

BEFORE THE WASHINGTON STATE ENERGY  
FACILITY SITE EVALUATION COUNCIL

In the Matter of Application )  
No. 76-2 of the )  
NORTHERN TIER PIPELINE ) ORDER  
COMPANY )  
A Montana Corporation )  
. . . . . )

This matter came on regularly for hearing, pursuant to notice duly given, on October 11, 1978, in Seattle, Washington, on October 12, 1978, in Ellensburg and Spokane, Washington, on October 13, 1978, in Ritzville, Washington, and on October 23, 1978, in Olympia, Washington, before the Energy Facility Site Evaluation Council.

The parties appeared as follows:

NORTHERN TIER PIPELINE COMPANY  
By Daniel Syrdal  
Attorney at Law  
2000 IBM Building  
Seattle, Washington 98101

COUNSEL FOR THE ENVIRONMENT  
Leland Johnson  
Assistant Attorney General  
Temple of Justice  
Olympia, Washington 98504

KING COUNTY  
By Richard Elliott  
and Susan Agid  
Deputy Prosecuting Attorneys  
W554 King County Courthouse  
Seattle, Washington 98104

SPOKANE COUNTY  
By Richard George  
Deputy Prosecuting Attorney  
County-City Public Safety Building  
Spokane, Washington 99201

## MEMORANDUM

On June 30 and August 18, 1978, the Northern Tier Pipeline Company ("Northern Tier") filed a two-part amendment to its July 6, 1976 application for certification of an energy facility site consisting of a tanker unloading facility, an onshore storage facility, a pipeline, and associated facilities. The Energy Facility Site Evaluation Council ("Council") held the above-described reopened hearings to determine whether changed pipeline routes identified in the 1978 amendment were consistent and in compliance with county or regional land use plans and zoning ordinances in King, Kittitas, Spokane, and Adams Counties.

The Council, in its Order Number 529, dated February 28, 1977, and amended April 11, 1977, entered findings, conclusions, and an order pertaining to the consistency and compliance with county and regional land use plans and zoning ordinances of the Northern Tier site as identified prior to June 30, 1978. The instant proceeding does not encompass reconsideration of any determination made in Council Order Number 529 or in the proceedings reflected in that order.

The Council reopened the matter and convened the present added hearings to treat 1978 pipeline route changes within King, Kittitas, and Spokane Counties and a similar route portion change from Lincoln County to Adams County. This order does not affect portions of the previous route which remain part of the proposed pipeline site after the June 30 and August 18, 1978 amendment to Application No. 76-2.

Insofar as the Shoreline Management Act of 1971 and its effect on the issue in this matter are concerned, the Council, again directing attention to RCW Chapters 80.50 and 90.58, with particular reference to RCW 80.50.110 and 90.58.140(9), reaffirms its intent to consider in the contested case to be held pursuant to RCW 80.50.090(3) provisions in the nature of the Shorelines Management Act and other appropriate state statutes superseded by the provisions of RCW 80.50. The Council also reaffirms its intent to utilize the same contested case to consider provisions in the nature of conditional or unclassified uses. The issue of Northern Tier's fulfilling conditions which the Council may formulate will be considered.

The King County Shoreline Management Master Program imposes conditions upon pipeline or other utility crossings of areas designated as "natural," "rural," or "conservancy". The master program does not prohibit such crossings.

The Council notes that in Order Number 529 it made general findings concerning the scope of the matter, the corporate personage of Northern Tier, the filing time and scope of Application 76-2, and the procedure by which the Council determined the application's status.

The Council, having heard the testimony in this reopened and reconvened matter, having considered the files and records herein, having voted its determinations during the hearings in this matter, and having considered those exceptions filed to its November 13, 1978 draft order, now enters the following findings of fact, conclusions of law, and decision.

1. General

a. Finding:

- (1) On June 30 and August 18, 1978, Northern Tier submitted an amendment to its Application 76-2, which amendment identified certain pipeline site changes in King, Kittitas, and Spokane Counties and a certain pipeline site change from Lincoln County to Adams County.

B. Conclusion:

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

2. King County

A. Findings:

- (1) King County adopted on October 13, 1964, and subsequently amended and supplemented a comprehensive plan which is still in effect.
- (2) On April 29, 1963, King County adopted a zoning ordinance. The zoning ordinance has been subsequently amended and supplemented and is still in effect.
- (3) The point on its proposed site which Northern Tier has identified as the point of crossing of the Green River Gorge has been unchanged since the time of the previous hearings treated in Council Order 529. The point of the Green River Gorge crossing was not altered or amended by the June 30 and August 18, 1978 amendment to the application.
- (4) The King County Agricultural Lands Policy contains no provision prohibiting pipelines within the changed pipeline route portion in King County identified in the 1978 amendment filed to Application 76-2.
- (5) Public utilities are exempt uses in all county zoning classifications and are permitted in all areas designated by the comprehensive plan.

- (6) The definition of "public utility" in the King County zoning code states no geographic limit on the qualifying area in which public service must be performed, and no commodity or service limit as to what is to be performed. The code definition and comprehensive plan address as "public utilities" facilities such as pipelines and transporters of freight.
- (7) Since the inception of the King County Zoning ordinance, a pipeline has been permitted to traverse the county.

