

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of Application)
No. 76-2 of the) Order Denying Motion for
) Continuance of Land Use
Northern Tier Pipeline) Hearings in Clallam, Island,
Company) Jefferson, Snohomish, and
) King Counties
A Montana Corporation)
.)

THIS MATTER having come before the Council by the introduction of a Motion for Continuance of Land Use Hearings in Clallam, Island, Jefferson, Snohomish and King Counties filed on May 14, 1979 by Clallam County and the City of Port Angeles, represented by its attorney John E. Keegan, and by Snohomish County, represented by its attorney Sally B. Carpenter. Petitioners stated in the Memorandum in Support of Continuance of Land Use Hearings accompanying the filing that:

- 1) The application is incomplete, thus preventing a proper examination of the project's consistency with local plans and ordinances, and
- 2) The local land use hearings and EFSEC's determination of consistency must be preceded by preparation of an EIS pursuant to SEPA.

FINDINGS OF FACT

The Council received on June 19, 1979 from the Northern Tier Pipeline Company a Certification Regarding Application stating that the amended application materials submitted on June 15, 1979 along with unchanged portions of previous submittals constitute a substantially complete application. Such certification fulfills the Council rule (WAC 463-42-060) requiring a statement attesting to the completeness of the application.

THE COUNCIL is required by statute (RCW 80.50.090) to conduct a public hearing in the county of the proposed site within sixty days of receipt of an application for site certification. The law is silent on the requirement to publish an environmental impact statement prior to convening the land use hearing. As a practical matter it would be nearly impossible to publish a competent EIS within the sixty days between application receipt and hearing.

CONCLUSION OF LAW

THE MOTION for continuance should be denied because:

- 1) No statute or regulation requires a Council decision on completeness of an application as a condition precedent to conduct of the land use and zoning hearing to be held pursuant to RCW 80.50.090(1), (2), and
- 2) The Council's decision in these hearings cannot result in any license, certification or other authorization producing any change whatsoever in the environment and these decisions are not within the contemplation of the State Environmental Policy Act.

The Council enters the following order:

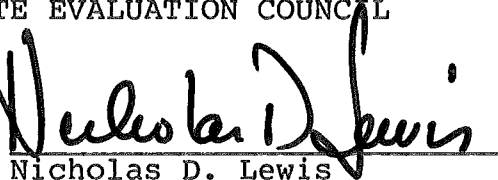
ORDER

THE MOTION for continuance of land use hearing in Clallam, Island, Jefferson, Snohomish and King Counties filed by Attorneys for Clallam County and the City of Port Angeles and by the Snohomish County Deputy Prosecuting Attorney is hereby denied.

DATED at Olympia, Washington and effective this 23rd day of July, 1979.

WASHINGTON STATE ENERGY FACILITY
SITE EVALUATION COUNCIL

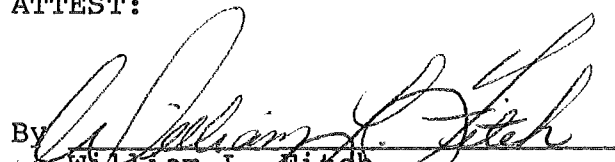
By



Nicholas D. Lewis
Chairman

ATTEST:

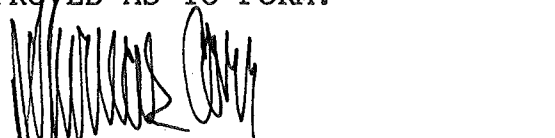
By



William L. Ritch
Executive Secretary

APPROVED AS TO FORM:

By



Thomas F. Carr
Assistant Attorney General