

BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL

In re Application No. 96-1

of

OLYMPIC PIPELINE COMPANY

For Site Certification

PREHEARING ORDER NO. 4  
COUNCIL ORDER NO. 702

NOTICE OF CONTINUED  
PREHEARING CONFERENCE

(October 17, 1996, 10:00 A.M.)  
(Bellevue, Washington)

**Nature of the Proceeding:** This matter involves an application to the Washington State Energy Facility Site Evaluation Council (the Council) for certification of a proposed site in six Washington counties for construction and operation of a pipeline for the transportation of refined petroleum products between Woodinville and Pasco.

**Procedural Setting:**<sup>1</sup> The Council convened a second prehearing conference session on August 22, 1996, pursuant to due and proper notice, to discuss procedural matters in this adjudication. The conference was held before Chairman Fred Adair and Council members C. Robert Wallis (Utilities and Transportation Commission), Walter Swenson (Department of Agriculture), Ellen Haars (Department of Health), Charles Carelli (Department of Ecology), Ed Carlson (Department of the Military), Stephanie Warden (King County), Derald Gaidos (Kittitas County), and Jim Cherry (Franklin County). This order sets forth the agreements emerging from this discussion.

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<sup>1</sup> The application was filed February 5, 1996. Notice of the opportunity to present petitions for intervention in the adjudicative proceeding regarding this matter and of the initial prehearing conference was published April 22, 1996. The Council held the first prehearing conference in the adjudication on June 24, 1996. In its subsequent order, July 11, 1996, the Council ruled on various procedural issues, granted intervention to seven state agencies, and established a schedule for additional comments and pleadings regarding intervention from the remaining petitioners. In its second prehearing order, August 15, 1996, the Council addressed various objections to its first order, and in its third, August 15, 1996, the Council decided the remaining petitions for intervention, granting conditioned intervention to twenty of the remaining petitioners and rejecting one.

**Appearances:** Appearances were entered as follows:

Applicant	<b>Olympic Pipe Line Company</b> , by Joshua J. Preece and Charles R. Blumenfeld, attorneys, Seattle
Counsel for the Environment	Thomas C. Morrill and Mary E. McCrea, Asst. Attys. General, Olympia
State Agencies	<b>Department of Ecology</b> , by Jerri L. Thomas and Allen Reichman, Asst. Attys. General, Olympia <b>Department of Fish &amp; Wildlife</b> , by William C. Frymire, Asst. Atty. General, Olympia <b>Department of Natural Resources</b> , by Maryanne McGovern, Asst. Atty. General, Olympia <b>Parks &amp; Recreation Commission</b> , by Joseph E. Shorin, Asst. Atty. General, Olympia <b>Department of Transportation</b> , by Steve Dietrich, Asst. Atty. General, Olympia <b>Utilities &amp; Transportation Commission</b> , by Ann E. Rendahl, Asst. Atty. General, Olympia
Counties	<b>King County</b> , by Michael J. Sinsky, Senior Deputy Prosecuting Attorney, Seattle <b>Adams County, Grant County, and Kittitas County</b> , by Dennis D. Reynolds and Brian J. Deagle, attorneys, Seattle <b>Snohomish County</b> , by Marya Silvernale, Deputy Prosecuting Attorney, Everett, and Karen Stewart, Senior Planner
Cities	<b>City of Ellensburg</b> , by Jeffrey A. Watson, City Council Member, Ellensburg <b>City of Kittitas</b> , by Messrs. Reynolds and Deagle
Water Districts	<b>Cross Valley Water District</b> , by Patricia A. Murray, attorney, Seattle <b>Northshore Utility District and Woodinville Water District</b> , by Rosemary A. Larson, attorney, Bellevue
Tribes	<b>Tulalip Tribes</b> , by James Jones, attorney, Everett, and Daryl Williams, Environmental Planner <b>Yakama Nation</b> , by Bill Beckley, Environmental Scientist, Yakama Nation
Federal Agency	<b>Department of the Army</b> , by David A. McCormick, attorney, Arlington, Virginia, and LTC Warren G. Foote, attorney, Fort Lewis, Washington
Additional Parties	<b>Cascade Columbia Alliance</b> , by David A. Bricklin and Claudia Newman, attorneys, Seattle <b>Washington Environmental Council and People for Puget Sound</b> , by Toby Thaler, attorney, Seattle <b>Weyerhaeuser Company and Weyerhaeuser Real Estate Company</b> , by Helmut Wallenfels, Sr. Legal Counsel, Tacoma

