

DEC 23 2009

Mr. Richard R. Fisette
Vice President
International-Matex Tank Terminals
250 E. 22nd Street
P.O. Box 67
Bayonne, NJ 07002

Re: CPF No. 1-2008-5006

Dear Mr. Fisette:

Enclosed is the Final Order issued in the above-referenced case. It makes findings of violation and finds that IMTT-Pipeline has completed the actions specified in the Notice required to comply with the pipeline safety regulations. This case is now closed. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Byron Coy, Director, Eastern Region, PHMSA

CERTIFIED MAIL – RETURN RECEIPT REQUESTED [7005 0390 0005 6162 5333]

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

In the Matter of)	
)	
)	
International-Matex Tank Terminals,)	CPF No. 1-2008-5006
)	
Respondent.)	
)	

FINAL ORDER

From May 5-8, 2008, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), inspected International-Matex Tank Terminal (IMTT)'s transmission pipeline in Bayonne, New Jersey and Staten Island, New York. Between these locations, IMTT (Respondent) operates 10 miles of 12-inch transmission pipeline that crosses the Arthur Kill Tidal Strait also known as Staten Island Sound. In addition to the New York area, IMTT owns and operates tank terminals in Louisiana, Illinois, California, Virginia, Quebec, and Newfoundland.¹

As a result of the inspection, the Director, Eastern Region, OPS (Director), issued to Respondent, by letter dated September 5, 2008, a Notice of Probable Violation and Proposed Compliance Order.² In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that IMTT had violated 49 C.F.R. § 195.589(c) and ordering Respondent to take certain measures to correct the alleged violation.

IMTT responded to the Notice by letter dated September 25, 2008 (Response). In its Response, IMTT provided an explanation and contested the allegations of violation. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 195, as follows:

Items 1A & 1B: The Notice alleged that Respondent violated 49 C.F.R. § 195.589 which states:

¹ <http://www.imtt.com/locations.html> (last accessed November 30, 2009).

² PHMSA subsequently issued a corrected version, dated October 3, 2008, making minor edits. All references in this Final Order to the Notice will refer to the October 3, 2008 Notice

§ 195.589 – What corrosion control information do I have to maintain?

(a)

(b)

(c) You must maintain a record of each analysis, check, demonstration, examination, inspection, investigation, review, survey, and test required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that corrosion requiring control measures does not exist. You must retain these records for at least 5 years, except that records related to §§ 195.569, 195.573(a) and (b), and 195.579(b)(3) and (c) must be retained for as long as the pipeline remains in service.

In regards to Item 1A, the Notice alleged that Respondent violated 49 C.F.R. § 195.589(c) by failing to maintain records demonstrating atmospheric corrosion monitoring. IMTT is required to maintain a record of each atmospheric corrosion inspection conducted under § 195.583 for at least 5 years. At the time of the inspection, IMTT could not provide any records of atmospheric corrosion monitoring. In its Response to the Notice, IMTT acknowledged that it failed to produce these records during the inspection but stated that the records were stored off-site.³ On August 19, 2009, over a year after the inspection, IMTT produced a Field/Foot Patrol Form dated December 20, 2007.⁴ To date, IMTT has not produced the remaining records documenting atmospheric corrosion inspections occurring during the five years that preceded the 2008 inspection. The retention of records is important to assure PHMSA and the public that the operator is performing the required inspections. Therefore, having reviewed the evidence in the record, I find that IMTT has violated § 195.589(c) by failing to maintain records for atmospheric corrosion monitoring.

In regards to Item 1B, the Notice alleged that respondent violated 49 C.F.R. § 195.589(c) by failing to produce records demonstrating that piping removed from the system under 49 C.F.R. § 195.579(c) was inspected for evidence of internal corrosion. Operators are required to retain records of this type of inspection as long as the pipeline remains in service. In its Response, IMTT stated that it was not the sole owner of this system in 2003 when the piping was removed. Specifically, IMTT stated that it was only a partial owner of the line during this time period and therefore, another company was responsible for maintaining the records. IMTT further confirmed that it became sole owner of this system in 2004 and has not removed any pipe since that time.

However, other than the bare statement in its Response that another pipeline company was responsible for maintaining these records, Respondent has not supplied any further evidence to support this assertion. Section 195.589(c) applies to operators which are further defined as “a person who owns or operates pipeline facilities.”⁵ IMTT, as an owner of these pipeline facilities, was responsible for maintaining these records for as long as the pipe remains in service.⁶

³ Response, at 1.

⁴ See email from Randy Waters, IMTT, to Clyde Myers, OPS, dated August 21, 2009.

⁵ Section 195.589 applies to “you” as defined by 195.553 as an “operator”. Further, an operator subject to the pipeline safety regulations is defined as “a person who owns or operates pipeline facilities”. 49 C.F.R. § 195.2.

⁶ 49 C.F.R. § 195.589(c).

Accordingly, after considering all the evidence, I find Respondent violated 49 C.F.R. § 195.589 by failing to maintain records documenting the inspection of removed pipe for internal corrosion.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 1A and 1B for violations of 49 C.F.R. § 195.589(c). Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquids or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. The Director has indicated that Respondent has taken the following actions specified in the proposed compliance order:

1. With respect to Items 1A and 1B, Respondent established additional training and documentation pertaining to recordkeeping and demonstrated an emphasis on the federal code requirements for inspections and records.
2. Respondent submitted an e-mail dated August 21, 2009, indicating the safety improvement costs associated with fulfilling the Compliance Order.

Accordingly, since compliance has been achieved with respect to these violations, the compliance terms are not included in this Order.

The terms and conditions of this Final Order shall be effective upon receipt.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued