

PI-01-0100

January 29, 2001

Tad A. Schell, P.E.
Regulatory Compliance Coordinator
Marathon Ashland Pipeline LLC
539 South Main Street
Findlay, OH 45840-3295

Dear Mr. Schell:

Thank you for your letter requesting clarification of navigable waterways for the purpose compliance with 49 CFR §§ 195.412 and 195.59. You argue that the St. Joseph River in Michigan should not be characterized as commercially navigable for purposes of the National Pipeline Mapping System (NPMS) because, according to U.S. Coast Guard charts, barge traffic cannot ascend the river beyond the main street bridge in the town of Benton Harbor, approximately 1.3 miles upstream front the mouth of the river. You also note that an OPS interpretation of 49 CFR § 195.412 (March 8, 1994) defines navigable as waterways which have been designated as being navigable by the USCG in 33 CFR Subpart 2.05-25(a).

As discussed in our Final Rule on reporting of underwater abandoned pipeline facilities (September 8, 2000, 65 FR 54440) the National Waterways Network (NWN) database is the basis we use to identify commercially navigable waterways. Our use of this database replaces the use of the referenced USCG designation. Upon receipt of your letter, we checked with the Waterborne Commerce Statistics Center, US Army Corps of Engineers (COE) to determine if there were any updates affecting the St. Joseph River. The COE confirmed that the waterway is considered commercially navigable and that it will be included in the next annual release of the National Waterways dataset in March of 2001. Therefore, we will continue to regard this river as commercially navigable under the published classifications.

We realize that at any given time there may be hazards on a waterway which could interfere with navigation on a particular segment of a listed river. However, in order to maintain national consistency we will continue to rely on the COE National Waterways Dataset. If you have any questions about the dataset, please contact Kevin Cutriss at the Waterborne Commerce Statistics Center, U.S. Army Corps of Engineers at (504) 862-1406.

If you have any further questions about the pipeline safety regulations, please contact me at (202) 366-4565 or L. E. Herrick at (202) 366-5523.

Sincerely

Richard D. Hurliaux, P.E.
Manager, Regulations