

## WARNING LETTER

### OVERNIGHT EXPRESS DELIVERY

March 20, 2020

Mr. Richard D. Courtney  
Chief Executive Officer  
IMTT - Pipeline  
321 St. Charles Ave  
New Orleans, LA 70130

**CPF 1-2020-5002W**

Dear Mr. Courtney:

From June 18-22, 2018 and July 7-11, 2018, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code (U.S.C.) performed an integrated inspection on IMTT - Pipeline's (IMTT) facilities in Linden and Bayonne, New Jersey.

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

1. **§ 195.420 Valve maintenance.**
  - (a) **Each operator shall maintain each valve that is necessary for the safe operation of its pipeline systems in good working order at all times.**

IMTT failed to maintain each valve necessary for the safe operation of its pipeline system in good working order at all times.

During the field inspection, the valve handle for the Newark Bay valve was observed to not be installed on the valve stem. Upon inquiry, IMTT indicated that because of vandalism, the wheel of the valve was now carried in the right-of-way (ROW) truck. Thus, the valve was not operable at all times, but only when the correct ROW truck was available and present at the valve site. This valve is a manually operated valve with no remote operation capability.

Subsequent to the inspection, IMTT provided evidence that the valve operability was remedied by reinstalling the valve wheel and securing it to the valve to prevent tampering.

Therefore, IMTT failed to maintain its Newark Bay valve in good working order at all times.

**2. § 195.505 Qualification program.**

**Each operator shall have and follow a written qualification program. The program shall include provisions to:**

**(a) ...**

**(b) Ensure through evaluation that individuals performing covered tasks are qualified;**

IMTT failed to ensure through evaluation that individuals performing covered tasks were qualified. Specifically, IMTT failed to evaluate an individual performing rectifier inspections on its pipeline system during 2017.

During the inspection, records of rectifier readings throughout IMTT's pipeline system were reviewed. In addition, the Operator Qualification records for the individuals performing the readings were also requested and reviewed. Based on a review of these records, it was identified that an individual performing monthly rectifier readings throughout 2017 had not been evaluated and determined to be qualified to perform this covered task in accordance with Subpart G of Part 195. Performing rectifier readings is a covered task as it meets the four-part test defined in § 195.501(b).

Therefore, IMTT failed to ensure through evaluation that individuals performing covered tasks were qualified regarding the task of rectifier readings.

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018 and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. For violation occurring on or after November 2, 2015 and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a maximum penalty not to exceed \$2,090,022. 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. 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(s) identified in this letter. Failure to do so will result in IMTT - Pipeline being subject to additional enforcement action.

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).

No reply to this letter is required. If you choose to reply, please submit all correspondence in this matter to Robert Burrough, Director, PHMSA Eastern Region, 840 Bear Tavern Road, Suite 300, West Trenton, NJ 08628. Please refer to **CPF 1-2020-5002W** 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](mailto:robert.burrough@dot.gov). Larger files should be sent on USB flash drive accompanied by the original paper copy to the Eastern Region Office.

Sincerely,

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