penalties against “shell” operators, which an owner might easily substitute again and again to avoid compliance. Additionally, we note Entrada Enterprises, LLC and JMD Resources manifested an intention to participate in the hearing and were plainly on notice of it. In fact, Tariq Ahmad, on behalf of JMD Resources, was one of the parties to specifically request the hearing be held. Where the Pipeline shifted its operator designation after the issuance of the HFO, the Pipeline remains willfully non-compliant, and the Pipeline’s owners are certainly on notice and have participated to some degree in these proceedings, we find and conclude the Pipeline’s owners are culpable for the Pipeline’s non-compliance and are responsible for rectifying it.

Accordingly, consistent with its authority under Title 54 and the Utah Administrative Code, the PSC concludes this order and the attendant penalties apply to and are assessed against all of the following to the fullest extent allowable under the law: (1) the Pipeline’s current operator; (2) any future operators until and unless the PSC has issued an order relieving the operator(s) from the order; (3) the current owner or owners of the Pipeline; and (4) any future

owner(s) until and unless the PSC has issued an order relieving the owner(s) from this order.

Hereafter, we refer to all of these as the “Culpable Parties.”²⁴

2. The PSC finds and concludes, on the circumstances presented here, an accruing penalty that requires compliance but is structured to allow and incent the Pipeline Parties to bring the Pipeline into compliance and recommence operations is appropriate and in the public interest.

Title 54 allows the PSC to impose a penalty that accrues on a daily basis such that parties are incented to comply as early as possible lest penalties continue to accrue. Utah Code Ann. § 54-13-8. The penalty associated with any particular violation may not exceed more than \$100,000 for any particular day nor exceed \$1,000,000 for a series of related violations.

Having found the Pipeline to be in violation of the Deactivation Rule, the PSC concludes two avenues exist for the Pipeline to rectify the violation: (1) remedy as soon as practicable the 11 continuing violations the PSC found to exist in the HFO, such that the Deactivation Rule need not apply; or (2) purge the Pipeline of all gas, ensure the remaining air in the Pipeline is not combustible, disconnect the Pipeline from all sources of natural gas, and seal the ends of the Pipeline pursuant to the Deactivation Rule in a manner consistent with responsible industry practice.

The DPU asks the PSC to order the Pipeline to do the latter. However, based on the Board’s input and the DPU’s testimony, the PSC understands that indefinite deactivation of the

²⁴ The PSC does not intend to discourage a prospective independent and good faith purchaser from acquiring the Pipeline insofar as that owner intends to rectify all of the issues at the Pipeline and operate it in a safe, compliant fashion. Upon a showing that the purchaser is not affiliated with the prior owner(s), the PSC will hold the new owner responsible only for penalties that accrue after the purchase, not for all penalties that accrued under prior ownership.

Pipeline has serious negative effects for third parties, including but not necessarily limited to Wesco, the environment, and Utah's public policy of avoiding waste of natural resources.

Although the record is not well established as to the severity of these effects, we conclude the prudent course is to flatly require compliance with applicable regulations but also allow and incent an opportunity for the Pipeline to resume operation in a safe, compliant manner.

However, in light of the Pipeline Parties' long history of willful non-compliance in this proceeding, we have no confidence the Pipeline Parties are able or willing to remediate the issues at the Pipeline on their own, *i.e.* without assistance from an independent, qualified expert. Indeed, as recounted above, the DPU and the PSC have previously attempted to work with the Pipeline Parties and those efforts have been shunned or wasted.

Nevertheless, the record suggests that a reasonable and prudent operator could resolve the problems at the Pipeline in a relatively short time and at modest cost. Further, we find resumption of the operations at the Pipeline, in a safe and compliant manner, is preferable to indefinite deactivation. Though the Board and the DPU suggested at hearing that appointment of a receiver would effectively facilitate the Pipeline's compliance, no party has suggested we have jurisdiction to appoint a receiver and we are aware of no authority that empowers us to do so.

While we cannot appoint a receiver, the obvious legislative purpose of our power to impose daily penalties for violations is to incent compliance. A dilemma exists here because the status quo constitutes a violation of the applicable safety rule and poses intolerable risk to the public's safety, but the Pipeline's indefinite deactivation also has significant negative consequences in the form of wasted natural resources, detrimental environmental impacts, and repercussions to the business of third-parties who rely on the Pipeline (*e.g.*, Wesco).

Therefore, we find and conclude that structuring this order and its penalties in a manner to incentivize, but not require, the Pipeline Parties to retain the assistance required to achieve an optimal outcome is within our discretion and in the interest of the public and its safety.

