

**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. 20
COUNCIL ORDER NO. 721

ORDER ON STIPULATIONS**

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: The Council convened a hearing on stipulations on January 14, 1999, pursuant to due and proper notice. The hearing was held before the Ernest Heller, Senior Administrative Law Judge with the Office of Administrative Hearings, Council Chair Deborah Ross, and Council members David Black (Kittitas County), Charles Carelli (Department of Ecology), Ed Carlson (Department of the Military), Jim Cherry (Franklin County), Ellen Haars (Department of Health), Nancy L. Joseph (Department of Natural Resources), Jenene Ratassepp (Department of Fish and Wildlife), Gary Ray (Department of Transportation), Donna Smith (Port of Royal Slope), Dave Somers (Snohomish County), Matt Stone (City of Snoqualmie), Walter Swenson (Department of Agriculture), Maxine Taylor (Port of Othello), C. Robert Wallis (Utilities and Transportation Commission), and Stephanie Warden (King County).

The purpose of the conference was for the Council to hear testimony and argument on any stipulations between parties to the adjudication in this matter filed on or before December 30, 1998. The Council received three stipulations as follows: "Settlement Agreement between Washington Utilities and Transportation Commission and Olympic Pipe Line Company," dated March 17, 1998; "Stipulations between Olympic Pipeline and Department of Transportation," dated December 23, 1998; and "Cross Cascade Pipeline Project Settlement Agreement," dated December 30, 1998, between the Department of Ecology and Olympic Pipe Line Company.¹

¹ These stipulations have been marked as Exhibits 1, 2, and 3 respectively.

1 This order sets forth the Council's decision regarding these stipulations.

2 **Discussion:**

3 In Prehearing Order No. 18, the Council described its "stipulation approval process."² The
4 Council emphasized that "approval" of a stipulation means that the Council accepts it as binding
5 between the stipulating parties and as setting an appropriate minimum standard if the project is
6 approved. No stipulation binds the Council either to approve or deny the project.

7 Further, no stipulation is binding on parties other than the stipulating parties. Non-stipulating
8 parties may present relevant evidence during the adjudication to support a different standard.

9 The Council has considered the text of the stipulations and the testimony presented at the
10 hearing. If the project is approved, the Council accepts the stipulations contained in Exhibits 1,
11 2, and 3, subject to the following conditions:

- 12
- 13 1. The Council is not foreclosed from adopting requirements more stringent than stated
14 in the stipulation; and
 - 15 2. The Council is not foreclosed from determining that it has jurisdiction to monitor and
16 enforce the terms of the stipulations. The Council may work with the stipulating
17 agencies to determine plans and appropriate responsibilities for effective monitoring
18 and enforcement of all stipulation requirements associated with construction and
19 operation of the project.

20 The Council notes that each of the three stipulations lacks the specificity that will ultimately be
21 necessary to define the conduct needed to assure compliance. The Council reserves the right to
22 require increased specificity regarding any aspect of these stipulations from the stipulating
23 parties, particularly with respect to plans for monitoring, reporting, and enforcement. The
24 Council may require this information at any time throughout this proceeding.

25 The Council also reserves the right to determine specific standards and detailed plans for
26 monitoring and enforcement without submissions from the stipulating parties, if it deems doing
so to be a significant element in its resolution of the issues in the proceeding.

27 DATED and effective at Olympia, Washington, this _____ day of January 1999.

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29
30 Ernest Heller, Administrative Law Judge

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

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37 ² Prehearing Order No. 18, December 8, 1998, p. 4.