

WARNING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

October 20, 2010

Mr. Jay Prudhomme
Vice President
Merit Energy Company
1327 Noel Road, Suite 500
Dallas, TX 75240

CPF 5-2010-5027W

Dear Mr. Prudhomme:

On May 3 and May 4, and on August 12, 2010, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code, inspected your Sage Creek NGL pipeline in eastern Wyoming.

As a result of the inspection, it appears that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violations 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 mean of traversing the right-of-way.**

Merit failed to perform 26 right-of-way (ROW) inspections of their Sage Creek NGL pipeline at the required intervals in 2008. During our records review of Merit's ROW inspection program, our inspector noted that Merit only completed 24 ROW inspections of the Sage Creek NGL Pipeline in calendar year 2008. These ROW inspections consisted of 23 aerial patrols and one ground patrol. Three of these ROW patrols exceeded the three-week requirements by one day; those late patrols occurred between 3/28 and 4/19, 5/30 and 6/21, and 8/7 and 8/29, respectively. Furthermore, one ROW patrol exceeded the three-week requirements by two days; that patrol occurred between 9/24 and 10/17. Lastly, one 24 ROW patrol exceeded the three-week requirements by five days; that patrol occurred between 8/29 and 9/24. Discussions with Merit personnel revealed that their ROW contract only required their contract pilot to fly twice per month which would result in only 24 ROW inspections being done each year. However, Merit did inform PHMSA that this deficiency had been corrected.

2. **§195.402 Procedural manual for operations, maintenance, and emergencies.**
 - (c) **Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:**
 - (8) **In the case of pipeline that is not equipped to fail safe, monitoring from an attended location pipeline pressure during startup until steady state pressure and flow conditions are reached and during shut-in to assure operation within limits prescribed by §195.406.**

Merit failed to monitor pressures during startup and shut-in operations on their Sage Creek NGL between June 10, 2010 and August 11, 2010. The Sage Creek NGL pipeline operations personnel stated that Merit had lost the ability to monitor and record pressures continuously at their Sage Creek NGL pipeline meter station. The pipeline is designed to ship product in batches and the pump is designed to cycle frequently during the day. Merit did check and record the pressures at their Sage Creek Gas Processing Plant pump station between each shift but they did not monitor pipeline pressures continuously. After correcting the problem, Merit was able to obtain the pressure records during this time period from ConocoPhillips in order to ensure they did not exceed their operational limits. Regardless, an operator is required to monitor pressure during startup until steady state pressure and flow conditions are reached, and during shut-in to assure operation within limits prescribed by §195.406.

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$100,000 for each violation for each day the violation persists up to a maximum of \$1,000,000 for any 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 promptly correct these items. Be advised that failure to do so may result in Merit being subject to additional enforcement action.

No reply to this letter is required. If you choose to reply, in your correspondence please refer to **CPF 5-2010-5027W**. 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).

Sincerely,

Chris Hoidal
Director, Western Region
Pipeline and Hazardous Materials Safety Administration

cc: PHP-60 Compliance Registry
PHP-500 G. Davis (#128461)