

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of the)
Application of)
) APPLICATION NO. 76-2
NORTHERN TIER PIPELINE)
COMPANY,)
) PREHEARING ORDER NO. 1
A Montana Corporation)
.)

The Energy Facility Site Evaluation Council ("Council") has by resolution announced its intent to commence contested case hearings in the matter of Application No. 76-2 on December 18, 1979. Prehearing Order No. 1 sets forth certain Council rules for conduct of that case. Subsequent prehearing orders will set forth additional Council rules for the case. All rules promulgated in each order are binding on all parties unless explicit contrary indication is given.

Topics addressed in this order include:

- (1) Case format (including topical structure).
- (2) Scheduling - days per week, time per day.
- (3) Prefiled Testimony.
- (4) Witness Panels.

Subsequent prehearing orders may address aspects of these topics.

(1) CASE FORMAT

The following order of procedure and structure for presentation of evidence on topics at issue shall be observed by all parties. After completion of opening procedures, applicant shall present its case in chief. Applicant's witnesses shall be cross-examined immediately upon completion of such live summary direct testimony as may be offered. (See, below, Item III, prefiled testimony).

Following completion of applicant's case in chief, all other parties shall present their cases in chief. The Council will hear evidence from these other parties on a topical basis rather than a party-by-party basis, with each of these parties being offered one opportunity, at a common point in the case, to present direct evidence on each topic within the party's proper scope of concern. Order of presentation of evidence among parties other than the applicant will be determined in a subsequent order. Other parties' witnesses shall be cross-examined immediately upon completion of such live direct testimony as may be offered.

format

1. Commencement - Opening remarks
2. Preliminary Matters - Motions, Stipulations, etc.
3. Opening Statements - Time limits; Intervenor Optional
4. Topical Presentation of Evidence

(Note: The items set forth at this point in section 4 are a summary of the topical structure for presentation of evidence in the contested case hearing to be held in this matter. The detailed structure is set forth in Appendix A attached to this order and by this reference incorporated at this point as if set forth at length.)

- I. General Policy Issues
 - A. Structural Description of Applicant
 - B. Project Overview
 - C. Purposes and Benefits of the Proposed Project
 - D. Project Costs and Financing
- II. Project Description - Construction and Operation, Design and Physical Nature of Project features
 - A. Terminal Facilities
 - B. Underwater Pipeline
 - C. Terrestrial Pipeline - Eastern Washington
 - D. Terrestrial Pipeline - Western Washington

III. Environmental Issues - Construction and Operation
by Project feature interfaced with Environmental
Element Categories.

- A. Terminal Facilities - Physical elements
- B. Terminal Facilities - Social Elements
- C. Underwater Pipeline
- D. Terrestrial Pipeline - Eastern Washington
- E. Terrestrial Pipeline - Western Washington

IV. Other Topics

- A. NPDES
- B. Potential Future Activities
- C. Alternatives
- D. Other Issues

- 5. Rebuttal Evidence, if any
- 6. Public Testimony
- 7. Closing Procedural Matters
- 8. Closing Statements

Case Format Notes:

- 1. No variance from the format will be permitted except upon good cause shown and upon specific consideration of interests of the Council and of other parties.
- 2. Regarding §4, Topical Presentation of Evidence:
 - A. Each party may present the testimony of no more than one (1) witness on "Structural Description of Application."
 - B. Evidence on "Project Overview" will be limited, on direct and cross-examination, to presentations of a general nature. No party may present the testimony of more than two (2) witnesses on "Project Overview."

- C. No party may present the testimony of more than one (1) witness for each numbered subtopic (as set forth on Appendix A) of "Purposes and Benefits of Proposed Topics."
- D. Time limits for total cross-examination of witnesses on some topics may be set by subsequent Council order.
- E. Unnecessarily repetitive questions will not be permitted. Cumulative evidence will not be permitted.
- F. Combined treatment of numbered subtopics within any single lettered section in the topical structure is permissible.

(2) SCHEDULING

During weeks in which the Council hears at Olympia, hearing sessions shall commence on the Tuesday morning of each week and shall conclude at not later than 11:45 a.m. on the succeeding Friday, unless otherwise announced.

During weeks in which the Council hears at communities other than Olympia, hearing sessions shall commence on the Monday afternoon of each week and shall conclude at not later than 11:45 a.m. of the succeeding Friday unless a conflict with a Council meeting date exists or unless it is otherwise announced.