## A. Hearing Guidelines

At the prehearing conference June 24, 1996, the Council distributed a copy of proposed hearing guidelines to each participant. Parties were given the opportunity to comment on the proposed guidelines in writing and were informed that the guidelines would be discussed at a future prehearing conference, prior to their adoption.<sup>2</sup> Four parties<sup>3</sup> submitted comments on the proposed hearing guidelines, suggesting modifications to guidelines 1(e), 1(f), 1(g), 3(a), and 3(b); Council staff requested a revision to guideline 4(a). At the conference, participants accepted the following deferrals of decision and modifications to the guidelines.

### 1. Deferred issues.

*1(e) Predistributed evidence.*<sup>4</sup> Counsel for the Environment and the Department of Ecology suggested that rebuttal testimony should be filed after cross-examination is completed, or that live rebuttal testimony should be given at a final hearing session. Participants discussed the pro's and con's of various scheduling options and agreed that a decision could be deferred until closer to the hearing when specific needs are more clearly known.

*1(g) Hearing format.*<sup>5</sup> Counsel for the Environment and the Department of Ecology favored a party-by-party approach, with recesses between sessions. Other parties, including some whose issues are more limited, favored a topical approach to limit the burden upon them to address their topic in multiple sessions. Some combination of approaches may be possible, and the participants agreed that a decision could be deferred until the issues were more clearly delineated and parties' scheduling needs were more clearly known. The Council will attempt to accommodate the parties' scheduling needs.

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<sup>2</sup> See, Prehearing Conference Order No. 1 at 4.

<sup>3</sup> The Council received written comments from the Applicant, Counsel for the Environment, the Department of Ecology, and Cascade Columbia Alliance.

<sup>4</sup> "The Council may require that parties' evidence be distributed to the Council and other parties in advance of the hearing or hearing session. The schedule for predistribution will be determined after consultation with the parties." Hearing Guidelines, 1(e).

<sup>5</sup> "The Council will decide hearing format and schedule after hearing parties' comments. At least three format models are available: exchange of evidence, followed by a single hearing session; individual hearing sessions for cross examination of applicant's case, intervenors and Counsel for the Environment's case, and rebuttal cases; and individual hearing sessions for cross-examination of all evidence on a given topic..." Hearing Guidelines, 1(g).

2. Agreed revisions that the Council accepts.

*1(e) Predistributed evidence.* Counsel for the Environment suggested the development of a process through which the Council would address objections to prefiled evidence prior to the hearing; the Department of Ecology suggested the development of a process through which witnesses would be identified prior to the time evidence is prefiled. Both suggestions have merit. A schedule for witness identification will be considered at the October 17 prehearing conference. A schedule for addressing objections to prefiled evidence will be considered as an element of the schedule for pre-filing evidence.

*1(f) Pleadings and Exhibits.*<sup>6</sup> Cascade requested that the Council either require or allow pleadings and exhibits to be double-sided. The Council favors and the participants accepted this suggestion; the Council will incorporate this requirement into the revised draft guidelines. The Council recognizes that double-siding may not be feasible in some instances, for various reasons, and does not intend that it be done if the only realistic means to achieve it are substantially more expensive than single-siding.

Council staff requested that parties be required to file **thirty** hard copies and one electronic (disk) copy of all future pleadings and exhibits because of the number of Council members and staff participating in the adjudication. All participants accepted the proposal.

Disk specifications. The disk version is to be submitted at the time hard copies are filed. Council software requires one of the following document formats: Microsoft Word for Windows 6.0, WordPerfect 6.0 or 5.1, or ASCII. Participants desiring to submit material in other formats should discuss this with Council staff well before the filing is due and may provide material in another format if doing so is approved by the Council Manager. All disks should be clearly labeled with the party's name, the word processing program used, the name of the file, type of pleading or submission, witness' name, etc.<sup>7</sup>

If the 30 hard copy or the electronic copy requirement presents a hardship to any party, that party may discuss a variance with the Council Manager.

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<sup>6</sup> "All pleadings and prepared exhibits shall be 8-1/2 by 11 inches in size or reduced to that size. They may be folded to that size if reduction would render the document illegible. Every pleading and exhibit shall be punched for insertion into three-ring binders. Line numbers shall be set out on all prepared testimony to facilitate transcript or exhibit references..." Hearing Guidelines, 1(f).

