

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 SKAGIT
)	COUNTY

THIS MATTER came on regularly for hearing, pursuant to notice duly given, on November 28, 1979, in Mt. Vernon, 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 site as described in application 79-1 with the Skagit County Land Use Plans.

The parties were represented as follows: Trans Mountain Oil Pipe Line Corporation--Charles Blumenfeld and Richard Bersin, Attorneys at Law, The Bank of California Center, Seattle, Washington 98164; and Skagit County--Thomas Moser, Deputy Prosecuting Attorney, Skagit County Courthouse Annex, Mt. Vernon, Washington 98273.

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 which affected the route and facility site in Skagit County.

II.

The pipeline and tank farm facility in Skagit County, as proposed by Application 79-1, shall be sited outside the boundaries of all municipalities in Skagit County.

III.

The Shoreline Management Master Program for Skagit County is not a county or regional land use plan adopted pursuant to

1 Chapter 35.63, 35.63A, or 36.70 RCW, or a county or regional
2 zoning ordinance adopted pursuant to Chapters 35.63, 35.63A, or
3 36.70 or Article XI of the State Constitution.

4 IV.

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

10 V.

11 Skagit County adopted its comprehensive plan in 1965 and
12 readopted it in 1968. Skagit County's Comprehensive Plan does
13 not expressly or by operation prohibit the proposed facility
14 site, including the pipeline and tank farm portions.

15 VI.

16 Skagit County adopted its zoning ordinance on June 11, 1979.
17 The use designations upon which the pipeline portion of the pro-
18 posed facility site will be located either permits the pipeline
19 portion of the proposed facility site directly or conditionally .

20 VII.

21 If the tank farm portion of the proposed facility site is
22 located in a use area designated by the Skagit County zoning
23 Ordinance as residential or agricultural, the tank farm portion
24 of the proposed facility site is prohibited by the Skagit County
25 Zoning Ordinance. If the tank farm portion of the proposed faci-
26 lity site is located in a use area designated by the Skagit
27 County Zoning Ordinance as forestry, industrial or commercial,
28 the tank farm portion of the proposed facility site is permitted
29 directly or conditionally by the Skagit County Zoning Ordinance.

30 VIII.

31 Skagit County adopted the Skagit County Flood Plain Ordinance

32 * * *

1 Ordinance (Number 7947) on May 23, 1978. The Flood Plain Ordinance
2 does not prohibit expressly or by operation the proposed
3 facility site.

4 CONCLUSIONS OF LAW

5 I.

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

8 II.

9 September 7, 1979 is the date of application for the purpose
10 of the siting of the facility site in Skagit County.

11 III.

12 The Skagit County Shoreline Management Master Program has no
13 applicability to the Council's consistency and compliance determination
14 in this proceeding.

15 IV.

16 The pipeline as proposed by the applicant is a public utility
17 within the framework of the Skagit County Comprehensive Plan and
18 the Skagit County Zoning Ordinance.

19 V.

20 The energy facility site as contained and described in Trans
21 Mountain Oil Pipe Line Corporation's Application 79-1 is consistent
22 and in compliance with land use plans and zoning ordinances
23 if it is permitted absolutely or conditionally. To be inconsistent
24 and in noncompliance, the plan or ordinance must
25 expressly, or by operation clearly, convincingly and unequivocally
26 prohibit the facility site.

27 VI.

28 The entire proposed facility site, including the pipeline and
29 tank farm portions, is consistent and in compliance with the
30 Skagit County Comprehensive Plan.

31 * * *

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

VII.

The pipeline portion of the proposed facility site is consistent and in compliance with the Skagit County Zoning Ordinance.

VIII.

If the tank farm portion of the proposed facility site is located in a use area designated by the Skagit County Zoning Ordinance as residential or agricultural, the tank farm portion of the proposed facility site is inconsistent and not in compliance with the Skagit County Zoning Ordinance. If the tank farm portion of the proposed facility site is located in a use area designated by the Skagit County Zoning Ordinance as forestry, industrial or commercial, the tank farm portion of the proposed facility site is consistent and in compliance with the Skagit County Zoning Ordinance.

IX.

The proposed facility site is consistent and in compliance with the Skagit County Flood Plain Ordinance (Number 7947).

ORDER

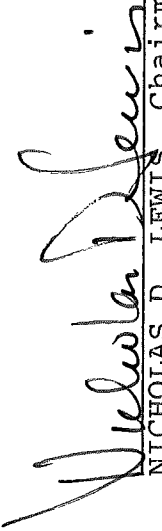
It is hereby ORDERED as follows:

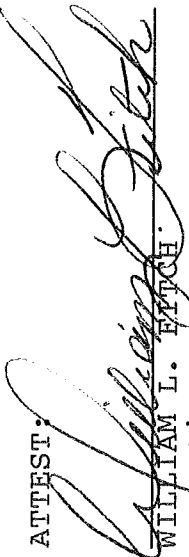
1. That the entire facility site as proposed by application 79-1, including the pipeline and tank farm portions, is consistent and in compliance with the Skagit County Comprehensive Plan.
2. That the pipeline portion of the proposed facility site is consistent and in compliance with the Skagit County Zoning Ordinance.
3. That if the tank farm portion of the proposed facility site is located in a use area designated by the Skagit County Zoning Ordinance as residential or agricultural, the tank farm portion of the proposed facility site is inconsistent and not in compliance with the Skagit County Zoning Ordinance.
4. That if the tank farm portion of the proposed facility site is located in a use area designated by the Skagit County


1 zoning Ordinance as forestry, industrial or commercial, the tank
2 farm portion of the proposed facility site is consistent and in
3 compliance with the Skagit County Zoning Ordinance.

4 5. That the proposed facility site is consistent and in
5 compliance with the Skagit County Flood Plain Ordinance (Number
6 7947).

7
8 DATED at Olympia, Washington, and effective this 11th day of
9 February, 1980.


10 NICHOLAS D. LEWIS, Chairman
11 Washington State Energy Facility
12 Site Evaluation Council

13 ATTEST:

14 WILLIAM L. FITCH,
15 Executive Secretary

16 Approved as to Form:
17 
18 KEVIN M. RYAN, Assistant
19 Attorney General