

January 27, 1977

Mr. Fred K. Kramer  
Director  
Department of Consumer Affairs  
County of Fairfax  
4031 University Drive  
Fairfax, Virginia 22030

Dear Mr. Kramer:

This refers to your letter of October 27, 1976, concerning a master meter gas pipeline system at the Southgate Condominium Apartments in Reston, Virginia. It is stated that the system consists of mill-wrapped steel pipe and was installed underground without cathodic protection sometime between January and May 1972 by Gulf-Reston, Inc., the developer of the project. In August 1972, the first residential use permit was issued by Fairfax County. Then about two years ago, Gulf-Reston transferred ownership of the project to the Southgate Condominium Association, who has, through a contractor, begun to install anodes on the system. You have asked whether Gulf-Reston or the Association is responsible for correct installation and monitoring of the system under the Federal gas pipeline safety standards (49 CFR Part 192).

The Federal standards are issued under the Natural Gas Pipeline Safety Act of 1968. Sec. 8 of the Act (49 USC 1677) provides that the standards are binding and enforceable against any person who owns or operates pipeline facilities. Since the Southgate system constitutes a gas distribution system that is subject to the Act and to the regulations, as an owner of the system, Gulf-Reston had, and the Association now has, responsibility for compliance of the system with 49 CFR Part 192. This responsibility includes compliance with all applicable safety requirements in effect during the period of ownership. Moreover, an owner remains liable to a civil penalty for any infraction of the safety standards occurring during its period of ownership.

With respect to requirements for cathodic protection, Section 192.455(a)(2) provides (with certain exceptions that do not appear relevant to the Southgate system) that a buried metal pipeline which is installed after July 31, 1971, must have

"a cathodic protection system designed to protect the pipeline in its entirety in accordance with this subpart, installed and placed in operation one year after completion of construction."

This regulation applies to the Southgate system which, according to your letter, was installed between January and May 1972 and began operation in August 1972. Under the regulation, cathodic protection should have been placed in operation on the system not later than May 1973, one year after construction of the system. If Gulf-Reston did not transfer ownership of the system

to the Association until the fall of 1974, then as owner of the system in May 1973, it was responsible for installation of cathodic protection in compliance with Section 192.455(a)(2).

However, because Section 192.455(a)(2) is a requirement of continuing legal effect, Gulf-Reston's failure to comply in 1973 does not relieve the Association, as the present owner of the system, of its obligation to comply with Section 192.455(a)(2). The Association is also responsible for compliance with all applicable monitoring requirements under Part 192. This Office enforces compliance with the Federal standards against persons who presently own or operate gas systems, although our enforcement activities are for the most part directed toward public utilities.

We trust that this satisfactorily answers your inquiry regarding the responsibility for compliance with the Federal gas pipeline safety standards. The Federal standards do not govern the rights of the purchaser of a gas system to compensation from the seller for any costs required to bring the system into compliance with the standards.

Sincerely,

\signed\

Cesar DeLeon  
Acting Director  
Office of Pipeline  
Safety Operations