<sup>7</sup> Maps or illustrations need not be submitted on disk, unless requested by the Council or Council staff. Page numbering must be consistent between the hard copy and the electronic copy.

*Timing issues generally.* Civil Rule No. 6, which presumes receipt of a document served by U.S. mail three days after posting, is not controlling in administrative proceedings. Unless there is a direction to the contrary in the statement of a particular deadline, the term “days” refers to “calendar days” rather than “business days,” and the time for delivery is included in setting the deadline. Deadlines falling on weekends or holidays are extended to the next business day.<sup>8</sup>

3. A study group appointed to address remaining issues. A study group consisting of volunteers<sup>9</sup> was appointed to draft proposed revisions to guidelines 1(e), 1(f), 1(g), 3(a), and 3(b), consistent with the preferences expressed by conference participants.

The study group will distribute its draft to all parties and file a copy with the Council on the schedule set out below. After parties have the opportunity to comment on the study group’s proposal, the Council will review all proposals and comments, and distribute a revised set of draft guidelines for discussion at the October 17th prehearing conference.

After the Council adopts the hearing guidelines, parties may raise for discussion any newly-apparent concerns about the guidelines as those concerns arise.

The following time frame was agreed:<sup>10</sup>

September 12, 1996	Study group will mail proposal to all parties and to the Council.
September 23, 1996	Responses to study group’s proposal must be received in the Council office.
October 10, 1996	The Council will distribute draft revisions to proposed Hearing Guidelines.

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<sup>8</sup> See, however, Beste v. Pollution Control Hearings Board, 81 Wn.App. 330 (1996).

<sup>9</sup> The study group consists of Co-counsel for the Environment, the Department of Ecology, Cascade Columbia Alliance, and the Applicant.

<sup>10</sup> Consolidated calendar of all significant dates and deadlines is included on page 10.

The study group will address these issues:

*3(a) Petitions and motions: Time for Filing.* Participants expressed concern that this proposed guideline provides no deadline for filing original motions or petitions and that, as a result, petitions and motions on important issues could potentially be filed too late to allow other parties sufficient time to make a meaningful response. Participants were also concerned that to comply with the response deadline, parties could be constrained to file and serve documents by express mail, which could become a significant financial burden.

Alternative forms of filing and service were discussed. The proposal developed by the study group may incorporate service by facsimile, consistent with the Council's rules.<sup>11</sup> The study group may also consider whether e-mail might be useful as a supplementary tool in the service process. Staff has begun to compile a list of the parties' e-mail addresses, and the Council requests that the remaining parties submit their e-mail addresses (if any) at their earliest convenience.<sup>12</sup>

*3(b) Motions to dismiss parties or issues.*<sup>13</sup> Participants expressed concern that the guideline might not allow sufficient time for parties to make meaningful responses to major motions or sufficient time to respond without the financial burden of express mail or messenger service. The difficulty of drafting guideline language to identify such matters clearly was discussed, and the study group was invited to address the matter.

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<sup>11</sup> WAC 463-30-120 (1) states that "[r]eceipt in the council's telefax machine, or similar device, does not constitute filing." (emphasis added) However, under WAC 463-30-120 (2), "[s]ervice...shall be made by delivering one copy to each party in person, by mail,...or by telefacsimile transmission, where originals are mailed simultaneously." (emphasis added)

<sup>12</sup> The enclosed service list includes the e-mail addresses received by Council staff to date.

<sup>13</sup> "Petitions or motions **seeking the dismissal of any party or any portion of a proceeding**, or that in the moving party's judgment require the submission of a written motion, petition, brief or statement of authorities, should be filed with the Council and served on other parties no later than one week prior to the first scheduled hearing session after grounds for the petition or motion become apparent, unless the Council finds that later filing is reasonable. Answers should be filed with the Council and served on other parties at least three days prior to the hearing session. Oral argument may be allowed on the record in the Council's discretion." Hearing Guidelines, 3(b).

**B. Relationship between Land Use Consistency Determination, Adjudicative Hearing, and Growth Management Act**

1. Growth Management Act. Co-counsel for the Environment (CFE) continue to raise the issue as to whether the project's consistency with local growth management regulations<sup>14</sup> will be considered in the Council's land use consistency decision.<sup>15</sup> CFE would prefer that the Council make an express decision on the issue at this point in the proceeding. The counties -- whose plans are the object of concern -- opposed CFE's request, stating that the matter was the subject of discussion in their negotiations with the Applicant.

