

**NOTICE OF PROBABLE VIOLATION
and
PROPOSED CIVIL PENALTY**

OVERNIGHT EXPRESS DELIVERY

January 5, 2018

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

CPF 1-2018-5001

Dear Mr. Hooke:

On June 19-20, 2017, 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 (U.S.C.) inspected International-Matex Tank Terminals-Pipeline (IMTT), a second-tier subsidiary of Macquarie Infrastructure Corporation, LLC, in Staten Island, NY.

As a result of the inspection, it is alleged that you have committed a probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violation(s) are:

- 1. §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.**

IMTT failed to inspect the surface conditions on or adjacent to each pipeline right-of-way (ROW) at intervals not exceeding 3 weeks, but at least 26 times each calendar

year. Specifically, IMTT missed 3 ROW inspections during the 2016 calendar year for its 12- inch IMTT Pipeline.

During the inspection, the PHMSA inspector reviewed records of ROW inspections IMTT performed for the 12-inch IMTT Pipeline. The records indicated that during the 2016 calendar year, IMTT performed 23 ROW inspections. Therefore, IMTT missed 3 ROW inspections during the 2016 calendar year.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$209,002 per violation per day the violation persists up to a maximum of \$2,090,022 for a related series of violations. For violations occurring prior to November 2, 2015, the maximum penalty may not exceed \$200,000 per violation per day, with a maximum penalty not to exceed \$2,000,000 for a related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$19,600 as follows:

| <u>Item number</u> | <u>PENALTY</u> |
|--------------------|----------------|
| 1 | \$19,600 |

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Compliance Proceedings*. Please refer to this document and note the response options. All material submit in response to this enforcement action may be 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).

Following the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 CFR § 190.211. If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from the receipt of this Notice. This period may be extended by written request for good cause.

Please submit all correspondence in this matter to Robert Burrough, Director, PHMSA Eastern Region, 820 Bear Tavern Road, Suite 103, West Trenton, NJ 08628. Please refer to **CPF 1- 2018-5001** on each document you submit, and whenever possible provide a signed PDF copy in electronic format. Smaller files may be emailed to robert.burrough@dot.gov. Larger files should be sent on a CD accompanied by the original paper copy to the Eastern Region Office.

Additionally, if you choose to respond to this (or any other case), please ensure that any response letter pertains solely to one CPF case number.

Sincerely,

Robert Burrough
Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration

Cc: Mr. Kevin Speicher, NYSDPS

Enclosure: *Response Options for Pipeline Operators in Compliance Proceedings*