

**BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL**

In the Matter of  
Application No. 96-1

OLYMPIC PIPELINE COMPANY

CROSS CASCADE PIPELINE PROJECT

**STIPULATIONS BETWEEN THE  
OLYMPIC PIPELINE COMPANY  
AND THE YAKAMA INDIAN  
NATION**

**I. PARTIES**

Olympic Pipe Line Company (OPL) has filed an application for a Site Certification Agreement (SCA) from the Washington Energy Facility Site Evaluation Council (EFSEC), Application No. 96-1, to construct and operate a refined petroleum products pipeline (Project).

The Confederated Tribes and Bands of the Yakama Indian Nation (YIN) are parties to the site certification adjudication before EFSEC.

**II. PURPOSE AND INTENT**

OPL and the YIN have been involved in discussions and negotiations related to the Project's potential effect upon the lands and interests of the YIN. Through this Agreement, YIN and OPL set forth obligations and restrictions that the Parties intend to have incorporated into the SCA as conditions for the Project should EFSEC recommend that the Project be certified. The obligations and restrictions set forth in this Agreement relate to resources that will be affected by construction and operation of the Project, as these components are proposed at the time of entry of this Agreement.

### III. STIPULATIONS

OPL and the YIN hereby stipulate as follows:

#### A. Yakima River

1. In lieu of the proposed trenching method, OPL will explore the use of a horizontal directional drill under the Yakima River from a site approximately 2/10 of a mile west of the river to the east side of State Route 10. If a horizontal directional drill is used, the drilled crossing would be a minimum of 20 to 25 feet below the river bed and a minimum of 2 feet below the maximum scour depth across the 100 year flood plain which will be calculated separately. If OPL determines that such a drill is feasible and would not pose a larger risk to the Yakima River system, OPL will seek approval of such a drill from EFSEC as part of the Site Certification Agreement.
2. If it is not possible or permitted to directionally drill the entire distance to the east side of State Route 10, OPL will explore a drilled crossing from a site approximately 2/10 of a mile west of the river under the river that would terminate in approximately the middle of the field between the river bank and the west side of State Route 10. The drilled crossing would be a minimum of 20 – 25 feet below the river bed, and a minimum of 2 feet below the maximum scour depth in the 100 year flood plain. If OPL determines that such a drill is feasible and would not pose a larger risk to the Yakima River system, OPL will seek approval of such a drill from EFSEC as part of the Site Certification Agreement.
3. If neither drilled crossings are determined to be feasible due to geological conditions, OPL proposes to use a trenched crossing. OPL agrees to use grade controls or sills, both upstream and downstream of the trenched crossing, to prevent or minimize rechannelization of the river during flood events. The YIN and OPL together will agree on an appropriate plan adequate to control downcutting, river migration or rechannelization, prior to any construction.
4. Prior to construction, OPL will perform a site specific scour study for both the river and the 100 year flood plain to determine the maximum depth of scour. OPL agrees that the pipeline under the riverbed and the flood plain will be placed a minimum of 2 feet below maximum scour depth as determined by that study. The results of the scour analysis will be provided to the YIN for review and approval prior to construction.

5. If a trenched crossing of the Yakima River is to be used, all work on the crossing will be accomplished during times of minimum flow and within EFSEC designated and YIN approved windows to avoid spawning and migrating fish. If a drilled crossing of the Yakima River is used, all work on the crossing will be accomplished within EFSEC designated and YIN approved windows to avoid spawning and migrating fish unless it can be shown to the YIN's satisfaction that the burial depth for the crossing is of sufficient depth with intervening geologic conditions to prevent any accidental introduction of drilling muds into the surface water. In addition, OPL agrees to follow all other mitigation measures as set forth in Section III. C., infra.
6. The pipe under the river will be a .5 inch thick pipe. The pipe will be hydrostatically tested twice prior to operation.
7. A block valve will be placed on each side of the Yakima River crossing.
8. Monitoring of the Yakima River crossing will be performed as set forth in Section III. D., infra.