In its Prehearing Order No. 1, the Council indicated that it did not believe it then had sufficient information or argument to decide this issue. Rather the Council expressed its belief that "it should allow further participation on this question by all parties to the adjudication, ... including the issue of whether an immediate determination is essential or whether counsel should be permitted to try the complete case and allow the Council to make its decision on a full record."<sup>16</sup>

Although Counsel for the Environment continues to argue that an immediate ruling is necessary, the Council continues to believe that a ruling is premature. The Applicant and many of the counties have indicated that they are considering local growth management plans in their negotiations. Under WAC 463-26-090, a county's certificate submitted by the Applicant will be taken as prima facie proof of land use consistency. If parties dispute the Council's subsequent determination of consistency or inconsistency, they may properly raise the issue in the adjudication. See, WAC 463-26-120.

The Council remains unconvinced that addressing the issue now is as critical as CFE contends. It also believes that parties need not delay preparing their cases, which they may do consistently with their views of Growth Management Act issues.

2. Council's process in land use decision. Various parties requested clarification of the Council's intended process in reaching its land use decision, specifically whether and when parties to the adjudication would have the opportunity to participate further in the land use decision. Within the applicable legal parameters, the Council intends to remain as flexible as possible and to allow

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<sup>14</sup> Development regulations and comprehensive plans *passed pursuant to the Growth Management Act*, chapter 36.70 RCW.

<sup>15</sup> CFE's Response to Consistency Filings and Objections, May 1, 1996, at 2-7; CFE's Notice of Additional Issues to be Raised at Prehearing Conference, June 17, 1996, at 1-2; CFE's Comments on EFSEC's Hearing Guidelines, July 22, 1996, at 1-2.

<sup>16</sup> In re Application No. 96-1, Prehearing Conference Order No. 1 at 13.

additional participation by parties to the adjudication and the public. The Council, on its own motion, may set an additional hearing on land use issues; similarly, any party to the adjudication may make such a motion.

3. Timing of land use consistency determination and adjudicative hearing. Several parties expressed concern that the schedule allow them sufficient preparation time between the land use consistency determination and the adjudicative hearing, should they choose to address the Council's land use decision within the adjudication. The Council now anticipates that it will be able to make the consistency determination shortly after the submission of the DEIS and that the schedule will permit a sufficient time before the initial phases of the adjudicative hearing. The Council has no basis to believe that the consistency determination will be so significant and so pervasive that parties cannot begin their preparation on any issue -- or even begin the preparation of presentations on potentially affected issues -- until the land use determination is made. Nor does the Council believe on the general information now available that the adjudicative hearing must be delayed for an extended period after the Council makes the land use determination.

### **C. Issue Identification and Resolution**

1. Nature and purpose of issues list. In prior EFSEC proceedings, an "issues list" has proved useful in facilitating the parties' exchange of information, coordination of participation, and settlement negotiations. The Council has also used the issues list as a hearing management tool to coordinate the scheduling of witnesses, identify the parties' concerns, and focus the hearing upon contested issues.

The Council, Applicant, Counsel for the Environment, and intervening parties all acknowledge that an issues list must necessarily be an "evolving creature." No party at the conference objected to the formation of an evolving issues list for the stated purposes, within an appropriate time frame.

2. An issues list is needed from each party. Although the Applicant and the counties see less potential value in the submission of county issue lists while their land use negotiations are still in progress, other parties felt that they could derive significant benefit from the inclusion of the counties' issues in the overall issues list. The Council will require each party to submit a good faith list of issues according the schedule set out below.
3. Logistics and schedule. The Applicant has agreed to receive the issues list of each party, compile them into a single comprehensive list, and distribute the compiled list to the Council and all parties.



The participants agreed upon the following time frame.<sup>17</sup>

September 19, 1996	All parties will submit issues lists to the Applicant and to the Council to be received by this date. If a party cannot submit a list by this date, it will make a status report to the Applicant about what remains to be accomplished.
October 3, 1996	Absolute deadline for submission of issues list to the Applicant.
October 10, 1996	Applicant will provide a compiled issues list to all parties and to the Council.

