

July 8, 1980

The Honorable Thomas S. Foley
Member, U.S. House of Representatives
574 U.S. Court House
920 West Riverside Avenue
Spokane, Washington 99201

Dear Mr. Foley:

We are responding to your letter of June 3, 1980, in which you ask, on behalf of Mrs. Doris R. White, whether the Department of Transportation has regulations which affect the pipeline easements that cross her property.

Correspondence between Mrs. White and the Yellowstone Pipe Line Company shows that Yellowstone is taking the position that under the Department's regulations nothing may be built within 50 feet of Yellowstone's pipeline. Further, if Mrs. White builds within 50 feet of the pipeline, Yellowstone says she will have to pay to lower the pipeline to a depth of 48 inches below grade.

The only regulation we have which affects pipeline easements is 49 CFR 195.210. This regulation applies to the construction of new (or relocated or replaced) pipelines transporting hazardous liquids, such as petroleum products. Among other things, it forbids installation of a pipeline within 50 feet of any private dwelling, industrial building, or place of public assembly unless 12 inches of additional cover is provided for the pipeline beyond the 36 inches that is normally required in such areas.

Although we believe that Yellowstone had section 195.210 in mind in its correspondence with Mrs. White, this regulation only applies to new pipeline construction activities, and has no bearing on Mrs. White's proposed development near the Yellowstone pipeline. Public safety in these instances is provided by regulations for the safe operation and maintenance of existing pipelines.

We wish to assure Mrs. White that the Department's pipeline safety regulations are binding on the regulated pipeline carriers and do not impose requirements on landowners who have a pipeline easement across their property. Her rights as a landowner or

developer should be protected fully under State or local laws and covenants or agreements with the pipeline company involved. Of course, where there are disputes Mrs. White has access to the courts for redress.

Sincerely,

Howard Dugoff
Administrator

August 18, 1980

The Honorable Warren G. Magnuson
United States Senate
Washington, D.C. 20510

Dear Senator Magnuson:

Your letter dated June 18, 1980, concerning a pipeline easement across the property of Doris R. White has been forwarded to this office for reply.

In the correspondence between Mrs. White and Yellowstone Pipe Line Company, Yellowstone takes the position that under the Department's regulations no new development may take place within 50 feet of the pipeline unless the pipeline is lowered. In the correspondence between Mrs. White and Continental Pipe Line Company, Conoco states that the only available courses of action would be either to relocate the pipeline or to lower it.

The only regulation we have which affects pipeline easements is 49 CFR 195.210 which forbids installation of a pipeline within 50 feet of any private dwelling, industrial building, or place of public assembly unless 12 inches of additional cover is provided for the pipeline beyond the 36 inches that is normally required in such areas. We believe Yellowstone and Conoco had this regulation in mind in their correspondence with Mrs. White.

Section 195.210 applies only to new pipeline construction activities and has no bearing on Mrs. White's proposed development near the existing pipeline. Public safety in these instances is provided by our regulations for the safe operation and maintenance of existing pipelines.

We wish to assure Mrs. White that the Department's pipeline safety regulations are binding on regulated pipeline carriers only and do not impose requirements on landowners who have a pipeline easement across their property. Her rights as a landowner or developer should be protected under State or local laws and covenants or agreements with the pipeline company involved.

Sincerely,

Howard Dugoff