B. Columbia River Crossing

1. OPL's proposed crossing method for the Columbia River is a horizontally drilled crossing south of Wanapum Dam. The final decision on the crossing method and location will be made by state and federal permitting agencies. OPL agrees that if proper approvals can be obtained, the crossing of the Columbia will be accomplished on any one of the man-made structures available to carry the pipeline, including the I-90 Bridge, the Wanapum Dam, or the railroad trestle bridge. OPL agrees to use their best efforts to obtain such permits.
2. The pipe under the river will be a .5 inch thick pipe. The pipe will be hydrostatically tested twice prior to operation. The pipe will be placed a minimum of 30 feet below the bottom of the river bed.
3. A block valve will be placed on each side of the Columbia River crossing.
4. OPL agrees to select drilling fluids of appropriate qualities to stabilize the drill hole and minimize the risk of leakage of drilling fluids.

C. Mitigation of Impacts to Fish and Water Quality

1. The YIN has identified stream crossings 85 through 285, excepting crossings 123, 125, 146, 149, 171, 188, 189, 194, 203, 207, 225-229, 241, 242, 252-257, 26f/g/h/j, and canal crossings 263-282 and 285 (unless they feed into the Columbia River) as specific locations where the proposed pipeline could have direct impact to the Yakama Tribal fishery resources and interests. All provisions in Section C will apply to the above listed crossings or to wetlands located East of milepost 59.
2. OPL agrees that the YIN will participate in review of the above referenced stream crossings to determine high risks or areas of instability, and to develop appropriate prescriptions for avoiding adverse impacts to fish and water quality, and minimize the risk of an operational spill. Possible prescriptions include use of rock drop structures and stream barbs to prevent channel migration, increased erosion potential, or forced meandering, all of which may pose a threat to the integrity of the pipe at these crossings. This participation will occur through the process set forth below:
  - (a) A YIN employee or consultant, funded by OPL at a reasonable rate of compensation, will work with OPL personnel/consultants in the following manner:
    - (1) By May 1, 1999, OPL and the YIN employee/consultant will perform a “desk-top” review of the stream crossings based on maps and aerial photographs to identify which streams will require field visits.
    - (2) The field visits will be performed in May and/or June 1999.
    - (3) By July 1, 1999, OPL and the YIN employee/consultant will have a complete inventory of the streams (of the list included above) identified as high risk or unstable and in need of additional monitoring , and the details of the type, location, etc. of the agreed upon stream crossing prescriptions.
    - (4) OPL will incorporate this information into its designs and plans and the construction bid documents expected to be sent out to contractors in July – August 1999.
    - (5) The YIN employee/consultant will be on site during construction to insure the proper installation of these prescriptions.

3. OPL agrees to provide the YIN with their determinations of maximum scour depth for each of the streams noted in Section III. C. 1., supra upon completion of their scour depth analysis. If the YIN is concerned with the adequacy of any of these calculations, it shall notify OPL and EFSEC within 30 days of receiving this data, at which point OPL and YIN will reach agreement on the appropriate maximum scour depths of concern, subject to overall approval of EFSEC. The agreed upon figures will be incorporated into OPL's designs and plans.
4. OPL will bury the pipe at all stream crossings at least 2 feet below maximum scour depth and at least 2 feet below the maximum scour depth across the entire 100 year flood plain as calculated for the flood plain.
5. OPL agrees to use FEMA flood elevations where available, or water surface profile models to determine the 100 year flood plain boundaries for streams listed in Section III. C. 1., supra.

OPL agrees to implement the following mitigation measures, as listed in Items C.6 through C.12 below, in the design, construction and operation of the pipeline. Items marked with an asterisk (\*) represent the exact same wording as shown in Section 1.4 of the Olympic Pipe Line Company's Application for Site Certification 96-1 to the State of Washington. Revisions to the mitigation measures shown in Section 1.4 of the Application are marked below with a strike-out or underline.