The following schedule shall be observed for each full day's evidentiary hearing unless otherwise announced:

- 9:00 a.m. - Preliminary matters
- 9:15 a.m. - Evidence taken
- 11:45 a.m. - Luncheon recess
- 1:15 p.m. - Evidence taken
- 4:20 p.m. - Afternoon recess

Ordinarily, one ten-minute recess will be taken during each morning session, and one ten-minute recess and one five-minute recess will be taken each afternoon.

(3) PREFILED TESTIMONY

The direct testimony to be presented by all witnesses shall be

prefiled in the form of written questions and answers and on lined paper.

For all issues addressed in "I" of the topical structure set forth above, prefiled testimony shall be submitted no less than 28 days in advance of the date on which taking of evidence from the applicant, or, if appropriate, from intervenor parties is anticipated to commence. The same methodology and 28 day minimum time span shall apply to submission of prefiled testimony on issues addressed in "II" of the above topical structure and shall similarly apply to each issue addressed in "III A," "III B," "III C," "III D," and "III E," and also "IV A," "IV B," "IV C," "IV D," and "IV E" of the same topical structure.

Upon being sworn, each witness shall be permitted not more than ten (10) minutes (exclusive of procedural intrusions) to present a summary of material contained in the witness's prefiled testimony. Elaboration on prefiled testimony will not be permitted. Unless specific variance is granted in the manner described in the "CASE FORMAT" section above, demonstrative evidence shall be described in and submitted with corresponding prefiled testimony.

(4) WITNESS PANELS

Any party or any group of parties with identical interests on relevant issues may present evidence on topics by way of panels consisting of more than one witness. The purpose of such panels is to promote completeness of the record with minimal procedural delay.

The right of cross-examination of individual members of a panel shall be preserved. No adversary attorney shall be required to pose a question to an entire panel. If the incapacity of any one panel member to answer a reasonably posed question has been demonstrated, the question may be posed to a second panel member, but only upon completion of cross-examination of the first panel member.

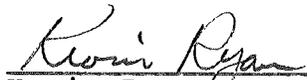
DATED AT Olympia, Washington, and effective this 8th day of
October 1979.

ENERGY FACILITY SITE EVALUATION COUNCIL



Nicholas D. Lewis
Chairman

Approved as to form:



Kevin Ryan
Attorney General



John von Reis
Administrative Law Judge

Dist 1-22-80

REVISED

TOPICAL STRUCTURE - APP. 76-2

(Modifies APPENDIX A to Prehearing Order No. 1)

I. General Policy Issues

A. Structural Description of Applicant

1. Corporate/ownership profile
2. Corporate history
3. Other activities

B. Purposes and Benefits of the Proposed Project

1. Washington State purposes and benefits
2. West Coast supply and demand
3. Northern Tier States' supply and demand
4. National supply and demand as related to project service area.

C. Project Overview

1. Description (including expansion)
2. Common carrier status
3. Other licenses
4. Project cost

D. Project Financing- Planning, Construction, Operation

II. Project Description (Design and physical nature of project-construction and operation phases).

A. Marine Terminal Facilities

1. Design and construction
 - a. Geotechnical considerations
 - b. Tanker berths and related structures
 - c. Unloading pipeline
 - d. Onshore storage facilities
 - e. Electrical facilities
 - f. Fire protection
 - g. Construction management
 - h. Scheduling overview

- 2. Operation
 - a. Tanker characteristics
 - b. Bunker fuel supply
 - c. Transfer and storage facilities
 - 3. Abandonment
- B. Leak Detection (All Facilities)
- C. Pipeline Overview (Terrestrial and Marine)
- D. Terrestrial Pipeline
- 1. Routing
 - 2. Design and construction
 - a. Terrestrial
 - b. River Crossings
 - (1) Columbia River
 - (2) Other Major and Minor Crossings
 - c. Pump Stations
 - d. Electrical Facilities
 - e. Construction Management
 - f. Scheduling Overview
- E. Underwater Pipeline
- 1. Routing
 - 2. Design and construction (including management and scheduling)
- F. Pipeline Operation and Abandonment

III. Environmental Issues

- A. Terminal Facilities
- 1. Earth
 - 2. Water (except oil spill)
 - 3. Flora (except oil spill)
 - 4. Fauna (except oil spill)
 - 5. Natural resources (except oil spill)
 - 6. Noise
 - 7. Light and glare
 - 8. Economics*
 - 9. Human health (except oil spill)
 - 10. Population*

*Includes Clallam County portion of the on-land pipeline.

