

BEFORE THE STATE OF WASHINGTON

ENERGY FACILITY SITE EVALUATION COUNCIL

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In the Matter of Application	)	
of the	)	APPLICATION NO. 79-1
	)	
TRANS MOUNTAIN OIL PIPE LINE	)	FINDINGS OF FACT,
CORPORATION,	)	CONCLUSIONS OF LAW AND
	)	ORDER OF CONSISTENCY AND
A Delaware Corporation	)	COMPLIANCE FOR WHATCOM
	)	COUNTY

THIS MATTER came on regularly for hearing, pursuant to notice duly given, on November 15, 1979, in Bellingham, Washington, before the Energy Facility Site Evaluation Council for determination pursuant to RCW 80.50.090 and WAC 463-26 of the consistency and compliance of the proposed Trans Mountain Oil Pipe Line Corporation's site as described in application 79-1 with the Whatcom County, City of Bellingham and City of Everson Land Use Plans.

The parties were represented as follows: Council for the Environment--Robert Mack, Assistant Attorney General, Temple of Justice, Olympia, Washington 98504; Trans Mountain Oil Pipe Line Corporation--Charles Blumenfeld and Richard Bersin, Attorneys at Law, The Bank of California Center, Seattle, Washington 98164; and Whatcom County--Phillip A. Serka, Deputy Prosecuting Attorney, Whatcom County Courthouse, 311 Grand, Bellingham, Washington; and the City of Bellingham-- Andrew Olson, Attorney at Law, 210 Lotty Street, Bellingham, Washington.

FINDINGS OF FACT

I.

On August 21, 1979, Trans Mountain Oil Pipe Line Corporation submitted its application No. 79-1. On September 7, 1979, Trans Mountain Oil Pipe Line Corporation submitted a revised application, however, the revisions did not affect the route in Whatcom County.

II.

The Shoreline Management Master Program for Whatcom County and the City of Bellingham are not county or regional land use

1 plans adopted pursuant to Chapter 35.63, 35.63A, or 36.70 RCW, or  
2 36.70, or Article XI of the State Constitution.

3 III.

4 The proposed facility will provide a service to the public  
5 by providing a means of transporting crude petroleum for the  
6 petroleum shipping public, and is a public utility within the  
7 meaning of the Whatcom County Comprehensive Plan, Whatcom County  
8 Zoning Ordinance, City of Bellingham Comprehensive Plan and City  
9 of Bellingham Zoning Ordinance.

10 IV.

11 Whatcom County adopted its comprehensive plan on June 2,  
12 1970. Whatcom County's comprehensive plan does not expressly or  
13 by operation prohibit the proposed facility site.

14 V.

15 Whatcom County adopted its zoning ordinance on July 6, 1972.  
16 The use designations upon which the proposed facility site will  
17 be located either permits the facility site directly or con-  
18 ditionally as a public utility.

19 VI.

20 Whatcom County adopted the Whatcom County flood plain ordi-  
21 nance on September 23, 1977 which was effective October 15, 1977.  
22 The flood plain ordinance does not prohibit expressly or by  
23 operation the proposed facility site.

24 VII.

25 The City of Bellingham adopted its Comprehensive Plan in  
26 1969. The Bellingham Comprehensive Plan does not prohibit  
27 expressly or by operation the proposed facility site.

28 VIII.

29 The City of Bellingham adopted a zoning ordinance on May 23,  
30 1969. The land use designations upon which the proposed facility  
31 site shall be located permits the proposed facility either

32 Find. of Fact, Con.  
of Law-2

1 directly or conditionally as a public utility.

2 IX.

3 The City of Everson adopted a Comprehensive Plan. The City  
4 of Everson Comprehensive Plan states general policies and goals,  
5 contains some land use designations. The Everson Comprehensive  
6 Plan contains no land use designations which would expressly or  
7 by operation prohibit the proposed facility site.

8 X.

9 The City of Everson has not adopted a zoning code.

10 CONCLUSIONS OF LAW

11 I.

12 The Washington State Energy Facility Site Evaluation Council  
13 has jurisdiction over the subject matter of this proceeding.

14 II.

15 August 21, 1979 is the date of application for the purpose  
16 of the siting of the facility site in Whatcom County.

17 III.

18 The Whatcom County and City of Bellingham Shoreline Management  
19 Master Program has no applicability to the Council's consistency  
20 and compliance determination in this proceeding.

21 IV.

22 The pipeline as proposed by the applicant is a public utility  
23 within the framework of the Whatcom County Comprehensive Plan,  
24 Whatcom County Zoning Ordinance, the City of Bellingham  
25 Comprehensive Plan and the City of Bellingham Zoning Ordinance.

26 V.

27 The energy facility site as contained and described in Trans  
28 Mountain Oil Pipe Line Corporation's Application 79-1 is con-  
29 sistent and in compliance with land use plans and zoning ordinan-  
30 ces if it is permitted absolutely or conditionally. To be incon-  
31 sistent and in noncompliance, the plan or ordinance must  
32 expressly, or by operation clearly, convincingly and unequivocally

Find. of Fact, Con.  
of Law -3-

1 cally prohibit the facility site.


2 VI.

3 The proposed facility site is consistent and in compliance  
4 with the Whatcom County Comprehensive Plan, the Whatcom County  
5 Zoning Ordinance, the Whatcom County Flood Plain Ordinance, the  
6 City of Bellingham Comprehensive Plan, the City of Bellingham  
7 Zoning Ordinance and the City of Everson Comprehensive Plan.

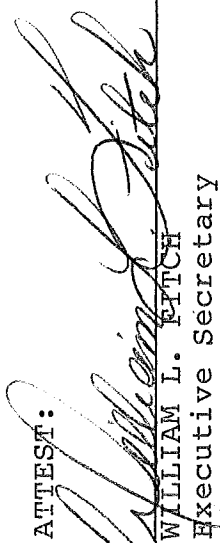
8 ORDER

9 It is hereby ORDERED that the facility site as proposed by  
10 application 79-1, in the Whatcom County is consistent and in  
11 compliance with the Whatcom County Comprehensive Plan, the  
12 Whatcom County Zoning Ordinance, the Whatcom County Flood Plain  
13 Ordinance, City of Bellingham Comprehensive Plan, the City of  
14 Bellingham Zoning Ordinance and the City of Everson Comprehensive  
15 Plan.


16 DATED at Olympia, Washington, and effective this 11th day of  
17 February, 1980.

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20 NICHOLAS D. LEWIS, Chairman  
Washington State Energy Facility  
Site Evaluation Council

21 ATTEST:

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23 WILLIAM L. FITCH  
Executive Secretary

24 Approved as to Form:

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27 KEVIN M. RYAN, Assistant  
Attorney General

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