6. Timing

- (a) Construction of stream crossings will be ~~limited, to the extent feasible, to the completed during low flow period or base flow conditions, which on sensitive crossings will occur between approximately June 15 and September 15~~ as determined by EFSEC and agreed to by the YIN, in order to minimize sedimentation and turbidity induced by high water flow introduced by construction activities.
- (b) The timing of all in-stream construction will consider the migrational periods and spawning and rearing conditions of the salmonids. The construction windows established by EFSEC and agreed to by the YIN will be followed in order to avoid impacts to these fish.

7. Access, Staging, and Ancillary Areas

- \* (a) Wetland boundaries in the construction corridor will be staked and flagged.

- (b) Where wetlands must be crossed, the pipeline will be routed, by a qualified wetlands specialist, through less sensitive portions of the wetland if it is feasible wherever possible.
- (c) Pipeline construction impacts to wetlands and streams or rivers will be minimized by using the narrowest possible corridor (30' or less) and by constructing during a time of year when the resources (i.e., nesting or migrating waterfowl, water quality sensitive fish) are either not present or less vulnerable, as determined by a qualified habitat specialist.
- \* (d) The only access roads, other than the construction right of way, which will be used in wetlands are those existing roads that can be used with no modification and no impact on the wetland.
- (e) All construction equipment will be refueled outside of the flood plain or at least 100 feet from water bodies or wetland boundaries, whichever is larger except in the case of HDD crossings where the drilling equipment may be set up within the flood plain using standard spill control precautions.
- (f) All equipment will be cleaned and inspected prior to entering a wetland or riparian zone. Equipment leaking oil or other fluids will not be allowed to enter a wetland or other water body.
- (g) All riparian corridor boundaries will be flagged and clearly marked.
- (h) Along with other temporary erosion and sedimentation controls, filter fencing and straw bales will be used during construction to ~~minimize~~ eliminate sedimentation in wetlands and riparian corridors and to deter construction equipment operators from ~~venturing further than absolutely necessary~~ encroaching into sensitive areas.

#### 8. Spoil Pile Placement and Control

- (a) The ~~upper 6 to 12"~~ of topsoil will be removed and protected throughout construction. This material ~~may~~ will be stockpiled ~~in adjacent upland areas~~ outside of wetland and riparian areas.
- (b) During construction aAll spoil material from water body crossings must be placed in the right of way at least 10' away from the ordinary high water line. At a minimum, all spoil shall be contained within sediment filter devices. Any spoil not used to refill the trench will be hauled off site and disposed of elsewhere if it cannot be left within the right of way out of the 100 year flood plain.

9. General Construction Procedures

- (a) Where feasible, the pipeline will be attached to existing bridges at crossing sites to avoid impacts.
- (b) ~~All activities within the wetland will be kept to the minimum disturbance area possible.~~ There will be no disturbance outside of the marked wetland and riparian corridors.
- \* (c) Construction techniques that minimize the compaction and mixing of wetland or riparian soils will be utilized.
- (d) In wetlands and riparian areas, vegetation that must be removed will be cut at ground level, leaving existing root systems intact. ~~The pulling of tree stumps and grading activities will be limited to those that would directly interfere with trenching, pipe installation and backfill.~~ Tree removal will be limited to those individuals that would directly interfere with trenching, pipe installation and backfill. Trees will be removed with rootwads intact and will remain as large woody debris (LWD) within the stream or elsewhere within the floodplain. Placement within a stream shall be done in consultation with a qualified habitat biologist.
- \* (e) Trench plugs will be used as necessary to prevent diversion of water into upland portions of the pipeline trench.
- (f) Grading will not take place within the boundaries of any wetlands; and disturbance within wetland and riparian zones within the marked corridor will be kept to the minimum necessary to safely construct the pipeline.
- (g) Pipe sufficient to cross the wetland or stream will be welded on the right-of-way and radiographed before being carried or pulled into the wetland or stream and lowered into the trench. In long stretches, it may be more feasible to weld up several joints of pipe, carry them into the trench leaving one end at the welding location, weld on additional lengths, pull them into the trench, and repeat this process until the entire wetland or riparian length has been crossed. In any case, all joints will be radiographed and repaired if any faults exist.
- (h) ~~In the event that matting is necessary, all construction activities will be carried out from the matting. Equipment will not be allowed in the wetland off the maps, at any time.~~ Equipment will not be placed directly in wetlands or stream channels unless placed on a mat or portable bridge.