11. Housing*
12. Public Services*
13. Utilities*
14. Energy
15. Transportation*
16. Human Safety*
17. Aesthetics
18. Cultural resources
19. Recreation*
20. Local regulatory concerns
 - a. Shorelines management
 - b. Land use impact

B. Underwater Pipeline

1. Earth
2. Water (except oil spill)
3. Flora (except oil spill)
4. Fauna (except oil spill)
5. Natural resources (except oil spill)
6. Noise
7. Light and glare
8. Construction and operation worker and material movement impact
9. Energy
10. Transportation
11. Human safety
12. Aesthetics
13. Cultural resources
14. Recreation
15. Local regulatory concerns
 - a. Shorelines management
 - b. Land use impact

C. Terrestrial Pipeline

1. Earth
2. Water (except oil spill)
3. Flora (except oil spill)
4. Fauna (except oil spill)
5. Natural Resources (except oil spill)
6. Noise
7. Light and glare
8. Economic
9. Human health (except oil spill)
10. Population
11. Housing
12. Public services

*Includes Clallam County portion of the on-land pipeline.

- 13. Utilities
- 14. Energy
- 15. Transportation
- 16. Human safety
- 17. Aesthetics
- 18. Cultural resources
- 19. Recreation
- 20. Local regulatory concerns
 - a. Shorelines management
 - b. Land use impact

D. Oil Spill Risk and Potential Impacts

- 1. Introduction
- 2. Marine Terminal facilities and tanker traffic
 - a. Oil spill risk
 - b. Trajectories
- 3. Underwater pipeline
 - a. Oil spill risk
 - b. Trajectories
- 4. Marine Terminal, tanker traffic, and underwater pipeline resources at risk and potential impact
 - a. Flora
 - b. Fauna
 - c. Water quality
 - d. Other resources
- 5. Terrestrial pipeline
 - a. Oil spill risk
 - b. Trajectories
 - c. Resources at risk and potential impact
 - (1) Ground water impacts
 - (2) Public water supplies and wells
 - (3) Surface water quality (including rivers)
 - (4) Potential impacts on human health
 - (5) Flora
 - (6) Fauna
- 6. Greater Puget Sound marine resources at risk-potential impacts
 - a. With existing base line
 - b. With NTPC project
- 7. Protective and mitigative measures
 - a. General outline of Oil Spill Contingency Plan
 - b. Impact prevention and spill clean-up
 - (1) Marine Terminal and tanker traffic
 - (2) Underwater pipeline
 - (3) Terrestrial

E. Air Quality Issues

1. Terminal
 - a. Air
 - b. Human health
 - c. Flora
 - d. Fauna
 - e. Other
2. Pipeline (terrestrial)
 - a. Air
 - b. Human health
 - c. Flora
 - d. Fauna
 - e. Other

IV. Other Issues and Considerations

A. NPDES

B. Potential Future Activities

1. Marine Terminal facilities
 - a. Size
 - b. Location
 - c. Capacity
 - d. Support systems and emergency plans
 - e. Construction schedule, workers, material
 - f. Operation and operational requirements
 - g. Impacts: Tanker traffic; oil spill risk, trajectory, impact; air and water quality; physical changes; social impacts; etc.
2. Underwater pipeline
 - a. Increased throughput volume
 - (1) Quantity
 - (2) Operational concerns- pressure and stress on system; monitor maintenance
 - (3) Support systems, emergency plans
 - b. Impacts: Oil spill risk, trajectory, impact; water quality; etc.
3. Terrestrial pipeline
 - a. Increased throughput volume and pressure
 - (1) Quantity
 - (2) Operational concerns- stress on system, monitoring, maintenance
 - (3) Impacts
 - b. Tank Farms
 - (1) Size
 - (2) Locations and/or site selection criteria
 - (3) Capacities

- (4) Operation and operational requirements
 - (5) Impacts: Spill risk and impact; air quality; physical changes; fire and explosion; etc.
 - c. Spur pipeline:
 - (1) Size
 - (2) Capacity
 - (3) Locations and/or site selection criteria
 - (4) Operation and operational requirements
 - (5) Connection to existing facilities
 - (6) Impacts: Spill risk; water quality; etc.
 - d. Energy requirements
 - 4. Hookup to North Sound refineries
 - a. Economic feasibility (optional)
 - b. Possible applicants for authority
 - c. Benefits v. Detriments
 - 5. Other industrial activities
 - 6. Related secondary projects.
- C. Alternatives to the Project
- 1. Alternatives in application
 - a. Locations
 - b. Design, construction and operation methods
 - c. Comparative costs
 - 2. Other feasible alternate methods of meeting the proposal's objectives*
 - a. No action
 - b. Alternate site routing
 - c. Alternate facility design, construction, operation
- D. Construction and Operation Monitoring
- E. Other Issues

* Applicant has no initial burden of proof regarding alternatives put forth by intervenors. On alternatives over which EFSEC has no jurisdiction, proposing parties must make an acceptable offer of proof on the specific alternative's reasonableness and feasibility before EFSEC will consider evidence on the alternative.

