



U.S. Department  
Of Transportation  
**Pipeline and  
Hazardous Materials  
Safety Administration**

820 Bear Tavern Road, Suite 103  
West Trenton, NJ 08628  
**609.989.2171**

## WARNING LETTER

### OVERNIGHT EXPRESS MAIL

August 15, 2013

Richard Fisette  
Terminal Manager  
International-Matex Tank Terminal-Pipeline  
250 East 22nd Street  
Bayonne, NJ 07002

**CPF 1-2013-5017W**

Dear Mr. Fisette:

From June 4 - 8, 2012 a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code inspected International-Matex Tank Terminal-Pipeline's (IMTT) integrity management program, and pipeline facilities in Staten Island, New York and Bayonne, New Jersey.

As a result of the inspection, it appears that you have committed a probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The item inspected and the probable violation is:

1. **§195.412 Inspection of rights-of-way and crossings under navigable waters.**
  - (a) . . .
  - (b) **Except for offshore pipelines, each operator shall, at intervals not exceeding 5 years, inspect each crossing under a navigable waterway to determine the condition of the crossing.**

IMTT failed to inspect each crossing under a navigable waterway to determine the condition of the crossing, at intervals not exceeding five (5) years, as prescribed in §195.412(b). Specifically, IMTT failed to inspect the crossing under the navigable waterways, the Arthur Kill River and Newark Bay, in New York-New Jersey.

During the PHMSA inspection, it was noted that IMTT had a pipeline that crossed the Arthur Kill River and Newark Bay. A PHMSA inspector requested IMTT's representative to produce the most recent record of the crossing under the navigable waters inspection. IMTT's representative indicated that this pipeline was installed with directional drilling, with a depth of 90 and 120 feet, in 2003. Since this pipeline was buried at that depth, IMTT believed that an inspection was not required. IMTT was unable to produce any record that demonstrated that it inspected the crossings, within the five (5) year interval, by 2008. Thus, IMTT failed to inspect the crossing under the Arthur Kill River and Newark Bay.

Subsequently, following the PHMSA inspection, IMTT provided a report that showed the crossings were inspected on October 18-19, 2012.

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$200,000 per violation per day the violation persists up to a maximum of \$2,000,000 for a related series of violations. For violations occurring prior to January 4, 2012, the maximum penalty may not exceed \$100,000 per violation per day, with a maximum penalty not to exceed \$1,000,000 for a related series of violations. We have reviewed the circumstances and supporting documents involved in this case, and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to correct the item identified in this letter. Failure to do so will result in IMTT being subject to additional enforcement action.

No reply to this letter is required. If you choose to reply, in your correspondence please refer to **CPF 1-2013-5017W**. Be advised that all material you submit in response to this enforcement action is subject to being made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b).

Sincerely,

A handwritten signature in blue ink, appearing to read "Byron Coy".

Byron Coy, PE  
Director, Eastern Region  
Pipeline and Hazardous Materials Safety Administration