U.S. Department
of Transportation

**Pipeline and
Hazardous Materials
Safety Administration**

840 Bear Tavern Road, Suite 300
West Trenton, NJ 08628
609.771.7800

NOTICE OF PROBABLE VIOLATION
and
PROPOSED COMPLIANCE ORDER

OVERNIGHT EXPRESS DELIVERY

April 14, 2020

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

CPF 1-2020-5003

Dear Mr. Courtney:

From June 18-22 and July 7-11, 2018, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), and an inspector from the New York State Department of Public Services (NYSDPS), acting as an agent of 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, and Staten Island, New York.

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. **§ 195.412 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 5 years. Specifically, IMTT failed to inspect its 12" onshore

pipeline's crossings of the Newark Bay, Arthur Kill, Shooter's Island and Bergen Point within this required interval.

During the July 2018 inspection, the PHMSA inspector reviewed records of navigable waterway crossing inspections. Based on these records, it was determined that IMTT's 12" pipeline crossing of the Newark Bay was last inspected on October 18 and 19, 2012. Additionally, the pipeline's crossing of the Arthur Kill, Shooter's Island, and Bergen Point (3 separate water crossings) were last inspected on January 8, 2013. These crossings under navigable waterways were due for re-inspection in October of 2017 and January of 2018, respectively. However, at the time of the PHMSA inspection, these navigable waterway crossing inspections had not been performed.

Therefore, IMTT failed to inspect its 12" onshore pipeline's crossings of the Newark Bay, Arthur Kill, Shooter's Island and Bergen Point navigable waterways to determine the condition of the crossing at intervals not exceeding 5 years.

2. § 195.573 What must I do to monitor external corrosion control?

(a) *Protected pipelines*. You must do the following to determine whether cathodic protection required by this subpart complies with § 195.571:

(1) Conduct tests on the protected pipeline at least once each calendar year, but with intervals not exceeding 15 months. However, if tests at those intervals are impractical for separately protected short sections of bare or ineffectively coated pipelines, testing may be done at least once every 3 calendar years, but with intervals not exceeding 39 months.

IMTT failed to conduct tests on its protected pipeline at least once each calendar year, but with intervals not to exceed 15 months. Specifically, between 2015 and 2017, IMTT failed in 22 instances to take cathodic protection (CP) readings at designated test stations on its Inter-Terminal pipeline in accordance with the required interval.

During the inspection, IMTT's 2015 – 2017 CP survey reports for its Inter-Terminal pipeline were reviewed. The records demonstrated that readings were not taken at the following test stations and in the following years in New Jersey segments of the pipeline:

- No. 7 T/S As Above Outside Fence (2015-2017)
- No. 8 T/S At Marsh's Creek So. Of 90 Turn (2015-2017)
- No. 15 Valve Pit (2015-2017)
- No. 20 PSE&G Block Valve (2016-2017)
- No. 56 T/S Tel. Pole Caschem (2017)
- No. 57 T/S 2nd St. @ R/R Siding (2015)
- No. 58 T/S Ingham, 3 Ft. East (2015)

The records also demonstrated that readings were not taken at the following test stations and in the following years in New York segments of the pipeline:

- No. 33 Valve No. 6 (2015-2017)
- No. 34 T/S at Creek East (2017)
- No. 35 T/S at Block Valve #6 (2017)
- No. 36 Test Station East of WHS #64, South End, RPM 239 Western Avenue (2017)
- No. 37 T/S at Valve Pit South Richmond (2017)
- No. 38 Riser/Valve North Richmond Terrace (2015)

Based on the number of test stations and years without readings taken, there were 22 instances of missed cathodic protection readings at test stations. Therefore, IMTT failed in 22 instances to conduct tests on its Inter-Terminal pipeline in accordance with § 195.573(a)(1).

3. **§ 195.573 What must I do to monitor external corrosion control?**

> **(a)…**
>
> **(e) *Corrective action.* You must correct any identified deficiency in corrosion control as required by § 195.401(b). However, if the deficiency involves a pipeline in an integrity management program under §195.452, you must correct the deficiency as required by § 195.452(h).**

IMTT failed to correct identified deficiencies in corrosion control as required by § 195.401(b)(1). Specifically, IMTT failed in 18 instances to correct low cathodic protection (CP) readings on its Inter-Terminal pipeline within a reasonable time between 2015 and 2017.

