



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

1200 New Jersey Avenue SE
Washington DC 20590

FEB 06 2020

Mr. Mark Al Strother
Executive Vice President and
Chief Operating Officer
Cal Farley's Boys Ranch
600 SW 11th Avenue
Amarillo, TX 79101

Dear Mr. Strother:

In a letter to the Pipeline and Hazardous Materials Safety Administration (PHMSA), you requested an interpretation of 49 Code of Federal Regulations (CFR) Part 191. Specifically, you requested an interpretation of § 191.3 as it relates to a master meter system.

You described the Cal Farley's Boys Ranch (Ranch) as an-unincorporated community in northeastern Oldham County, Texas. You stated that as a non-profit organization, the purpose of the ranch is to provide a stable living and learning environment to nurture children who have experienced qualifying challenges that would stifle their potential. The citizen-residents of the Ranch fall into two categories, employees of the Ranch and opportunity-challenged youth. All personnel that reside on the Ranch are paid employees living in provided homes. The Ranch does not rent living space to any individual or family.

You described the Ranch's gas system as an odorized natural gas pipeline purchased through a master meter that enters a network of mains and services to serve gas deliveries to the campus's facilities. All associated piping and appliances downstream of the purchase meter is owned, operated, and maintained by Cal Farley's Boys Ranch. Gas is delivered through the mains and services to provide energy for central air conditioning, central heating, water heating, and cooking appliances for the school education and administrative buildings, gymnasiums, cafeterias, living quarters, and out-buildings, as applicable.

You asked PHMSA to provide insight on the regulatory status of the Ranch and you have provided arguments that suggest you believe the Ranch is unique and distinct from a master meter system. Based on the limited information provided in your request, PHMSA asked follow-up questions and you provided the responses on June 7, 2019.¹

PHMSA question - Is the Cal Farley's Boys Ranch gas pipeline system operated and maintained by a third party?

¹ The questions and responses have been modified for clarity.

Your response – No.

PHMSA question - Does the Ranch sell gas to a tenant (coffee shop, restaurant, etc.)?

Your response – No.

PHMSA question - Are the employee tenants of the Ranch paying for the gas directly or indirectly? That is, does the Ranch pay the employee-tenants less than what it should pay than if the employees where to live outside of the Ranch?

Your response – No, employee-tenants of the Ranch do not pay for gas directly or indirectly. Cal Farley would only reduce an employee-tenant's pay for living on the Ranch when their position is not absolutely required to live on the Ranch. We do not meter for utilities, so whether a house is occupied or not, the utility usage would be about the same.

PHMSA question – Do all employees live on the Ranch? If not, is there a pay difference between employees living on the Ranch and employees living off the Ranch?

Your response – No, all employees do not live on the Ranch. Employees living off the Ranch do not have the option to live on the Ranch.

Section 191.3 defines a master meter system as a pipeline system for distributing gas within, but not limited to, a definable area, such as a mobile home park, housing project, or apartment complex, where the operator purchases metered gas from an outside source for resale through a gas distribution pipeline system. The gas distribution pipeline system supplies the ultimate consumer who either purchases the gas directly through a meter or by other means, such as by rents.

To determine whether Cal Farley's Boys Ranch meets the definition of a master meter system under 49 CFR § 191.3 and, therefore, is subject to the requirements of 49 CFR Parts 191 and 192, we must determine if the pipeline facilities are delivering gas to the ultimate consumer who pays for the gas directly, via a bill, or pays for the gas indirectly through other means, such as rents.

In previous interpretations, PHMSA has stated that an entity would not meet the definition of a master meter system if it were only "using the gas delivered through its pipeline to provide heat or hot water to its buildings."² In that instance, the entity would be the consumer of the gas. PHMSA went on to say that if the entity provides gas to consumers, such as concessionaires, tenants, or others, it is engaged in the distribution of gas, and the persons to whom it is providing gas would be considered customers even though they may not be individually metered.³

² Mr. Don A. Ledversis, Pipeline Safety Engineer, Rhode Island Division of Public Utilities & Carriers, PI-03-0101, February 14, 2003.