Revised
1-22-80

APPENDIX A

Topical Structure

- I. General Policy Issues
 - A. Structural description of Applicant
 - 1. Corporate/ownership profile
 - 2. Past and future history
 - 3. Other activities
 - B. Project Overview
 - 1. Description (including expansion)
 - 2. Related secondary projects
 - 3. Common carrier status
 - 4. Other licenses
 - C. Purpose and Benefits of the Proposed Project
 - 1. Demand
 - a. Northern Tier state demand
 - b. Alternate supply sources
 - 2. West Coast oil supply
 - a. West coast sources
 - b. Northern slope supply
 - c. Other supply
 - 3. Washington State purpose and benefit
 - D. Project Costs and Financing
 - 1. Planning and licensing
 - 2. Construction
 - 3. Operations
 - 4. Tax overview
- II. Project Description (Design and physical nature of project features through construction and operation phases).
 - A. Terminal Facilities (Construction and Operation)
 - 1. Ediz Hook facilities
 - 2. Transfer pipeline
 - 3. Green Point tank farm
 - 4. Scheduling overview

- B. Underwater Pipeline
 - 1. Cross Sound portion (Admiralty Inlet)
 - a. Construction
 - b. Operation
 - (1) block valves
 - (2) leak detection system
 - 2. Cross Sound portion (Saratoga Passage)
 - a. Construction
 - b. Operation
 - (1) block valves
 - (2) leak detection system
 - 3. Columbia River
 - a. Construction
 - b. Operation
 - c. Alternative crossing methods
 - 4. Scheduling overview of all crossings
- C. Terrestrial Pipeline - Eastern Washington
 - 1. Construction
 - 2. Operation
 - 3. Schedule
- D. Terrestrial Pipeline - Western Washington
 - 1. Construction
 - 2. Operation
 - 3. Schedule

III. Environmental Issues (construction/operation by project feature interfaced with environment)

- A. Terminal Facilities
 - 1. Air
 - 2. Earth
 - 3. Water
 - 4. Flora
 - 5. Fauna
 - 6. Natural resources
 - 7. Noise
 - 8. Light and glare
 - 9. Economic
 - 10. Human health
 - 11. Spill risk
- B. Terminal Facilities
 - 1. Population
 - 2. Housing
 - 3. Public services
 - 4. Utilities
 - 5. Energy
 - 6. Transportation

7. Human safety
8. Aesthetics
9. Cultural resources
10. Recreation
11. Spill risk

C. Underwater Pipelines

1. Air
2. Earth
3. Water
4. Flora
5. Fauna
6. Natural resources
7. Noise
8. Light and glare
9. Economic
10. Human health
11. Population
12. Housing
13. Public services
14. Utilities
15. Energy
16. Transportation
17. Human safety
18. Aesthetics
19. Cultural resources
20. Recreation
21. Spill risk

D. Terrestrial Pipeline - Eastern Washington

1. Air
2. Earth
3. Water
4. Flora
5. Fauna
6. Natural resources
7. Noise
8. Light and glare
9. Economic
10. Human health
11. Population
12. Housing
13. Public services
14. Utilities
15. Energy
16. Transportation
17. Human safety
18. Aesthetics
19. Cultural resources
20. Recreation

E. Terrestrial Pipeline - Western Washington

1. Air

2. Earth
3. Water
4. Flora
5. Fauna
6. Natural resources
7. Noise
8. Light and glare
9. Economic
10. Human health
11. Population
12. Housing
13. Public services
14. Utilities
15. Energy
16. Transportation
17. Human safety
18. Aesthetics
19. Cultural resources
20. Recreation

IV. Other Issues and Considerations

- A. NPDES
- B. Potential future activities - detail
 1. Industrial
 2. Spurline, terminal, and storage facilities
- C. Alternatives
 1. Project Alternatives
 - a. Feature locations
 - b. Design, construction, operation (methods)
 - c. Comparative costs
- D. Other Issues