B. Conclusion:

- (1) The changed portion of the pipeline and associated facilities site in King County identified in the 1978 amendment filed to Application 76-2 is consistent and in compliance with King County land use plans and zoning ordinances.

3. Kittitas County

A. Findings:

- (1) On June 5, 1972, Kittitas County adopted a county comprehensive plan which is still in effect.
- (2) On January 15, 1968, Kittitas County adopted a county zoning ordinance which is still in effect.
- (3) On October 9, 1978, Frank Gregerich, Chairman of the Board of County Commissioners of Kittitas County, Washington, signed a certificate attesting to the fact that the amended pipeline route in Kittitas County was consistent and in compliance with Kittitas County land use plans and zoning ordinances. No person at the hearing made a demonstration contrary to this attestation.
- (4) The zoning ordinance is silent regarding utilities in the area traversed by the amended route. The zoning ordinance does contain provisions which define the circumstances of utility-associated facilities.
- (5) Facilities similar to the pipeline applicant proposes to construct have been permitted to be constructed and operated in Kittitas County since passage of the county zoning ordinance.

B. Conclusion:

- (1) The changed portion of the pipeline and associated facilities site in Kittitas County, identified in the 1978 amendment to Application 76-2, is consistent and in compliance with Kittitas County land use plans and zoning ordinances.

4. Spokane County

A. Findings:

- (1) Spokane County adopted on December 21, 1961, and subsequently amended a comprehensive plan which is still in effect.
- (2) Spokane County adopted on December 17, 1937, and subsequently amended a county-wide zoning ordinance which is still in effect.
- (3) On October 9, 1978, members of the Board of County Commissioners of Spokane County signed a certificate attesting to the fact that the amended pipeline route in Spokane County was consistent and in compliance with Spokane County land use plans and zoning ordinances. No person at the instant hearing made a demonstration contrary to this attestation.
- (4) The Spokane County zoning ordinance identifies public utility facilities as structures and facilities erected by gas, electrical, telephone, telegraph, sewer and water companies, districts or public agencies, or common carrier rail companies and other similar entities subject to the jurisdiction of the Washington Utilities and Transportation Commission. The zoning ordinance does not otherwise speak to oil pipelines. The zoning ordinance permits or conditionally permits utility facilities in all affected portions of the amended pipeline route. Spokane County has administratively determined that the proposed project is a public utility.

B. Conclusion:

- (1) The changed portion of the pipeline and associated facilities site in Spokane County identified in the 1978 amendment to Application 76-2 is consistent and in compliance with Spokane County land use plans and zoning ordinances.

5. Adams County

A. Findings:

- (1) On May 4, 1965, Adams County adopted a comprehensive plan. The plan remained in effect on August 18, 1978.
- (2) In 1966, Adams County adopted a zoning ordinance. The zoning ordinance remained in effect on August 18, 1978.
- (3) On September 25, 1978, Ralph Danekas, Chairman of the Board of County Commissioners, Adams County and John R. Taylor, Director of Planning, Adams County signed certificates and on September 27, 1978, Richard W. Miller, Prosecuting Attorney of Adams County signed a similar certificate, all attesting to the fact that the amended pipeline route in Adams County is consistent and in compliance with Adams County land use plans and zoning ordinances. No person at the instant hearing made a demonstration contrary to this attestation.
- (4) The amended pipeline route does not pass through residentially zoned portions of Adams County. Except for restrictions on utility facilities in residential areas and other provisions pertaining to setbacks of utility buildings, the zoning ordinance is silent as to pipelines and associated facilities.

B. Conclusion:

- (1) The proposed pipeline and associated facilities site in Adams County identified in the 1978 amendment to Application 76-2 is consistent and in compliance with Adams County land use plans and zoning ordinances.

DECISION

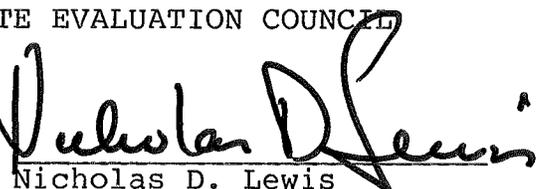
IT IS HEREBY DETERMINED That the changed pipeline and associated facilities sites in King, Kittitas, Spokane, and Adams Counties identified in the June 30 and August 18, 1978 amendment filed to Application 76-2 are consistent and in compliance with county regional land use plans and zoning ordinances in effect as of the date of application for the sites.

All motions consistent herewith are granted; all motions inconsistent herewith are denied.

DATED at Olympia, Washington, and effective this 11th day of December, 1978.

WASHINGTON STATE ENERGY FACILITY  
SITE EVALUATION COUNCIL

By

  
Nicholas D. Lewis  
Chairman

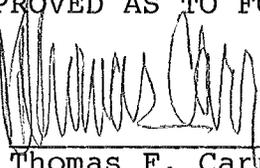
ATTEST:

By

  
William L. Fitch  
Executive Secretary

APPROVED AS TO FORM:

By

  
Thomas F. Carr  
Assistant Attorney General