

**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY**

In the Matter of)	
)	
IMTT-Bayonne,)	CPF No. 1-2022-017-NOPV
)	
Respondent.)	
)	

**Request for Hearing, Preliminary Statement of Issues
and Request for Settlement Meeting
of IMTT-Bayonne**

Pursuant to § 190.208(a)(4) and § 190.211, International-Matex Tank Terminals Bayonne (IMTT-Bayonne) submits a Request for Hearing and Preliminary Statement of Issues regarding the Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice) issued on July 1, 2022, following an inspection conducted by the Office of Pipeline Safety (OPS). On July 14, 2022, the Pipeline and Hazardous Materials Safety Administration (PHMSA) approved by email an extension until September 29, 2022, to respond to the Notice. Therefore, this Response is timely.

The Notice alleges 14 probable violations. IMTT-Bayonne does not contest Item 11 and Item 14. Item 1, Item 3, Item 4, Item 5, Item 6, Item 7, Item 9, Item 10, and Item 12 are warning items.

IMTT-Bayonne is committed to public safety and operating its pipeline facilities in accordance with PHMSA’s regulations. IMTT-Bayonne takes PHMSA’s allegations of violation seriously, however, certain allegations in the Notice are legally and factually unsupported and must be withdrawn. IMTT-Bayonne contests Item 2, Item 8, and Item 13 and requests a hearing on these items. Concurrently with this request, IMTT-Bayonne has filed a written response with respect to the contested items in the Notice.

As permitted under 49 U.S.C. § 60117(b)(1),¹ IMTT-Bayonne requests a settlement meeting to discuss resolution of the alleged violations. IMTT-Bayonne also requests that the presiding official delay for 60 days the scheduling of a hearing to allow the parties sufficient time to convene a meeting to resolve issues through a settlement.

IMTT-Bayonne also notes that on July 1, 2022, PHMSA issued a separate Notice of Probable Violation to IMTT-Pipeline in CPF No. 1-2022-016. The facilities of IMTT-Bayonne and IMTT-Pipeline have different Operator Identification numbers but are integrally related and

¹ 49 U.S.C. § 60117(b)(1) (2018), as amended by The Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2020, Pub. L. No. 116-260, div. R, title I, § 108(a)(2), 134 Stat. 2221, 2223 (Dec. 27, 2020).

are operated by the same personnel using the same procedures. Several allegations in both Notices are the same or similar. To conserve resources, IMTT-Bayonne requests that PHMSA convene a single settlement meeting (and any hearing if necessary) for both Notices so that they can be addressed together.

Request for Hearing

IMTT-Bayonne requests that PHMSA convene an in-person hearing regarding Item 2, Item 8, and Item 13.

IMTT-Bayonne will be represented by legal counsel at the hearing and intends to raise the issues identified below in its Preliminary Statement of Issues.

Preliminary Statement of Issues

IMTT-Bayonne intends to raise the issues set forth below in a hearing in this case. IMTT-Bayonne reserves the right to revise these issues at or before the hearing based on any additional information that may be provided in this proceeding.

Item 2 § 195.402(a) Procedural manual for operations, maintenance, and emergencies.

Whether OPS failed to satisfy its burden of proving that IMTT-Bayonne did not comply with its corrosion control procedures in violation of § 195.402(a) because the allegation is unsupported by the facts and evidence in the case file.

Whether the allegation is unsupported by the Pipeline Safety Laws and is inconsistent with the relevant Part 195 regulations, PHMSA case law and guidance.

Whether the proposed civil penalty is inappropriate and unsupported by the facts, the case file, the Pipeline Safety Laws and relevant Part 190 and Part 195 regulations.

Item 8 § 195.432(b) Inspection of in-service breakout tanks.

Whether OPS failed to satisfy its burden of proving the existence of a violation of § 195.432(b) because the allegation is unsupported by the facts and evidence in the case file.

Whether the allegation is unsupported by the Pipeline Safety Laws and is inconsistent with the relevant Part 195 regulations, PHMSA case law and guidance.

Whether the proposed civil penalty is inappropriate and unsupported by the facts, the case file, the Pipeline Safety Laws and relevant Part 190 and Part 195 regulations.

Item 13 § 195.573(d) What must I do to monitor external corrosion control?

Whether OPS failed to satisfy its burden of proving that IMTT-Bayonne did not inspect the tanks cathodically protected with impressed current systems in violation of § 195.573(d) because the allegation is unsupported by the facts and evidence in the case file.

Whether the allegation is unsupported by the Pipeline Safety Laws and is inconsistent with the relevant Part 195 regulations, PHMSA case law and guidance.

Whether the proposed civil penalty is inappropriate and unsupported by the facts, the case file, the Pipeline Safety Laws and relevant Part 190 and Part 195 regulations.

Respectfully submitted,

Shaun Revere
Chief Operating Officer
International-Matex Tank Terminals

September 27, 2022