

ORDER NUMBER: 533
DATED: April 11, 1977

BEFORE THE WASHINGTON STATE ENERGY
FACILITY SITE EVALUATION COUNCIL

In the Matter of Application)
No. 76-2 of the)
NORTHERN TIER PIPELINE COMPANY)
A MONTANA CORPORATION)
.)

ORDER GRANTING MOTION
FOR RECONSIDERATION OF
INTERVENOR, CLALLAM
COUNTY, IN PART

On March 16, 1977, Clallam County, through its Prosecuting Attorney Craig A. Ritchie, as intervenor herein, filed a motion for reconsideration or rehearing concerning Council Order No. 529 in the above cited proceeding; which order was entered February 28, 1977, and served on parties on March 7, 1977.

By the first part of its motion, Clallam County seeks reconsideration of said order, and sets forth ten (10) areas of requested reconsideration as follows:

I. Page 4, III, 1A(2) of said order. Here movant asserts that the July 8, 1976 amendment of the Comprehensive Plan was not considered by the Council. In response, the Council, as the record reveals, is of the opinion that said amendment, under law and rules, was after the filing of application in the instant matter, and therefore, cannot be considered. This request should be denied.

II. Page 4, III, 1A(5) of said order. Movant asserts that the Council makes incorrect citations; however, on review of this objection, the Council has made proper reference to the law involved. This request should be denied.

III. Page 4, III, 1A(6) of said order. The objection of movant has merit. The finding cited should be amended and changed in said order to read as follows.

"III, 1A(6): Mr. Ken Sweeney, Clallam County Planning Director, stated that prior to and at the time of the filing of the application, July 6, 1976, the Clallam

County East End Temporary Interim Zoning Map adopted December 20, 1973, was not enforced, based upon advice of the office of the Clallam County Prosecuting Attorney."

IV. Page 4, III, 1A(7) of said order. This challenges the finding as unsupported by the record. In response, the Council, reviewing the record, is of the opinion the finding is proper. Full context of the record supports the finding; this request should be denied.

V. Page 4, III, 1A(8) of said order. The objection to this finding has no merit, as the record supports the finding. This request should be denied.

VI. Page 4, III, 1A(11) of said order. Here, the movant challenges the "conclusion" set forth in the finding. The Council is of the belief that no definitions have been set forth - as the finding states; the argument of movant offers no substantial basis for change in this finding. This request should be denied.

VII, VIII, IX and X. Relate to failure of Council to make findings and conclusions. To be consistent with former Council findings and conclusions, these requests have shown that III 1A(15) should read as follows:

"(a) That at the time of this hearing, Clallam County treated its comprehensive plan as an operative land use planning tool."

"(b) That Clallam County's zoning ordinance or comprehensive plan contain no provisions which preclude the location of an oil pipeline and associated facilities."

Insofar as the second part of the motion, the Council has reviewed the request for rehearing and is of the opinion that this request be denied. The movant has not revealed that the opening of this matter would raise issue or issues and present evidence not previously considered by the Council.

It is noted that under VI and X of the motion of Clallam County, obvious mistakes were made by the movant; however, the Council, in making its determinations herein, ignored the typographical errors, and passed upon the merits of movants position.

ORDER

It is ordered that the motion of Clallam County, aforementioned, is granted in part only; that in so doing the order of the Council shall be amended and changed only insofar as herein above set forth.

Dated at Olympia, Washington, and effective this 11th day of April 1977.

WASHINGTON STATE ENERGY FACILITY
SITE EVALUATION COUNCIL

BY Lawrence B. Bradley
Lawrence B. Bradley
Chairman

ATTEST:

BY Roger Polzin
for Roger Polzin
Executive Secretary

APPROVED AS TO FORM:

BY Thomas F. Carr
Thomas F. Carr
Assistant Attorney General