Section 195.401(b)(1) states:

> (b) An operator must make repairs on its pipeline system according to the following requirements:
>
> (1) Non-Integrity management repairs. Whenever an operator discovers any condition that could adversely affect the safe operation of its pipeline system, it must correct the condition within a reasonable time. However, if the condition is of such a nature that it presents an immediate hazard to persons or property, the operator may not operate the affected part of the system until it has corrected the unsafe condition.

During the inspection, IMTT's 2015 – 2017 CP survey reports for its Inter-Terminal pipeline were reviewed. The records demonstrated that low CP readings were discovered in 2015 and/or 2016 at 11 different test stations and continued to be present during the 2016 and/or 2017 CP surveys. These low readings are based off of the -850-mV criterion, as records to allow for the use of other criteria such as the 100-mV shift were not part of the records IMTT presented. The test stations and years of low readings located in New Jersey sections of the pipeline included:

- No. 3 Prover Loop South of Main Gate, Loop Side (2015-2016)
- No. 4 Laterals to Buckeye, South 402 Gas and North 401 Oil (2015-2016)
- No. 11 T/S at Rectifier (2015-2017)

- No. 17 T/S North Side Grasselli (2015-2016)
- No. 18 T/S PSE&G Approach Road (2015-2017)
- No. 51 Riser to Valve 429 (2015-2017)
- No. 52 Riser to Valve 432 (2015-2017)
- No. 54 Bergan Pt Term (2015-2017)
- No. 56 T/S Tel. Pole Caschem (2015-2017)

The test stations and years of low readings located in New York sections of the pipeline included:

- No. 30 T/S 400 Ft. So. Bridge (2015-2017)
- No. 34 T/S at Creek East (2015-2016)

A review of IMTT's Corrosion Manual Version 1 dated February 2018 states in Section 9.2 that "For low CP readings, IMTT-Bayonne remediates within 1 calendar year not to exceed 15 months unless environmental circumstances do not allow IMTT-Bayonne to remediate."

Based on these number of test stations and years of inadequate readings, there were 18 total instances of corrosion control deficiencies not corrected prior to the next inspection. Thus, IMTT failed in 18 instances to correct identified deficiencies in corrosion control on its Inter-Terminal pipeline within a reasonable time between 2015 and 2017, as required by § 195.573(e).

Proposed Compliance Order

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 propose a civil penalty assessment at this time.

Pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to IMTT - Pipeline. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Enforcement Proceedings*. Please refer to this document and note the response options. 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).

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 receipt of this Notice. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 1-2020-5003** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

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

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Enforcement Proceedings

PROPOSED COMPLIANCE ORDER

Pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to IMTT – Pipeline (IMTT) a Compliance Order incorporating the following remedial requirements to ensure the compliance of IMTT with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to § 195.412(b), IMTT must conduct inspections of the pipeline navigable waterway crossings identified in the notice in accordance with § 195.412(b). IMTT must complete these inspections and submit documentation of the inspection results to PHMSA within 180 days of receipt of the Final Order.

2. In regard to Item Number 2 of the Notice pertaining to § 195.573(a)(1), IMTT must complete a cathodic protection survey that includes all noted test stations, and submit the results of the survey to PHMSA within 120 days of receipt of the Final Order. IMTT must then correct any cathodic protection deficiencies discovered during this survey and provide PHMSA documentation of remedial measures within 180 days of receipt of the Final Order.

3. In regard to Item Number 3 of the Notice pertaining to § 195.573(e), IMTT must correct all noted cathodic protection deficiencies and submit documentation demonstrating completed remedial actions to PHMSA within 120 days of receipt of the Final Order.

4. It is requested (not mandated) that IMTT – Pipeline maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Robert Burrough, Director, Eastern Region, Pipeline and Hazardous Materials Safety Administration. It is requested that these costs be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies and analyses, and 2) total cost associated with replacements, additions and other changes to pipeline infrastructure.