

July 13, 2018

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

Re: CPF No. 1-2018-5001

Dear Mr. Hooke:

Enclosed please find the Final Order issued in the above-referenced case to your subsidiary, International-Matex Tank Terminals, LLC. It makes a finding of violation and assesses a civil penalty of \$19,600. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer dated February 20, 2018. This enforcement action is now closed. Service of the Final Order by certified mail is 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**

In the Matter of)	
)	
International-Matex Tank Terminals, LLC,)	CPF No. 1-2018-5001
a subsidiary of Macquarie Infrastructure)	
Corporation, LLC,)	
)	
Respondent.)	

FINAL ORDER

From June 19 through 20, 2017, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities and records of International-Matex Tank Terminals, LLC (IMTT or Respondent), a subsidiary of Macquarie Infrastructure Corporation, LLC, in Staten Island, New York. The IMTT Pipeline is a 10-mile-long pipeline that transports refined and petroleum products in New Jersey and New York.¹

As a result of the inspection, the Director, Eastern Region, OPS (Director), issued to Respondent, by letter dated January 5, 2018, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that IMTT had violated 49 C.F.R. § 195.412 and proposed assessing a civil penalty of \$19,600 for the alleged violation.

After requesting and receiving an extension of time to respond, IMTT did not further respond and paid the proposed civil penalty of \$19,600. The company did not contest the allegation of violation or request a hearing. 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

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

¹ See IMTT's website, <http://www.imttpipeline.com/#p=home> (last accessed May 3, 2018).

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.412(a), which states:

§ 195.412 Inspection of rights-of-way and crossings under navigable waters.

(a) Each operator shall, at intervals not exceeding 3 weeks, but at least 26 times each calendar year, inspect the surface conditions on or adjacent to each pipeline right-of-way. Methods of inspection include walking, driving, flying or other appropriate means of traversing the right-of-way.

The Notice alleged that IMTT violated 49 C.F.R. § 195.412(a) by failing to inspect the surface conditions on or adjacent to each pipeline right-of-way at intervals not exceeding three weeks, but at least 26 times each calendar year. Specifically, the Notice alleged that IMTT did not perform timely inspections on its 12-inch IMTT Pipeline three times during the calendar year 2016. IMTT's records allegedly showed that the company performed only 23 right-of-way inspections during 2016, indicating that three inspections had not been performed.

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. § 195.412(a) by failing to inspect the surface conditions on or adjacent to each pipeline right-of-way at intervals not exceeding three weeks, but at least 26 times each calendar year.

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.² 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 \$19,600 for the violation cited above.

Item 1: The Notice proposed a civil penalty of \$19,600 for Respondent's violation of 49 C.F.R. § 195.412(a), for failing to inspect the surface conditions on or adjacent to each pipeline right-of-way at intervals not exceeding three weeks, but at least 26 times each calendar year. IMTT neither contested the allegation nor presented any evidence or argument justifying a reduction in

² 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).

the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess IMTT a civil penalty of **\$19,600** for violation of 49 C.F.R. § 195.412(a), which was paid in full by Respondent on February 20, 2018.

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

July 13, 2018

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued