

PI-74-0127

July 30, 1974

Mr. Mark Nicholas, Manager
Portal Pipe Line Company
P. O. Drawer "L"
Minot, ND 58701

Dear Mr. Nicholas:

Thank you for your letter of June 4, 1974, asking what authority exists for a carrier to restrict construction near its pipeline which would cause the pipeline to be in noncompliance with section 195.210 or other requirements of 49 CFR Part 195.

The statutes and regulations administered by this office do not authorize a carrier to restrict construction near its pipeline. Any limitation on such construction is a matter for agreement between the parties concerned or local law.

Moreover, construction by a developer near a pipeline, where the carrier is not involved in the construction (e.g., by sale of its right-of-way), would not bring that pipeline within the purview of section 195.210.

We appreciate your interest in pipeline safety.

Sincerely,
Joseph C. Caldwell
Director
Office of Pipeline Safety

Portal Pipe Line Company
P.O. Drawer "L"
Minot, North Dakota 58701

June 4, 1974

Mr. Joseph C. Caldwell, Director
Office of Pipeline Safety
The Secretary of Transportation
Washington, DC 20590

Dear Mr. Caldwell:

Portal Pipe Line Company operates an inter-state common carrier crude oil pipe line system extending from northeastern Montana, across North Dakota and a portion of Minnesota.

When the Portal pipeline system was installed in 1962, the facility was entirely in a rural area. At the present time, the construction of a shopping center is being planned on a piece of property also crossed by Portal's 16" crude pipeline. Section 195.210 sets forth minimum requirements for the construction of new pipeline systems or the relocating or replacing of existing systems in relation to industrial buildings. What authority, if any, is either set forth or implied to give a company such ours the right to restrict the construction of a facility which would place it's system in non-compliance with Section 195.210 or any sub-part or section of Part 195. In other words, what legal authority, if any, does a pipeline company have to prevent a third party from constructing any facility which would place said company in non-compliance with any sub-part or section of Part 195.

As construction of the shopping center is planned for the near future, would greatly appreciate a prompt reply.

Sincerely,
Mark Nicholas
Manager