The mats and bridges will be inspected prior to ~~placing in the wetlands and~~ placement in the waterbody. Mats and bridges with foreign material, including weeds, will not be used.

- (i) Once the pipe has been laid in the trench, the subsoil will be replaced, followed by the topsoil. Excess material will be spread on the right-of-way outside the wetland boundaries and riparian flood plains.
- (j) EFSEC ~~and~~, WDFW and YIN will be notified at least 48 hours prior to proposed construction activities within streambeds.
- \* (k) Crossings will be constructed perpendicular to the axis of the stream channel as engineering and routing conditions permit.
- \* (l) Downstream flow rates will be maintained at all times.
- (m) Equipment pads, clean rockfill and culverts, or a portable bridge will be used for equipment crossing sensitive perennial streams, as agreed upon during the consultation with the YIN in the designation of prescriptions for stream crossings. See Section III (C)(2).
- \* (n) Sediment filter devices will be installed and maintained at all stream banks. The devices will be inspected on a daily basis and repaired as needed.
- (o) ~~Resident~~ fish will be removed when blasting is necessary, and relocated to the nearest safe and appropriate habitat. A blasting plan will be developed and submitted to EFSEC and the YIN for review and approval prior to any blasting activity. OPL will notify EFSEC and the YIN of any unexpected blasting activity before it occurs and will consult with the YIN concerning the presence of fish at these locations and appropriate habitat for relocation of such fish.
- (p) OPL agrees it will replace or re-orient identified undersized or improperly oriented culverts at or near pipeline stream crossings with the potential to adversely impact the pipeline. OPL agrees, further, to monitor these replacement or re-oriented culverts and the stream channels at 1, 3, and 5 year intervals for proper function.

## 10. Restoration, Stabilization and Revegetation



- (a) Where trenching occurs through open water, aquatic bed, emergent, and scrub-shrub wetlands, soils and vegetation will be ~~replaced~~ restored to their previous condition.
- \* (b) Where trenching through a wetland may alter the hydroperiod (i.e., excavating through a layer of till, or altering the topography, soil or sub-basin which supports wetland hydrology), soil, subsoil and/or topographic conditions will be recreated as nearly as possible to restore the existing wetland hydrology.
- (c) Restoration of wetland, buffer, and riparian vegetation presently vegetated with native species is considered successful if the native herbaceous and/or woody cover comprises at least 80% of the total cover, and native species diversity is at least 50% of the diversity originally found in the ~~wetland~~ area. OPL agrees to regularly monitor and actively manage for restoration and erosion control. If revegetation is not successful at the end of the 5 year post-construction monitoring period, the applicant will (in consultation with a professional wetlands ecologist, EFSEC, WDFW, ~~and~~ DOE and the YIN) develop and implement a plan to actively revegetate the wetland or riparian area with native wetland herbaceous and woody plant species. OPL will use vegetative jute matting, straw matting, or other measures to prevent erosion of seeds and protect their ability to develop as quickly as possible.
- (d) All sStaging areas, access roads, and temporary access roads will be located outside of the flood plain and in any case at least 50100 feet back from the stream bank where topographic conditions permit to reduce loss of riparian vegetation and limit the probability that these additional cleared areas will erode, excepting any HDD staging areas, which will be located at least 100 feet back from the stream/river bank.
- (e) Clearing for staging areas for pipeline construction will be confined to the minimum area necessary, and generally are confined to the construction corridor or existing cleared areas away from streams.
- (f) Disposal sites that contain cleared slash and overburden will be located in areas outside of the flood plain and away from water bodies and will entail the use of runoff control structures.
- (g) Stream banks will be stabilized after construction by replanting native riparian vegetation, as discussed above.