In consideration of all of the evidence in the record and the parameters of our authority under Utah Code Ann. § 54-13-8 and Utah Admin. Code R746-409-6, the PSC finds and concludes penalties as follows should be assessed against the Culpable Parties:

The Culpable Parties will incur a penalty of \$10,000 per day, commencing on Monday, February 10, 2020 and accumulating daily until one of the following occurs:

- (1) The PSC receives confirmation from the DPU that the Culpable Parties have resolved the 11 outstanding violations the PSC found to exist in the HFO such that the Pipeline is being maintained fully in accord with Part 192, which would obviate the need to comply with the Deactivation Rule;
- (2) The PSC receives confirmation from the DPU that the Culpable Parties have deactivated the Pipeline in full compliance with the Deactivation Rule; or
- (3) The daily penalty shall decrease to \$500 per day under the following conditions: (i) the Culpable Parties retain an appropriately qualified, independent consultant (“IC”), the selection of whom the DPU must approve in writing prior to the IC’s retention; (ii) the Culpable Parties provide whatever authority and resources are necessary for the IC to bring the Pipeline into full compliance with Part 192; (iii) the IC provides bi-weekly status updates to the DPU, commencing on the first Monday after the IC’s retention, apprising the DPU of the IC’s efforts and status; and (iv) the status reports indicate the IC and the Culpable Parties are engaging in earnest and good faith efforts

to bring the Pipeline into full compliance with Part 192 as soon as reasonably possible.

If the Culpable Parties retain a DPU-approved IC, the penalty amount shall decrease to \$500 per day on the date the Culpable Parties submit confirmation to the PSC that an approved IC has been retained. The reduced \$500 daily penalty shall remain in effect so long as the IC submits satisfactory status reports as described in the preceding paragraph. If the IC fails to timely submit a status report or the DPU believes a status report fails to demonstrate earnest and good faith efforts, the \$10,000 daily penalty amount will be reinstated effective on the date the DPU provides notice of such failure to the PSC. The reduced \$500 daily penalty may accrue for as long as necessary for the Pipeline to be brought into compliance.

The penalties enumerated in the preceding paragraphs will accrue until and through the date the Pipeline is brought into compliance with Part 192, under Paragraph (1) or (2) above, or until the \$1,000,000 maximum penalty accrues under Utah Code Ann. § 54-13-8(2), whichever occurs first.

We conclude the Culpable Parties' violation of the Deactivation Rule is a separate violation and does not comprise part of a related series of violations within the meaning of Utah Code Ann. § 54-13-8(2). The HFO was imposed nearly nine months ago and imposed a flat, fixed penalty for PEMC's many failures to comply with applicable safety regulations for operating an active pipeline. Additionally, the flat penalty under the former HFO issued against PEMC, which has declared bankruptcy. The violation and penalty at issue here pertains not only to PEMC but to all of the Culpable Parties and their failure to deactivate the Pipeline in a safe, compliant fashion. The accruing penalty we impose here is intended to ensure the Pipeline is not

left indefinitely in a state that threatens the public safety. Therefore, we conclude the penalty we impose here is not limited by the penalty we imposed under the prior HFO, *i.e.* the former penalty of \$100,000 does not form any part of the maximum amount of \$1,000,000 that we impose for this violation.

4. ORDER

Based on the foregoing, the PSC issues this Second Hazardous Facility Order, and orders penalties shall accrue as detailed in the immediately preceding subsection of this order. The PSC further orders that such penalties shall be enforceable and collectible to the fullest extent allowable under the law against the Culpable Parties as defined in this order.²⁵

DATED at Salt Lake City, Utah, January 31, 2020.

/s/ Michael J. Hammer
Presiding Officer

Approved and Confirmed January 31, 2020, as the Order of the Public Service Commission of Utah.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#311945

²⁵ *Supra* at 26-27.

Notice of Opportunity for Agency Review or Rehearing

Pursuant to §§ 63G-4-301 and 54-7-15 of the Utah Code, an aggrieved party may request agency review or rehearing of this Order by filing a written request with the PSC within 30 days after the issuance of this Order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the PSC does not grant a request for review or rehearing within 20 days after the filing of the request, it is deemed denied. Judicial review of the PSC's final agency action may be obtained by filing a petition for review with the Utah Supreme Court within 30 days after final agency action. Any petition for review must comply with the requirements of §§ 63G-4-401 and 63G-4-403 of the Utah Code and Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on January 31, 2020, a true and correct copy of the foregoing was delivered upon the following as indicated below:

By U.S. Mail:

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

* Documents previously mailed to this address have been returned to the PSC as undeliverable.

Dean H. Christensen
Manager
Dead Horse Oil Company
17 West Main Street
Green River, UT 84525

* Documents previously mailed to this address have been returned to the PSC as undeliverable.

By Email:

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