U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

July 25, 2024

VIA ELECTRONIC MAIL TO: Jeff.Armstrong@zenithterminals.com

Jeff Armstrong
Chief Executive Officer
Zenith Energy Terminals Joliet Holdings, LLC
1 Highland Lane
Metuchen, New Jersey 08840

Re: CPF No. 3-2024-038-NOPV

Dear Mr. Armstrong:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a civil penalty of $37,900, and specifies actions that need to be taken to comply with the pipeline safety regulations. When the civil penalty has been paid and the terms of the compliance order are completed, as determined by the Director, Central Region, this enforcement action will be closed. Service of the Final Order by e-mail is effective upon the date of transmission and acknowledgement of receipt as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

ALAN KRAMER MAYBERRY
Digitally signed by ALAN KRAMER MAYBERRY
Date: 2024.07.24 13:21:36 -04'00'

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosures (Final Order and NOPV)

cc: Mr. Gregory Ochs, Director, Central Region, Office of Pipeline Safety, PHMSA
Mr. Carlos Munguia, Vice President of Operations and Engineering, Zenith Energy Terminals Joliet Holdings, LLC, Carlos.Munguia@zenithterminals.com
Mr. Jonathan Patneau, Joliet Terminal Manager, Zenith Energy Terminals Joliet Holdings, LLC, Jonathan.Patneau@zenithterminals.com

CONFIRMATION OF 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	)	
	)	
Zenith Energy Terminals Joliet Holdings, LLC,	)	**CPF No. 3-2024-038-NOPV**
	)	
Respondent.	)	

FINAL ORDER

On May 31, 2024, pursuant to 49 C.F.R. § 190.207, the Director, Central Region, Office of Pipeline Safety (OPS), issued a Notice of Probable Violation (Notice) to Zenith Energy Terminals Joliet Holdings, LLC (Respondent). The Notice proposed finding that Respondent had violated the pipeline safety regulations in 49 C.F.R. Part 195 and proposed a civil penalty of $37,900. The Notice also proposed certain measures to correct the violations. Respondent did not contest the allegations of violation, corrective measures, or proposed civil penalty.

Based upon a review of all of the evidence, pursuant to § 190.213, I find Respondent violated the pipeline safety regulations listed below, as more fully described in the enclosed Notice, which is incorporated by reference:

> 49 C.F.R. § 195.402(a) **(Item 1)** ─ Respondent failed to follow its manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies.
>
> 49 C.F.R. § 195.452(l)(1)(ii) **(Item 2)** ─ Respondent failed to maintain records to support the decisions and analyses, including any modifications, justifications, deviations and determinations made, variances, and actions taken, to implement and evaluate each element of the integrity management program listed in § 195.452(f).

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent. In accordance with 49 C.F.R. § 190.223, I assess Respondent a total civil penalty of **$37,900**.

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such payment to be made by wire transfer through the Federal

Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMK-325), Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 S MacArthur Blvd, Oklahoma City, Oklahoma 79169. The Financial Operations Division telephone number is (405) 954-8845.

Failure to pay the $37,900 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a district court of the United States.

Compliance Actions

Pursuant to 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the actions proposed in the enclosed Notice to correct the violation. The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension. Upon completion of the ordered actions, Respondent may request that the Director close the case. Failure to comply with this Order may result in the assessment of civil penalties under 49 C.F.R. § 190.223 or in referral to the Attorney General for appropriate relief in a district court of the United States.

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

ALAN KRAMER MAYBERRY
Digitally signed by ALAN KRAMER MAYBERRY
Date: 2024.07.24 13:21:14 -04'00'

July 25, 2024

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued

U.S. Department
of Transportation
Pipeline and Hazardous
Materials Safety

901 Locust Street, Suite 480
Kansas City, MO 64106

NOTICE OF PROBABLE VIOLATION
PROPOSED CIVIL PENALTY
and
PROPOSED COMPLIANCE ORDER

VIA ELECTRONIC MAIL TO: Jeff.armstrong@zenithterminals.com; Carlos.Munguia@zenithterminals.com; Jonathan.Patneau@zenithterminals.com

May 31, 2024

Jeff Armstrong
Chief Executive Officer
Zenith Energy Terminals Joliet Holdings, LLC
1 Highland Lane
Metuchen, NJ 08840

CPF 3-2024-038-NOPV

Dear Mr. Armstrong:

From September 12 through November 30, 2022, 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.), conducted an on-site inspection of Zenith Energy Terminals Joliet Holdings, LLC's (Zenith Energy) Joliet Rail (JBBR) pipeline facilities, procedures, and records in Joliet, Illinois.