#### **D. Discovery**

1. Preference for informal discovery. The Council encourages informal discovery. The Applicant has expressed the willingness to share information. Nonetheless, Counsel for the Environment expressed dissatisfaction in the quality of the Applicant's responses to recent questions. If informal discovery does not prove workable for a party, that party may ask the Council for formal discovery. If formal discovery needs to be institutionalized, parties may approach the Council with a request for additional guidelines.
  
2. Controlling the potential burden of discovery. Discovery in a proceeding of twenty-nine parties has the potential to become extremely burdensome. Quite properly, the Applicant has requested the parties to reduce unnecessary burdens by conferring together before asking potentially duplicative questions. To aid in streamlining discovery, the Council adopts the following approach, as discussed and accepted by participants at the conference. Copies of any party's questions (requests for discovery) should be sent to all parties on the same day the questions are sent to the Applicant. Parties will have seven calendar days to advise the Applicant that they would like to receive copies of the response to particular questions. The Applicant will send its response to the original requester and all additional requesting parties on the same day. Copies should not be sent to the Council.

Parties suggested that an Internet site could facilitate the distribution of discovery information. Council staff was directed to explore that possibility.

3. Certain discovery need not be shared. The Council acknowledges that at times a party may be engaged in a sensitive negotiation with the Applicant as to which the sharing of discovery would be inappropriate. The process described above for sharing discovery information will not apply in such sensitive situations. It will apply only to the category of discovery described above, loosely termed "data requests."

#### **E. *Ex Parte* Communication**

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<sup>17</sup> A consolidated calendar of all significant dates and deadlines is included on page 10 of this order. In this discussion, the "Applicant" will refer to Mr. Preece, counsel for the Applicant.

Under the Washington Administrative Procedure Act, RCW 34.05.455(5),<sup>18</sup> if the Council receives an *ex parte* contact from any party to a proceeding, it must place the communication on the record and allow other parties to respond. On approximately May 28, 1996, Mr. Tom Campbell, Director of Policy and Programs at the Department of Community, Trade, and Economic Development (CTED), received a letter from Mr. Tim Zenk, on behalf of the Cascade Columbia Alliance, severely criticizing the Council's handling of this proceeding. Because EFSEC is under the administrative management of CTED and Council staff must account to Mr. Campbell, the Council interprets the letter as an attempt to influence its handling of this proceeding. Accordingly, the letter was distributed to participants at the conference. To assure its inclusion in the record, a copy is attached to this order. The Council will continue to take all such attempts at *ex parte* communication very seriously. It will deal with them through disclosure, and it may take other action as provided by law.

#### F. Consolidated Calendar

A consolidated calendar is included here.

#### DATES IN PREPARATION FOR PREHEARING CONFERENCE NO. 3

September 12, 1996	Study group will mail proposal to all parties and to the Council.
September 19, 1996	All parties will submit issues lists to the Applicant and to the Council. If a party cannot submit a list by this date, it will make a status report to the Applicant about what remains to be accomplished.
September 23, 1996	Responses to study group's proposal to be received in Council office.
October 3, 1996	Absolute deadline for submission of issues list to Applicant.
October 10, 1996	Council will distribute revised proposed Hearing Guidelines. Applicant will mail compiled issues list to all parties and to Council.
October 17, 1996	Third Prehearing Conference session, time and place set out below.

#### G. Notice of Third Prehearing Conference Session

**ALL PARTIES PLEASE TAKE NOTICE:** A continued prehearing conference in this matter will be held on October 17, 1996, beginning at 10:00 a.m., at:

Department of Ecology, Northwest Regional Office  
3190 - 160th Ave. S.E., Bellevue, WA 98008-5452

Parties may participate by teleconference, subject to the limitations of available facilities. Because a limited number of ports are available, parties who desire to attend by teleconference must reserve a port with Ms. Joleen Karl of the Council staff at (360) 956-

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<sup>18</sup> RCW 34.05.455(5) "A presiding officer who receives an *ex parte* communication in violation of this section shall place on the record of the pending matter all written communications received, all written responses to the communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the presiding officer received an *ex parte* communication. The presiding officer shall advise all parties that these matters have been placed on the record."

2121 no later than Tuesday, October 15. Reservations will be taken on a first-come, first-served basis and allocated one to a party while they are available. If unused ports remain, parties may reserve a second port on Wednesday, October 16, on a first-come, first-served basis.

The purpose of the conference will be to discuss matters identified for further discussion in this order and to discuss any other procedural matters relevant to the adjudication that may be raised by parties or by the Council.

