

PI-71-0107

April 28, 1971

Mr. Edward A. Declerck  
Attorney at Law  
Security National Bank Building  
P.O. Box 1029  
Enid, Oklahoma 73701

Dear Mr. DeClerck:

This is in reply to your letter of March 26, 1971, requesting a copy of the safety regulations pertaining to liquid pipelines and inquiring whether these regulations require that no building in which people congregate be erected within 50 feet of the pipeline.

We are enclosing copies of 49 CFR Part 195, Transportation of Liquids by Pipeline, with all amendments to the date of this letter. These regulations consist of requirements for design, construction, operation and maintenance of liquid pipelines.

Section 195.210, relating to pipeline location states that no pipeline may be located within 50 feet of any private dwelling or any industrial building or place of public assembly, unless it is provided with at least 12 inches of cover in addition to that prescribed in section 195.248. This requirement pertains to the construction of pipelines and not to pipelines in existence at the time of other types of construction. Section 195.248 provides for 36 inches of cover over buried pipeline in industrial, commercial, or residential areas. Our regulations apply to pipelines and do not purport to apply to buildings or other constructions.

None of the developer's proposals violate Title 49 of the Code of Federal Regulations.

With reference to the points raised on page 2 of your letter, your attention is also directed to section 195.250 (clearance between pipe and underground structures) and section 195.256 (crossing of railroads and highways).

It is our understanding that the loan insurance program of the Federal Housing Administration contains restrictions concerning proximity of dwellings to pipelines, and if you wish to determine whether any of these provisions are applicable to your situation, you should contact the regional office located at 301 N. Hudson Avenue, Oklahoma City, OK 73102, telephone number: (area code 405) 231-4891.

We hope this information is helpful, and if you have any further questions, please do not hesitate to ask.

Sincerely,  
Original signed by  
Joseph C. Caldwell  
Acting Director  
Office of Pipeline Safety

Mitchell, Mitchell, DeClerck, Cox & Halstead  
Attorneys At Law  
Security National Bank Building  
P.O. Box 1029  
Enid, Oklahoma 73701

March 26, 1971

Mr. Joseph C. Caldwell  
Deputy Director - Office of Pipeline Safety  
Office of the Secretary of Transportation  
Washington, D. C. 20590

Dear Mr. Caldwell:

We represent a local home builder who is in the process of developing an area in the city of Enid, Oklahoma, for residential purposes. The land is subject to a pipeline easement, but the easement is not described as to location or width. There are no restrictions and the pipeline is to be buried below plow depth. For your information and reference, I have enclosed a copy of the easement.

We have approached the company holding the easement in an effort to secure an amendment which would describe the location of the pipeline and the width of the easement and further would set forth such restrictions as may be necessary with respect to the location of the buildings, streets, driveways and utilities. The company holding the easement informs us that it needs a 100-foot easement and that no buildings in which people congregate can be closer than 50 feet to the line. They will agree that other surface uses can be made of the easement to within 25 feet of the line, and that utilities can run parallel with the line up to 20 feet from the line. The company also demands that wherever any road or hard surface is laid across the pipeline that the developer case the line at his expense.

It is our understanding that the pipeline is buried about 36 inches, is 4 ½ inches in size, and carries crude oil under the pressure of about 800 pounds.

We are of the opinion that the demands of the company are unreasonable because, if granted, an excessive amount of land would be unusable and the other requirements would result in an unbearable expense to the developer.

The company states that their demands with respect to the 100-foot easement are based on the provisions of 49C.F.R, Sec. 195.210(b). We do not have available books containing the code of Federal regulations, but we are informed that the code applies to the depth at which a pipeline must be buried and to the strength, type and safety factors of the pipe.

In an effort to reach an agreement with the company, we have proposed the following terms:

1. The entire width of the easement would not be in excess of 50 feet.
2. No house or building shall be constructed or located within the 50-foot easement.
3. Except for the center 20 feet of the easement and further except that no house or building shall be constructed within the entire easement, the owner shall have full use of the easement.
4. Public streets and utilities can cross the center 20 feet of the easement.
5. No utility lines running parallel with the easement shall be located within the center 20 feet of the easement.
6. If the company is of the opinion that casing of the line is required, such casing shall be done at the company's expense.
7. If it should become necessary to lower or move the pipeline, such lowering or moving shall be done at the developer's expense.

We know that you do not want to become involved in an argument between a developer and the owner of a pipeline, but we do hope that you will be able to inform us as to the points raised by this letter. In particular, can you inform us as to whether or not the regulations require that buildings in which people congregate must be erected at least 50 feet from the line, and further inform us as to the applicable provisions with respect to the matters mentioned in this letter. Also in particular, are any of the proposals suggested by the developer as above set forth inconsistent with or in violation of the code.

If you can inform us of these matters, we certainly will appreciate it and if possible, it would be good to receive a copy of the pertinent regulations.

Since this matter has been pending for some time between the developer and the pipeline company and it is necessary for the developer to commence work within the near future, we would very much appreciate your writing to us as soon as you possibly can do so.

Thank you.

Very truly yours,  
Edward A. DeClerck