- (h) Clean gravel will be used for the upper one foot of fill over backfill ~~trench~~ within stream channels within trenches (excavations) in streams.
- (i) Revegetation will be performed as soon as appropriate immediately after construction using native vegetation, as determined by a vegetative specialist, that which is quickly established, and native trees for long-term stabilization.
- (j) Black cottonwood (*Populus trichocarpa*) will be planted in locations along the Yakima River, selected with the advice of WDFW and YIN biologists, to increase the shade and cover of the middle reaches of this river.
- (k) In rangeland, where heavy grazing by livestock has denuded riparian vegetation and destabilized stream banks and channels, revegetated areas will be protected by fencing, where permitted, to permit quick regrowth. Where permitted by landowners, sensitive areas of stream bank vegetation can be fenced to restrict livestock access and encourage the regrowth of riparian areas in mitigation for the removal of riparian shrubs and trees at pipeline crossings.
- (l) ~~Log deflectors~~ Rock barbs will be used ~~that create~~ to encourage sediment deposition and vegetation establishment to stabilize banks ~~where possible~~ near pipeline stream crossings where needed, as determined through consultation with YIN personnel for prescriptive developments (see Section III (C)(2)).
- (m) OPL agrees to insure that a bid is solicited from the YIN for any construction restoration or revegetation work, east of milepost 59, contemplated under the application, with the aim of establishing a long term working relationship with the YIN, and assisting the YIN in becoming a qualified bidder.
- (n) OPL agrees to insure that a bid is solicited from the YIN for any long term monitoring and maintenance of restoration or revegetation work, east of milepost 59, contemplated under the application, with the aim of establishing a long term working relationship with the YIN, and assisting the YIN in becoming a qualified bidder.

## 11. Hydrostatic Testing

- \* (a) The entire pipeline will be hydrostatically tested in accordance with DOT regulations and in compliance with the stipulations of EFSEC regulations regarding water withdrawal and discharge. Pipe installed in rivers will be

hydrostatically tested prior to installation. If leaks are detected, they will be repaired or the pipeline section replaced and the section retested.

- \* (b) All welds will receive and pass a 100 percent radiographic inspection.
- \* (c) At least thirty (30) days prior to use, EFSEC will be provided with a list of specific locations for withdrawals and discharge of hydrostatic test water. EFSEC will be notified of the intent to begin using specific sources at least 48 hours prior to testing.
- (d) The intake hose for the hydrostatic test water will be screened (~~1/8"~~ 3/32" mesh) to prevent entrainment of fish. The maximum approach velocity will not exceed 12 cm per second.
- \* (e) Adequate flow rates will be maintained at all times to protect aquatic life and to provide for all other water body uses, including downstream withdrawals.
- (f) When hydrostatic testing is complete, the test water will be analyzed and treated if necessary, prior to placement in any pond or holding area, to make it suitable for discharge in compliance with the water withdrawal and discharge permits issued for the project.
- (g) The water will be detained in ponds or holding areas and discharged to the ground or through filtering media before it is allowed to permeate soils or to enters any watercourse. Erosion protection measures will be incorporated into the water discharge procedures. Final discharge plans will be developed in consultation with EFSEC.
- \* (h) The water discharge rate will be regulated and energy dissipation devices will be used in order to prevent erosion of upland areas, stream bottom scour, suspension of sediments, or excessive stream flow.

## 12. Right-of-Way Maintenance Practices

- \* (a) Herbicides and pesticides will not be used.
- \* (b) No management of vegetation, excepting restoration activities, will occur over the right-of-way in wetlands, wetland buffers, and riparian areas.