³ *Id.*

Based on your responses to PHMSA's questions, it appears the Cal Farley's Boys Ranch would be the consumer of gas since it does not provide gas to concessionaries or tenants. Rather, Cal Farley's Boys Ranch uses the gas to provide energy to the various buildings it owns. Keep in mind that this response letter reflects the agency's current application of the regulations to the specific facts you presented. If your response to any of the questions PHMSA posed changes, then the regulatory status of the pipeline system for the Cal Farley's Boys Ranch may change.

If we can be of further assistance, please contact Tewabe Asebe at 202-366-5523.

Sincerely,



John A. Gale
Director, Office of Standards
and Rulemaking



Cal Farley's provides professional programs and services in a Christ-centered atmosphere to strengthen families and support the overall development of children.

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To: Pipeline and Hazardous Materials Safety Administration

After researching the various interpretations regarding the definition of a regulated gas distribution system, we at Cal Farley's Boys Ranch have not been able to identify a PHMSA interpretation pertaining to what we believe as our unique circumstances. We are seeking clarification regarding what we believe are residents that do not fall within the traditional definition of a "tenant."

The Cal Farley's Boys Ranch is an unincorporated community in northeastern Oldham County, Texas that has the appearance and functions much like a typical college campus. Originally established to serve boys only, the Ranch today encompasses girls as well. As a non-profit organization, the purpose of the ranch is to provide a stable living and learning environment to nurture children who have experienced qualifying challenges that would stifle their potential. The citizen-residents of Boys Ranch fall into two categories, employees of the Ranch and opportunity-challenged youth. All personnel that reside on the Boys Ranch campus are paid employees living in provided homes and compensated to do so. It functions as a mutual benefit of their employment and serves the interest of employee and the functionality of the Ranch. The Ranch does not rent living space to any individual or family.

A description of the Cal Farley's Boys Ranch gas system.

Odorized natural gas is purchased through a master meter and enters a network of mains and services that serve as deliveries to the campus facilities. All associated pipe and appliances downstream of the purchase meter is owned, operated, and maintained by Cal Farley's Boys Ranch. Gas is delivered through the mains and services to the following types of buildings, none of which are metered.

Where natural gas provides energy for Boys Ranch owned central air conditioning, water heating, and cooking appliances operated and managed by the employed personnel; School Education and Administrative Buildings, Gymnasiums, Cafeterias, out-buildings.

Where natural gas provides energy for domestic use in hot water heaters and air conditioning furnaces inside Boys Ranch owned homes inhabited by Boys Ranch employed house-parents and their assigned children. The house-parents do not pay rent, rather are paid to live in and provide parenting to children in the home by the Ranch at any hour of need. As Cal Farley's Boys Ranch employees, house parents are on duty and employed while they live inside the provided residence just as employees are on duty and employed while they live at work inside other Ranch owned buildings where natural gas provides central heating and water heating as a service to the building.

Similarly, where natural gas provides energy for domestic use in hot water heaters and air conditioning furnaces inside Boys Ranch provided homes, inhabited by Boys Ranch employees. Likewise, the resident employees do not pay rent, rather are paid to live in and provide services to the Ranch at a moment's notice. As Cal Farley's Boys Ranch employees, employees are on duty and employed while they live inside the provided residence just as employees are on duty and employed while they live at work inside other buildings where natural gas provides central heating and water heating as a service to the building.

Through previous interpretations it is understood that gas, delivered to a tenant residence through house/building piping owned by the property owner and consumed by the tenant via appliances owned by the property owner, is still considered to be transported gas "in commerce." However, the scenarios defined in previous interpretations seemed to encompass only tenants who are paying to rent the residence and not tenants such as the Ranch has that are continuous employees around the clock and who are paid to reside inside the Cal Farley's Boys Ranch homes.

Any insight you may provide to the regulatory status of Cal Farley's Boys Ranch is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Strother". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mark A Strother
Executive VP & Chief Operating Officer
Cal Farley's Boys Ranch