

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of Application)	ORDER DENYING MOTION BY CLALLAM
No. 76-2 of the)	COUNTY AND CITY OF PORT ANGELES
)	TO REQUIRE REVIEW AND COMPLETION
)	OF THE NTPC APPLICATION OF
)	JUNE 15, 1979; SNOHOMISH AND
)	ISLAND COUNTIES AMENDMENTS TO
NORTHERN TIER PIPELINE)	MOTIONS FOR CONTINUANCE OF LAND
COMPANY)	USE HEARINGS IN CLALLAM, ISLAND,
)	JEFFERSON, SNOHOMISH AND KING
)	COUNTIES; AND COUNSEL FOR
)	ENVIRONMENT RESPONSE TO MOTION BY
)	CLALLAM COUNTY AND CITY OF PORT
)	ANGELES FOR AN ORDER COMMISSIONING
A Montana Corporation)	A STUDY OF APPLICANT NORTHERN TIER'S
.)	JUNE 15 APPLICATION

THIS MATTER having come before the Council by the introduction of the following:

1. Motion by Clallam County and City of Port Angeles to Require Review and Completion of the Northern Tier Pipeline Company (NTPC) Application of June 15, 1979 filed on July 13, 1979 by John E. Keegan, of Logerwell, Cohen, Andrews and Keegan, Attorneys for Clallam County and City of Port Angeles. Petitioner requests in his Motion that the Energy Facility Site Evaluation Council (EFSEC) do the following:
 - a. Request the independent consultant, CH2M Hill to review the Northern Tier Pipeline Company's (NTPC) June 15 Application to determine in what respects the application submittal does not meet the requirements of RCW 80.50 and WAC Chapter 463-22; and
 - b. To require NTPC to complete such application prior to the preparation of the draft environmental impact statement, and
2. Amendments to Motions for Continuance of Land Use Hearings in Clallam, Island, Jefferson, Snohomish and King Counties filed on July 19, 1979 by Julia A. Gibb, Deputy Prosecuting Attorney for Snohomish County, and Alan R. Hancock, Deputy Prosecuting Attorney for Island County. Petitioners request

consideration of four motions relating to the conduct of an application review and preparation of an environmental impact statement prior to any Land Use Hearings, and

3. Counsel for Environment Response to Motion by Clallam County and City of Port Angeles for an Order Commissioning A Study of Applicant Northern Tier's June 15 Application filed on July 23, 1979 by Thomas W. Hayton, Counsel for Environment. Counsel requests that the Independent Consultant assume the responsibility to review the June 15 Northern Tier Application and that the contested case hearings be scheduled to follow distribution of that analysis.

THE COUNCIL is authorized by RCW 80.50.071(a) to commission its own independent consultant study to measure the consequences of the proposed energy facility on the environment for each site application and to direct the consultant to study any matter which it deems essential to an adequate appraisal of the site. The only purpose of the Independent Consultant's study is to provide information to the Council for its utilization. The Council has required its independent consultant to do two reviews of the NTPC application which were prepared by CH2M Hill and delivered to the Council on June 14, 1977 and January 3, 1979.

THE COUNCIL is required by RCW 43.21C.030 to include in every recommendation significantly affecting the quality of the environment a detailed statement on the environmental impact of the proposed action. The Council has placed its independent consultant under contract to prepare and deliver a draft environmental impact statement on the entire Northern Tier Pipeline Company Project including the June 15 amendments by November 13, 1979.

THE COUNCIL received on June 19, 1979 from the Northern Tier Pipeline Company a Certification stating that the amended application materials submitted on June 15, 1979 along with unchanged portions of previous submittals constitute a substantially complete application. Such certification fulfills the Council rule (WAC 463-42-060) requiring a statement attesting to the completeness of the application.

CONCLUSION

THE COUNCIL has found that:

1. The statutes and rules under which the council directs the studies of the independent consultant are broad and discretionary. A review of the application is not statutorily directed. The Council rule governing the activities of the independent consultant, WAC chapter 463-50-040, makes a review of the application discretionary. The Council

is not legally bound by the recommendations of the independent consultant.

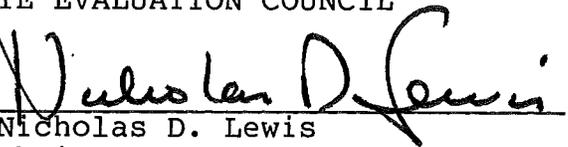
2. An application for a major energy facility involving the scope of the NTPC project should be substantially complete prior to the start of the contested case held pursuant to RCW 80.50.090. See also WAC 463-42-060. The applicant has certified to the Council that the application is substantially complete. The Council has itself examined the application and has determined that it is sufficient for preparation of the Draft Environmental Impact Statement which is the next appropriate action.

THE COUNCIL enters the following:

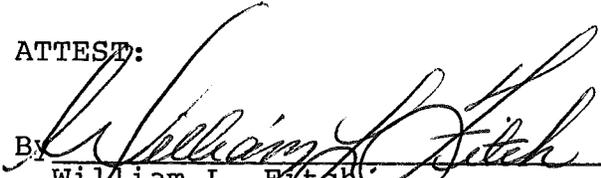
THE MOTIONS by Clallam County and City of Port Angeles to require review and completion of the NTPC Application of June 15, 1979; by Snohomish and Island Counties seeking a review of the NTPC Application; and by Counsel for Environment also seeking a review of the application are hereby denied.

DATED at Olympia, Washington and effective this 13th day of August, 1979.

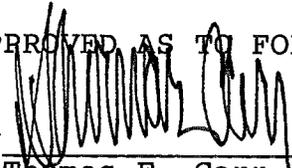
WASHINGTON STATE ENERGY FACILITY
SITE EVALUATION COUNCIL

By 
Nicholas D. Lewis
Chairman

ATTEST:

By 
William L. Pritch
Executive Secretary

APPROVED AS TO FORM:

By 
Thomas F. Carr
Assistant Attorney General