

June 22, 2018

Mr. James Hooke  
Chief Executive Officer  
Macquarie Infrastructure Corporation, LLC  
125 West 55th Street  
New York, NY 10019

**Re: CPF No. 1-2017-5004**

Dear Mr. Hooke:

Enclosed please find the Final Order issued in the above-referenced case to your subsidiary, International-Matex Tank Terminals, LLC (IMTT). It makes a finding of violation and assesses a civil penalty of \$144,000. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer dated February 20, 2018. The Order further finds that IMTT has completed the actions specified in the Notice to comply with the pipeline safety regulations. This enforcement action is now closed. Service of the Final Order is deemed effective as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

Enclosure

cc: Mr. Robert Burrough, Director, Eastern Region, Office of Pipeline Safety, PHMSA  
Mr. Richard Jurisich, Jr., General Counsel, International-Matex Tank Terminals, LLC,  
321 St. Charles Ave, New Orleans, LA, 70130

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

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<b>In the Matter of</b>	)	
	)	
<b>International-Matex Tank Terminals, LLC,</b>	)	<b>CPF No. 1-2017-5004</b>
<b>    a subsidiary of Macquarie Infrastructure</b>	)	
<b>    Corporation, LLC,</b>	)	
	)	
<b>Respondent.</b>	)	
	)	

**FINAL ORDER**

On February 26, 2016, and August 16, 2016, pursuant to 49 U.S.C. § 60117, representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an onsite investigation into an accident involving International-Matex Tank Terminals, LLC (IMTT or Respondent), in Bayonne, New Jersey. The accident occurred on IMTT’s 16-inch Packards to Curries pipeline within the IMTT-Bayonne Terminal, located in Hudson County, New Jersey. IMTT operates 620 tanks with a total of 16 million barrels of capacity of refined petroleum products at its facility in Bayonne, New Jersey.<sup>1</sup>

As a result of the investigation, the Director, Eastern Region, OPS (Director), issued to Respondent, by letter dated December 21, 2017, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that IMTT had violated 49 C.F.R. § 195.250 and proposed assessing a civil penalty of \$144,000 for the alleged violation. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violation.

After requesting and receiving an extension of time to respond, Respondent paid the proposed civil penalty of \$144,000 by wire transfer on February 20, 2018. The company did not contest the allegation of violation or the proposed compliance order. In accordance with 49 C.F.R. § 190.208(a)(1), such payment authorizes the Associate Administrator to make a finding of violation and to issue this final order.

**FINDING OF VIOLATION**

In its Response, IMTT did not contest the allegation in the Notice that it violated 49 C.F.R. Part 195, as follows:

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<sup>1</sup> See <https://www.imtt.com/bayonne-new-jersey/> (last accessed May 3, 2018).

**Item 1:** The Notice alleged that Respondent violated 49 C.F.R. § 195.250, which states:

**§195.250 Clearance between pipe and underground structures.**

Any pipe installed underground must have at least 12 inches (305 millimeters) of clearance between the outside of the pipe and the extremity of any other underground structure, except that for drainage tile the minimum clearance may be less than 12 inches (305 millimeters) but not less than 2 inches (51 millimeters). However, where 12 inches (305 millimeters) of clearance is impracticable, the clearance may be reduced if adequate provisions are made for corrosion control.

The Notice alleged that Respondent violated 49 C.F.R. § 195.250 by failing to maintain at least 12 inches (305 millimeters) of clearance between the outside of the pipe and the extremity of any other underground structure. Specifically, the Notice alleged that IMTT replaced a segment of the 16-inch Packards to Currie pipeline, but failed to maintain at least 12 inches of clearance between the outside of the pipeline and a section of steel sheet piling that was used during construction.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that IMTT violated 49 C.F.R. § 195.250 by failing to maintain at least 12 inches (305 millimeters) of clearance between the outside of the pipe and the extremity of any other underground structure.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

**ASSESSMENT OF PENALTY**

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.<sup>2</sup> In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; and any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require. The Notice proposed a total civil penalty of \$144,000 for the violation cited above.

**Item 1:** The Notice proposed a civil penalty of \$144,000 for Respondent's violation of 49 C.F.R. § 195.250, for failing to maintain at least 12 inches of clearance between the outside of the pipe and the extremity of any other underground structure. IMTT neither contested the allegation nor presented any evidence or argument justifying reduction or elimination of the

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<sup>2</sup> These amounts are adjusted annually for inflation. *See, e.g.,* Pipeline Safety: Inflation Adjustment of Maximum Civil Penalties, 82 Fed. Reg. 19325 (April 27, 2017).

proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria for the Item cited above, I assess IMTT a total civil penalty of **\$144,000**, which amount was paid in full on February 20, 2018.

### **COMPLIANCE ORDER**

The Notice proposed a compliance order with respect to Item 1 for the violation of 49 C.F.R. § 195.250. 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 indicates that Respondent has taken the following actions specified in the proposed compliance order:

1. With respect to the violation of § 195.250 (**Item 1**), Respondent has developed construction procedures to ensure that the requirements of § 195.250, providing proper clearance between pipe and underground structures, are met.

Accordingly, I find that compliance has been achieved with respect to this violation. Therefore, the compliance terms proposed in the Notice are not included in this Order.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

June 22, 2018

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Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

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Date Issued