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

1. § 195.402 Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

Zenith Energy failed to follow its Operations and Maintenance (O&M) Manual of written procedures in accordance with § 195.402(a). Specifically, PHMSA reviewed the documentation of the hydrostatic test that was performed on the 40-foot section of non-piggable pipe located at the MOJO facility conducted on August 3, 2022, by a contractor. The contractor failed to follow Zenith Energy's O&M procedure "Hydrostatic Testing Procedure & Requirements," Version 3.0, dated October 15, 2021.

The test was recorded on a dual pressure and temperature one-hour chart. Zenith Energy's O&M Manual section C.8, titled "On Site Recording," stipulated that both the pressures and temperatures for the entire test each must be recorded on one 24-hour chart, even if the test is less than or exceeds 24-hours, unless there is a failure which requires starting the test over. Thus, by using a 1-hour chart, rather than a 24-hour chart, Zenith Energy's O&M Manual section C.8 was not properly followed.

The hydrostatic test documentation also failed to follow O&M Manual section C.8, referenced above, and section D, titled "Test Documentation Requirements," by failing to include the following information:

1. Section C.8 required the documentation to include deadweight tester comparisons with pressure-recorder readings made at the beginning of the test, periodically during the test, and at the end of the test.
2. Section C.8 required weather conditions and changes to be documented on the Hydrostatic Test Deadweight Record.
3. Section D required the contractor to include a description of the test section in the test Summary.
4. Section D required the contractor include in the Hydrostatic Test Deadweight Record: (d) Hydrostatic test procedure, including times, pressures, and temperatures at each 30-minute interval; (f) All pipe specifications, footage, and a description of the test section; (k) Name of Company Representative witnessing test.
5. Section D required the original Hydrostatic Test Deadweight Record prepared by test contractor (handwritten field copy) to include all data listed above, including signatures of Company Representative witnessing test and of Contractor Representative.
6. Section D required the Pressure Chart prepared by test contractor to include: (c) Description of the test section, including pipe specifications and footage; (d) Location of chart; (g) times of chart installation and removal; (h) Signature of Company Representative witnessing test.

Following the inspection, Zenith Energy reviewed and updated its Hydrostatic Testing Procedure to ensure that the responsible Zenith Energy personnel oversee the contractor to ensure that the hydrostatic testing procedures and requirements are followed and that adequate records are created and properly stored in the future.

2. § 195.452 Pipeline integrity management in high consequence areas

> **(a) . . . .**
> **(l)** ***What records must an operator keep to demonstrate compliance?*** **(1) An operator must maintain, for the useful life of the pipeline, records that demonstrate compliance with the requirements of this subpart. At a minimum, an operator must maintain the following records for review during an inspection:**
> **(i) . . . .**
> **(ii) Documents to support the decisions and analyses, including any modifications, justifications, deviations and determinations made, variances, and actions taken, to implement and evaluate each element of the integrity management program listed in paragraph (f) of this section.**

Zenith Energy failed to maintain records for review during the inspection, as required by § 195.452(l)(1)(ii). First, Zenith Energy did not provide records to demonstrate that Risk Analysis (RA) was adequately conducted between the calendar years 2018 through 2021, in order to integrate all available information about the integrity of the entire JBBR pipeline and the consequences of a possible failure along the pipeline as required by Zenith Energy's integrity management plan (IMP), and in accordance with §§ 195.452(f)(3) and (g). Section 195.452(f)(3) requires operators to include in their written integrity management program (IMP) "[a]n analysis that integrates all available information about the integrity of the entire pipeline and the consequences of a failure." Section 195.452(g) provides the requirements for how operators are to perform the information analysis (also referred to as RA) required by regulations.

In Zenith Energy's IMP plan, dated October 22, 2019, section 5.1, titled "Risk Analysis (RA) Process," Zenith Energy stated, "[t]he RA targeted completion is between 2 and 2.5 years after Baseline/Re-Assessment to allow completeness of input data." Zenith Energy failed to provide documentation of any RA completed during calendar years 2018 and 2020, including the time period preceding and following the performance of the ILI integrity re-assessment of the JBBR pipeline on December 11, 2019. Furthermore, a new IMP program was developed for Zenith Energy on March 9, 2021, by a pipeline integrity services consulting firm (IMP plan Revision 2.22). PHMSA reviewed the 2021 IMP plan during the inspection and section 3.2 required the risk assessment process to be conducted annually and initiated in June and August each year for the line pipe and facilities respectively. Zenith Energy explained that the risk assessment could not be performed in calendar year 2021 due to issues experienced with the line pipe analytical risk model.

Second, Zenith Energy failed to maintain and provide adequate documentation to demonstrate that it had conducted annual evaluations to measure the effectiveness of its IMP performance in assessing and evaluating the integrity of its JBBR pipeline segments, and in protecting High Consequence Areas (HCAs) for 2021, as required by § 195.452(f)(7) and Zenith Energy's IMP plan section 7.0, titled "Program Performance." Section 195.452(f)(7) states that operators are required to identify methods to measure IMP effectiveness. Additionally, Zenith Energy provided no records to demonstrate that its IMP performance measures were established and evaluated on an annual basis for calendar years 2018, 2019 and 2020, which was required by Zenith Energy's IMP plan section 9.0, titled "Program Measures." Thus, Zenith Energy failed to develop and maintain adequate documentation of the performance metrics that were established and used to evaluate its IMP effectiveness as required by § 195.452(l)(1)(ii).

