

*file*

ORDER NUMBER: 587  
DATE: March 10, 1980

BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL

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

THIS MATTER Came on regularly for hearing, pursuant to notice duly given, on November 20, 1979, in Everett, 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 Snohomish 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 Snohomish County -- Julia Gibb, Deputy Prosecuting Attorney, Snohomish County Courthouse, Everett, Washington 98201.

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 revised application did not affect the route and facility site in Snohomish County.

II.

The facility in Snohomish County, as proposed by Application 79-1, shall be sited outside the boundaries of all municipalities in Snohomish County.

III.

The Shoreline Management Master Program for Snohomish County is not a county or regional land use plan adopted pursuant to Chapter 35.63, 35.63A, or 36.70 RCW, or a county or regional zoning ordinance adopted pursuant to Chapters 35.63, 35.63A, or 36.70, or Article XI of the State Constitution.

IV.

The proposed Trans Mountain Oil Pipe Line Site Corridor shall exclude all areas within the incorporated City of Stanwood, and further exclude all areas encompassed by the city of Stanwood's Eastern Portion Comprehensive Plan. The Corridor lies within an area encompassed by the city of Stanwood's Western Portion Comprehensive Plan. The city of Stanwood's Western Portion of the Comprehensive Plan lies outside the territorial boundaries of the city of Stanwood. The Western Portion of the City of Stanwood's Comprehensive Plan which lies outside the territorial boundaries of the City of Stanwood is used by Snohomish County implementing the Snohomish County's Comprehensive Plan. The Western Portion of the City of Stanwood's Comprehensive Plan does not prohibit the facility site as proposed in the Trans Mountain Application No. 79-1.

V.

The Snohomish County Zoning Ordinance refers to both public and private utilities. However, it does not provide definitions, therefore the general and accepted definitions of public and private utilities clearly apply. The proposed facility site will provide a service to the public by providing a means of transporting crude petroleum for the petroleum shipping public. The Snohomish County Zoning Ordinance is clear and unambiguous and the proposed facility site is a public utility within its meaning.

VI.

Snohomish County adopted the relevant portion of the comprehensive plan in 1975. Snohomish County's comprehensive plan does not expressly or by operation prohibit the proposed facility site.

VII.

Snohomish County adopted its basic zoning ordinance in 1966 with subsequent amendments. The use designations upon which the proposed facility site will be located are Rural Use, and a Flood Hazard zoning area which is overlaid upon a portion of a Rural Use designated area. The proposed facility site is not prohibited in the Rural Use designated areas. The proposed facility site is prohibited in the floodway portion of the Rural Use Flood Hazard zone. However, the proposed facility site is not prohibited in the Rural Use Flood Hazard designated area outside of the floodway portion.

CONCLUSIONS OF LAW

I.

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

II.

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

III.

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

IV.

The pipeline as proposed by the applicant is a public utility within the framework of the Snohomish County Zoning Ordinance.

V.

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

VI.

The entire proposed facility site is consistent and in compliance with the Snohomish County Comprehensive Plan, including the Western Portion of the City of Stanwood's Comprehensive Plan.

VII.

The proposed facility site is consistent and in compliance with the Snohomish County Zoning Ordinance, in the area designated as Rural Use.

VIII.

The proposed facility site is inconsistent and not in compliance with the Snohomish County Zoning Ordinance in the floodway portion of the Rural Use Flood Hazard designated area, but consistent and in compliance with the Rural Use Flood Hazard designated area outside of the floodway portion.

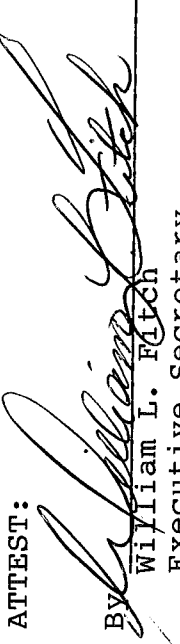
ORDER

It is hereby ORDERED as follows:

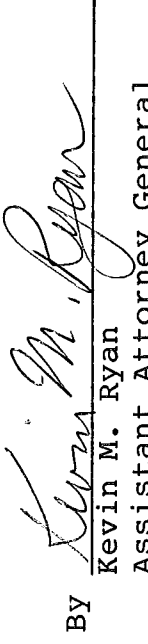
1. That the facility site as proposed by Application 79-1 is consistent and in compliance with the Snohomish County Comprehensive Plan, including the Western Portion of the City of Stanwood's Comprehensive Plan.
2. That the pipeline portion of the proposed facility site is consistent and in compliance with the Snohomish County Zoning Ordinance, in the area designated Rural Use.
3. That the proposed facility site is inconsistent and not in compliance in the floodway portion of the Rural Use Flood Hazard designated area. However, the proposed facility site is consistent and in compliance with the Rural Use Flood Hazard designated area outside of the floodway portion.

DATED at Olympia, Washington, and effective this 10th day of March 1980.

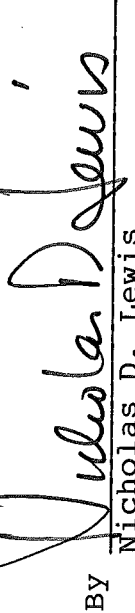
ATTEST:

BY   
William L. Fitch  
Executive Secretary

APPROVED AS TO FORM:

BY   
Kevin M. Ryan  
Assistant Attorney General

WASHINGTON STATE ENERGY FACILITY  
SITE EVALUATION COUNCIL

BY   
Nicholas D. Lewis  
Chairman