## D. Monitoring Activities

1. OPL will perform an aerial surveillance of the pipeline route a minimum of 26 times per year.
2. OPL agrees to perform an aerial surveillance of stream crossings and other subsidence areas after every five-year storm event.
3. OPL agrees to perform on the ground monitoring after each five year flood event at specific high risk stream crossings, as determined by EFSEC, and OPL and YIN personnel (during YIN review of these crossings, see Section III(C)(2) above), and to stop pipeline operation where necessary to insure the safety of the pipeline. OPL agrees to both visually inspect these crossings and to use a handheld portable hydrocarbon detection device.
4. OPL prepares a written report ("Safety Related Condition Report") on any site condition that has the potential for impacting the pipeline. This report includes the corrective action to be taken. OPL agrees to send copies of these reports to the YIN for any incident between Mile Post 57 (east end of the Snoqualmie Tunnel) and the pipeline termination point.
5. OPL agrees it will run a "smart pig" through the entire pipeline a minimum of once every 5 years. The YIN shall have access to any and all reports or data generated from this process.
6. OPL agrees it will run a "smart pig" through the Kittitas to Pasco reach one additional time every five years. The YIN shall have access to any and all reports or data generated from this process.
7. OPL agrees that it will survey elevations at high risk/unstable stream crossings, identified during YIN review of stream crossings (see Section III (C)(2)) and set a bench mark, and monitor cross sectional elevations at 1, 3 and 5 year intervals. Once pipeline cover depth is halved OPL will contact EFSEC, the YIN, and other appropriate governmental authorities, and assess the need for stabilization measures.
8. OPL agrees that it will insure that static line and temperature compensated monitoring will be performed monthly on the pipeline between block valves located at or near mileposts 54 to 150. OPL will allow YIN inspection of all records and tests at their discretion.
9. To insure pipeline integrity, OPL agrees that it will conduct static line and temperature compensated monitoring performed quarterly on each segment of the pipeline between block valves located at or near MP 54 to 150. (These segments are specifically: from milepost(mp)54 to mp67, mp67 to mp73, mp73 to mp87,

mp87 to mp95, mp 95 to mp 96, mp 96 to mp 108, mp 108 to mp 123, mp 124 to mp 129, mp 129 to mp 148, and mp 148 to mp 150 (see page 2.9-7 of the OPL Application for corresponding block valve numbers)). This testing will be in conjunction with the YIN's anticipated timing for spawning and migrating fish activities, as provided by the YIN.

10. OPL agrees that a qualified EFSEC designated environmental monitor will monitor water quality/turbidity downstream of drilled and trenched crossings during construction equipment operation either in or near channels known or suspected to contain salmonids, with power and authority to halt construction until any problems are remedied.
11. OPL agrees to have a qualified driller, with experience in horizontal drills, on site at all times to monitor drilling operations.
12. OPL agrees to take immediate action to address and correct any pipeline related condition which could cause an impact to the fish resources or water quality.

OPL agrees to implement the following mitigation measures, as listed in Section E below, in the design, construction and operation of the pipeline. Items marked with an asterisk (\*) represent the exact same wording as shown in Section 1.4 of the Olympic Pipe Line Company's Application for Site Certification 96-1 to the State of Washington. Revisions to the mitigation measures shown in Section 1.4 of the Application are marked below with a strike-out or underline.

E. Upland Areas

1. Straw bales will be used ~~instead of hay bales~~ for erosion control to limit the number of weed seeds introduced to disturbed areas.
2. Disturbed areas will be replanted with native species after the topsoil has been replaced, at a time most appropriate to their success as determined by a vegetative specialist.

3. Final grading will include construction of water bars across slopes and chiseling or discing compacted soils.
4. Areas dominated by forested and scrub-shrub plant communities will be restored within the portion of the construction corridor not maintained as right-of-way.
5. All vegetation planted or used in seed mixes will be native to the areas. Shrub-steppe habitats will be restored along the entire width of the construction corridor with a mix of shrub and grass seeds that are native to the area. Areas currently composed of herbaceous vegetation will be restored with a seed mix native to the area.
- \* 6. Trees and shrubs will be replanted in all appropriate disturbed areas outside the maintained corridor to shade out undesirable grasses and weeds.
- \* 7. Recommendations from the State and County Noxious Weed Control Boards will be used.

#### **IV. WITHDRAWAL OF OBJECTIONS**

Based on the above commitments made by OPL in addition to the other mitigation measures set forth in OPL's application for a SCA, the YIN stipulates to the withdrawal of all of its issues, excluding any cultural or archaeological issues, from the adjudicative hearing.

DATED this 11<sup>th</sup> day of February, 1999.

**CONFEDERATED TRIBES AND BANDS  
OF THE YAKAMA INDIAN NATION**

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