Third, Zenith Energy did not maintain adequate documentation regarding the information analysis and the integration of the results from the ILI survey completed on the 20-inch JBBR pipeline on December 11, 2019, with other available information pertinent to pipeline integrity, which is required to be maintained by §§ 195.452(f)(3) and (g). Section 195.452(f)(3) requires an operator to include in its written IMP "an analysis that integrates all available information about the integrity of the entire pipeline and the consequences of a failure;" section 195.452(g) provides the minimum requirements for how operators are to perform the information analysis by adequately considering all available information relevant to the pipeline integrity or the consequences of failure including the information identified in paragraphs §195.452(g)(1) through §195.452(g)(4). The use of all the available data on the pipeline system as applicable when evaluating 2019 ILI survey results is part of the information analysis required by § 195.452(g).

Zenith Energy's contracted pipeline integrity services consulting firm and the ILI tool vendor had a meeting on April 9, 2020, to discuss the results of the 2019 ILI survey results. Zenith Energy and the consulting firm had a meeting on November 4, 2020, in order to review the 2019 ILI survey results and integrate the results with other pipeline data elements (i.e., road crossings near dents, corrosion vs cathodic protection performance issues if any, etc.) for the purpose of understanding true threats to the pipeline and developing a dig verification plan for validating the indications reported by the ILI. Zenith Energy provided no documentation of these discussions and reviews. Maintaining proper documentation of such reviews and discussions is required under § 195.452(l)(1)(ii).

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed $266,015 per violation per day the violation persists, up to a maximum of $2,660,135 for a related series of violations. For violation occurring on or after January 6, 2023, and before December 28, 2023, the maximum penalty may not exceed $257,664 per violation per day the violation persists, up to a maximum of $2,576,627 for a related series of violations. For violation occurring on or after March 21, 2022 and before January 6, 2023, the maximum penalty may not exceed $239,142 per violation per day the violation persists, up to a maximum of $2,391,412 for a related series of violations. For violation occurring on or after May 3, 2021 and before March 21, 2022, the maximum penalty may not exceed $225,134 per violation per day the violation persists, up to a maximum of $2,251,334 for a related series of violations. For violation occurring on or after January 11, 2021 and before May 3, 2021, the maximum penalty may not exceed $222,504 per violation per day the violation persists, up to a maximum of $2,225,034 for a related series of violations. For violation occurring on or after July 31, 2019 and before January 11, 2021, the maximum penalty may not 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.

We have reviewed the circumstances and supporting documentation involved for the above probable violations and recommend that you be preliminarily assessed a civil penalty of $37,900 as follows:

Item number	PENALTY
1	$20,400
2	$17,500

Proposed Compliance Order

With respect to Item 2 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Zenith Energy. 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. All material you 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 your receipt of this Notice, you have 30 days to respond as described in the enclosed *Response Options for Pipeline Operators in Enforcement Proceedings*. 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. The Region Director may extend the period for responding upon a written request timely submitted demonstrating good cause for an extension.

In your correspondence on this matter, please refer to **CPF 3-2024-038-NOPV** and, for each document you submit, please provide a copy in electronic format, whenever possible.

Sincerely,

Gregory A. Ochs
Director, Central Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

cc: Carlos Munguia, VP of Operations and Engineering
(Carlos.Munguia@zenithterminals.com)
Jonathan Patneau, Joliet Terminal Manager
(Jonathan.Patneau@zenithterminals.com)

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

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Zenith Energy Terminals Joliet Holdings, LLC's (Zenith Energy) a Compliance Order incorporating the following remedial requirements to ensure the compliance of Zenith Energy with the pipeline safety regulations:

A. In regard to Item 2 of the Notice, pertaining to the failure to maintain records for review during the inspection, Zenith Energy must formally and adequately document the integration of the 2019 ILI survey results with other available information and pipeline data elements in order to evaluate the integrity of each pipeline segment as required by the information analysis specified in § 195.452(g), and submit for Director approval within **90 days** of the receipt of the Final Order. Zenith Energy must maintain documentation of such analysis and conclusions regarding the integrity of the pipeline segments as required, and incorporate this information in its reviews and plans development for safely returning to service its fully purged JBBR pipeline system that has been isolated from the Joliet terminal and placed under a nitrogen blanket since the week ending June 29, 2022, as reported to PHMSA previously.

B. It is requested that Zenith Energy maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Gregory A. Ochs, Director, Central, 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.