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Oil and Gas Board - Pipelines -
Natural Gas - Rules and
Regulations

Oil and Gas Board is authorized
to regulate intrastate rural
natural gas pipeline gathering
lines.

Dear Dr. Mancini:

Attorney General Graddick is in receipt of your request for an opinion addressing the following two questions and has asked that I respond.

"Question Number One -- Does the State Oil and Gas Board of Alabama have the jurisdiction and authority to regulate rural natural gas pipeline 'gathering lines'?"

"Question Number Two -- If you determine that the State Oil and Gas Board of Alabama has the jurisdiction and authority to regulate intrastate rural natural gas pipeline 'gathering lines', does the State Oil and Gas Board have jurisdiction over a facility known as the Copeland Sulfur Plant and the associated gathering system described hereinbelow?"

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As indicated in your cover letter, your office is expecting a letter from the Department of Transportation on the issues raised in question two and at present has not received such response. Consequently, we will defer addressing question number two until such time as the Department of Transportations' response is in hand.

With regard to question number one we are of the opinion that it should be answered in the affirmative.

The Natural Gas Pipeline Safety Act of 1968(as amended) defines a "gathering line" as "pipeline that transports gas from a current production facility to a transmission line or main." 49 C.F.R. 1923 (1982). Generally, gathering lines, at the federal level are within jurisdiction of the Department of Transportation. 49 U.S.C. 1671 et seq. At the state level the Public Service Commission has jurisdiction over those activities which are covered by the Natural Gas Pipeline Safety Act of 1968. Section 37-4-85, Code of Alabama (1975).

The Natural Gas Pipeline Safety Act of 1968 however exempts from its coverage intrastate "gathering lines" in "rural locations which lie outside the limits of any incorporated or unincorporated city, town, village, or any other designated residential or commercial area such as a subdivision, a business or shopping center, a community development or any similar populated area which the secretary may define as a non-rural area." 49 U.S.C. 1671(3).

Since rural intrastate natural gas pipelines are not regulated pursuant to the Natural Gas Pipeline Safety Act, in corresponding manner they are not to be regulated by the Alabama Public Service Commission. The Alabama Oil and Gas Board, however, has additional state authority which could allow that body to regulate rural intrastate natural gas gathering lines.

In order to prevent waste of oil and gas, the State Oil and Gas Board has the following authority:

- (a) The Board shall have jurisdiction and authority over all persons and property necessary to administer and enforce effectively the provisions of this

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article and all other articles relating to the conservation of oil and gas,

- (b) The Board shall have the authority and it shall be its duty to make such inquiries as it may think proper to determine whether or not waste, over which it has jurisdiction, exists or is imminent. In the exercise of such power, the Board shall have the authority:

(4) To examine, check, test and gauge oil and gas wells, tanks, refineries and modes of transportation; . . .

- (c) The Board shall have the authority to make, after hearing and notice as provided in this article, such reasonable rules, regulations and orders as may be necessary from time to time in the proper administration and enforcement of this article, including rules, regulations and orders for the following purposes:

(11) To identify the ownership of all oil and gas wells, producing leases, refineries, tanks, plants, structures and storage and transportation equipment and facilities; . . .

(15) To limit and prorate the production of oil or gas or both from any pool or field for the prevention of waste as defined in this article;

(16) To require, either generally or in or from particular areas, certificates of clearance or tenders in connection with the transportation of oil, gas or any product; . . .

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(18) To require the placing of meters of
a type approved by the Board wherever
the Board may designate on all pipe
lines, gathering systems; . . .
(Emphasis added) Section 9-17-6,
Code of Alabama, (1975)

It is the opinion of the Attorney General that these provisions adequately empower the State Oil and Gas Board of Alabama to exercise regulatory jurisdiction over gathering lines, that are exempt from the coverage of the Natural Gas Pipeline Safety Act of 1968 (as amended) and that are exempt from the jurisdiction of the Alabama Public Service Commission. Under existing statutes, the State Oil and Gas Board has jurisdiction to regulate intrastate rural natural gas gathering lines in order to prevent waste including inspecting such pipelines and enforcing accepted safety standards in the construction, maintenance and operation of such gathering lines.

Sincerely,

CHARLES A. GRADDICK
ATTORNEY GENERAL
BY:



R. CRAIG KNEISEL
ASSISTANT ATTORNEY GENERAL

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