

PI-84-0101

February 6, 1984

Mr. Earle Ausman
Nuiqsut LNG Facility, Project Manager
Polarconsult Alaska, Inc.
Suite 201
Anchorage, Alaska 99507

Dear Mr. Ausman:

This responds to your letter of Mr. Furrow of this office, dated November 28, 1983, regarding LNG facilities and an associated gas pipeline distribution system proposed for construction in the village of Nuiqsut, Alaska. You asked whether the village would have to comply with 49 CFR Part 193 with respect to the proposed LNG facilities.

The Part 193 regulations were issued under the Natural Gas Pipeline Safety Act of 1968 (NGPSA) (49 U.S.C. 1671 et. seq.). The regulations apply to LNG facilities used in the transportation of gas by pipeline that is subject to the NGPSA and 49 CFR Part 192 (§193.2001(a)). The transportation of gas that is subject to the NGPSA and Part 192 is defined in the Part 192 regulations to include the distribution of gas by pipeline in or affecting interstate or foreign commerce. Although the degree to which the proposed distribution of gas in Nuiqsut would affect interstate or foreign commerce is difficult to determine, Supreme Court cases have held that only a slight relationship to such commerce is sufficient to extend jurisdiction under Federal statutes and regulations to purely intrastate matters. The facts you have presented do not distinguish the proposed distribution of gas from similar pipeline transportation systems that effect interstate or foreign commerce. Therefore, we believe the LNG facilities proposed for construction in the village would be subject to Part 193.

Although you have not said so, we presume the village of Nuiqsut would own or operate the proposed LNG facilities. Section 10 of the NGPSA requires each person who owns or operates LNG facilities that are subject to regulations issued under the NGPSA to comply with those regulations. Section 2 of the NGPSA defines "person" to include a "municipality" or "cooperative association" and further defines "municipality" to include any political subdivision of a State. In the absence of any information to the contrary, it appears that the village of Nuiqsut is a "person" under the NGPSA and would have to comply with the Part 193 regulations.

I would like to point out, however, that Section 3 of the NGPSA would permit the village to petition us for a waiver of any of the Part 193 regulations that it considers inappropriate to meet. Such a petition would have to show that a waiver would be consistent with pipeline safety.

I trust this provides a satisfactory response to your inquiry.

Sincerely,
Original signed by
Richard L. Beam
Associate Director for
Pipeline Safety Regulation
Materials Transportation Bureau

Polarconsult Alaska, Inc.
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SUITE 201
ANCHORAGE, ALASKA 99507

November 28, 1983

Buck Farrow
Standards Division Chief
Materials Transportation Bureau
Department of Transportation
Washington, D.C. 20590

Dear Mr. Farrow:

Please reference our telephone conversation on the need for the village of Nuiqsut to meet the requirements of "Part 193, Liquefied Natural Gas Facilities: Federal Safety Standards". What we need is your determination on whether the village must meet the requirements of Part 193. This is important as portions of this regulation if strictly applied can cause the people to bear a heavy cost penalty.

The basic situation is as follows: Polarconsult Alaska, Inc. is doing a feasibility study for the State of Alaska and Geosource / Ukpeagvik Corporation on using LNG to supply the village of Nuiqsut, which is located 30 miles south of the Beaufort Sea on the left bank of the Coleville River.

The village would get the gas from ARCO at Kuparuk or Gubic, a gas field located at the junction of the Chandlar and Coleville Rivers, or from the Barrow fields. The gas would be liquified and then transported overland in crogenic tanks to a 600,000 storage tank at the village. From there it would be regasified, odorized, and distributed into a village pipeline system. The village owns all of the land on which the storage and distribution system would be located.

The gas used by this system would come either directly from the well or from a gathering system after preliminary conditioning. None of the gas would be taken off of a transmission pipeline involved in interstate transportation.

Because of these facts, we believe that Part 193 may not apply in this case.

Sincerely Yours,
POLARCONSULT ALASKA, INC.
Earle Ausman
Nuiqsut LNG Facility, Project Manager