DATED and effective at Olympia, Washington, this 13th day of September 1996.

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C. Robert Wallis, EFSEC Vice Chair

**Notice to Participants.** Unless modified, this prehearing order will control the course of the hearing. Objections to this order may be stated only by filing them in writing with the Council within ten days after the date of this order.

## MEMORANDUM

May 28, 1996

**RECEIVED**

JUNE 24, 1996

**ENERGY FACILITY SITE  
EVALUATION COUNCIL**

TO: Tom Campbell  
FM: Tim Zenk  
RE: EFSEC

As I related to you on the phone, the Cascade Columbia Alliance (CCA) has concerns about EFSEC's handling of the proposed cross-Cascade pipeline. The concerns are process related, and include the lack of adequate notice to communities being asked to testify before the EFSEC

Public Meeting Procedures

The Administrative Procedures Act (APA) requires that an adjudicative proceeding begin within 90 days of the agency's receipt of an application. On March 6, 1996, EFSEC notified the Olympic Pipeline Company, Cascade Columbia Alliance, the Counsel for the Environment., other organizations and various counties that a pre-hearing conference would be held on March 8, 1996. This constituted the commencement of adjudicative proceedings. However, EFSEC has not treated the notification in that manner, EFSEC's position is inconsistent with APA requirements.

The land use hearings are "required by statute." These hearings must be held by EFSEC before the entry of EFSEC's determination regarding land use consistency. Therefore, the land use hearings constitute an "adjudicative proceedings for APA purposes.

Due to EFSEC's failure to recognize that adjudicative proceeding's had begun, a variety of procedural errors were committed. Adjudicative proceedings are subject to procedural requirements set forth in both the "APA and EFSEC's own regulations.

For instance, EFSEC is holding hearings pertaining to this matter as part of both its monthly board meetings and twice-monthly executive committee meetings. EFSEC is *not* providing notice required by RCW 34.05.434 regarding these proceedings. The notice of the initial pretrial pre-hearing conference was not provided for any of the cities through which the proposed pipeline would cross. In addition to this, state agencies that were identified in the application as agencies whose regulations *must* be considered during the adjudicators process were not notified.

### Lack of Proper Notification

EFSEC provided inadequate time for interested parties to prepare for these hearings. EFSEC has heard testimony presented during the forma-land use hearings as well as during the general public comment sessions that followed. Counties, cities, state agencies, community groups and individuals were given inadequate notice of the land use consistency hearings and inadequate opportunity to prepare for those hearings. They were also not provided with enough time to request formal participation rights. At most, EFSEC granted one day's notice of the deadline for requesting formal participation rights. Many groups and individuals received the notice *after* the deadline for requesting participation rights had expired.

### Olympic's Application: Not Complete

The land use hearings have also suffered from the lack of adequate information provided by the applicant, which could be utilized by citizens, counties and cities in formulating their testimony on the consistency issue. At the hearings, we (Cascade Columbia Alliance) documented in our testimony and in a formal legal motion the obvious shortcomings of Olympic's application. These flaws have now been confirmed and itemized in excruciating detail by EFSEC's own consultant (Jones and Stokes). It shouldn't have taken a lengthy consultant's report to immediately determine that the application was incomplete. During the hearings, jurisdiction after jurisdiction repeatedly emphasized the fact that the application was incomplete based on a simple review.

EFSEC's own rules provide that the review and application should not proceed when it is determined that an application "shall be complete," (WAC 46342-690) and that an application must be accompanied by a certificate that states "the application is substantially complete," (WAC 463-42-115). Olympic has not filed such a certificate.

EFSEC should not have held the land use hearings when it did, due to the obvious incompleteness of the application.

### Preventing Relevant Testimony

At the EFSEC hearings in Grant, Franklin and Adams counties, the presiding officer sustained Olympic's objections to Cascade Columbia Alliance's testimony regarding evidence of leaks from other oil products pipelines nationally. We were not allowed to submit evidence showing that Olympic's existing pipeline has had massive spills of petroleum, which in some circumstances reached lakes, rivers, coastal waters and underground aquifers. Additionally, CCA was not allowed to enter its testimony that pipelines in general are a source of massive pollution; this contrasted Olympic's contention that the natural resource lands, critical areas and shorelines in each county are not threatened by this "state of the art" method of transporting fuel.