

Mr. Joseph Sallak
R1 Box 85
Dyer, Indiana 46311

Dear Mr. Sallak:

This is in response to your letter of September 18, 1972, requesting that we review again the situation involving the cover depth of the Texas Eastern Transmission Corporation pipeline adjacent to your home.

In our letter of September 14, 1972, we advised you that, upon review of all the information available, the location involved is not considered to be a "residential area" as that term is used in Section 195.248, and there does not appear to be a violation of the Federal safety standards with regard to the cover requirements of 49 CFR, Part 195.

Your letter of September 18, 1972, has furnished the added information that your home is zoned residential and is inside the city limits of Dyer. While these are factors to be considered in determining whether a specific location is a "residential area" within the meaning of Section 195.248, such factors are not controlling. Inclusion within city limits does not indicate the use to which the land is or will be put, and many city limits now encompass large rural areas. Neither does zoning reflect the current use of land but rather determines the local standards to be applied for design of building and the use to which the building may be put in future development of the land. Development of a rural area, as contemplated in a zoning designation, may come far in the future or may never be accomplished.

With respect to Section 195.248, on the other hand, the various locations there listed reflect existing situations which are encountered by a constructor while building a pipeline. Since the pipeline company in subject to the Federal regulations effective at the time of construction, the cover depths, corresponding to the actual location through which the line is going, constitute the standards to which the constructor is held.

As you have requested, we have reviewed all the available information. The sketch and photographs furnished by the Indiana Public Service Commission show a residence across the road while the nearest residence to the West is approximately 528 feet and, to the East, 1056 feet. The land otherwise is termed rural in nature and is shown as agricultural. We are, therefore, unable to conclude that the location in question is a "residential area" for purposes of Section 195.248.

Based upon the foregoing considerations, we must affirm our letter to you of September 14, 1972, and restate that there does not appear to be a violation of the cover requirements contained in 49 CFR, Part 195.

Sincerely,

/signed/

Joseph C. Caldwell
Director
Office of Pipeline Safety