BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of Application of the TRANS MOUNTAIN OIL PIPE LINE CORPORATION, A Delaware Corporation

APPLICATION NO. 79-1
FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER OF CONSISTENCY AND COMPLIANCE FOR SKAGIT COUNTY

THIS MATTER came on regularly for hearing, pursuant to notice duly given, on November 28, 1979, in Mt. Vernon, Washington, before the Energy Facility Site Evaluation Council for determination pursuant to RCW 80.50.090 and WAC 463-26 of the consistency and compliance of the proposed Trans Mountain Oil Pipe Line site as described in application 79-1 with the Skagit County Land Use Plans.

The parties were represented as follows: Trans Mountain Oil Pipe Line Corporation--Charles Blumenfeld and Richard Bersin, Attorneys at Law, The Bank of California Center, Seattle, Washington 98164; and Skagit County--Thomas Moser, Deputy Prosecuting Attorney, Skagit County Courthouse Annex, Mt. Vernon, Washington 98273.

FINDINGS OF FACT

I.

On August 21, 1979, Trans Mountain Oil Pipe Line Corporation submitted its application No. 79-1. On September 7, 1979, Trans Mountain Oil Pipe Line Corporation submitted a revised application which affected the route and facility site in Skagit County.

II.

The pipeline and tank farm facility in Skagit County, as proposed by Application 79-1, shall be sited outside the boundaries of all municipalities in Skagit County.

III.

The Shoreline Management Master Program for Skagit County is not a county or regional land use plan adopted pursuant to

Find.of Fact,Con. of Law-1
Chapter 35.63, 35.63A, or 36.70 RCW, or a county or regional zoning ordinance adopted pursuant to Chapters 35.63, 35.63A, or 36.70 or Article XI of the State Constitution.

IV.

The proposed facility will provide a service to the public by providing a means of transporting crude petroleum for the petroleum shipping public, and is a public utility within the meaning of the Skagit County Comprehensive Plan and Skagit County Zoning Ordinance.

V.

Skagit County adopted its comprehensive plan in 1965 and readopted it in 1968. Skagit County's Comprehensive Plan does not expressly or by operation prohibit the proposed facility site, including the pipeline and tank farm portions.

VI.

Skagit County adopted its zoning ordinance on June 11, 1979. The use designations upon which the pipeline portion of the proposed facility site will be located either permits the pipeline portion of the proposed facility site directly or conditionally.

VII.

If the tank farm portion of the proposed facility site is located in a use area designated by the Skagit County Zoning Ordinance as residential or agricultural, the tank farm portion of the proposed facility site is prohibited by the Skagit County Zoning Ordinance. If the tank farm portion of the proposed facility site is located in a use area designated by the Skagit County Zoning Ordinance as forestry, industrial or commercial, the tank farm portion of the proposed facility site is permitted directly or conditionally by the Skagit County Zoning Ordinance.

VIII.

Skagit County adopted the Skagit County Flood Plain Ordinance

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Find. of Fact, Con.
of Law -2-
Ordinance (Number 7947) on May 23, 1978. The Flood Plain Ordinance does not prohibit expressly or by operation the proposed facility site.

CONCLUSIONS OF LAW

I.

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

II.

September 7, 1979 is the date of application for the purpose of the siting of the facility site in Skagit County.

III.

The Skagit County Shoreline Management Master Program has no applicability to the Council's consistency and compliance determination in this proceeding.

IV.

The pipeline as proposed by the applicant is a public utility within the framework of the Skagit County Comprehensive Plan and the Skagit County Zoning Ordinance.

V.

The energy facility site as contained and described in Trans Mountain Oil Pipe Line Corporation's Application 79-1 is consistent and in compliance with land use plans and zoning ordinances if it is permitted absolutely or conditionally. To be inconsistent and in noncompliance, the plan or ordinance must expressly, or by operation clearly, convincingly and unequivocally prohibit the facility site.

VI.

The entire proposed facility site, including the pipeline and tank farm portions, is consistent and in compliance with the Skagit County Comprehensive Plan.

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Find. of Fact, Con. of Law -3-
VII.

The pipeline portion of the proposed facility site is consistent and in compliance with the Skagit County Zoning Ordinance.

VIII.

If the tank farm portion of the proposed facility site is located in a use area designated by the Skagit County Zoning Ordinance as residential or agricultural, the tank farm portion of the proposed facility site is inconsistent and not in compliance with the Skagit County Zoning Ordinance. If the tank farm portion of the proposed facility site is located in a use area designated by the Skagit County Zoning Ordinance as forestry, industrial or commercial, the tank farm portion of the proposed facility site is consistent and in compliance with the Skagit County Zoning Ordinance.

IX.

The proposed facility site is consistent and in compliance with the Skagit County Flood Plain Ordinance (Number 7947).

ORDER

It is hereby ORDERED as follows:

1. That the entire facility site as proposed by application 79-1, including the pipeline and tank farm portions, is consistent and in compliance with the Skagit County Comprehensive Plan.

2. That the pipeline portion of the proposed facility site is consistent and in compliance with the Skagit County Zoning Ordinance.

3. That if the tank farm portion of the proposed facility site is located in a use area designated by the Skagit County Zoning Ordinance as residential or agricultural, the tank farm portion of the proposed facility site is inconsistent and not in compliance with the Skagit County Zoning Ordinance.

4. That if the tank farm portion of the proposed facility site is located in a use area designated by the Skagit County

Find. of Fact, Con. of Law -4-
Zoning Ordinance as forestry, industrial or commercial, the tank
farm portion of the proposed facility site is consistent and in
compliance with the Skagit County Zoning Ordinance.

5. That the proposed facility site is consistent and in
compliance with the Skagit County Flood Plain Ordinance (Number
7947).

DATED at Olympia, Washington, and effective this 11th day of
February, 1980.

NICHOLAS D. LEWIS, Chairman
Washington State Energy Facility
Site Evaluation Council

ATTEST:

WILLIAM L. EITCH
Executive Secretary

Approved as to Form:

KEVIN M. RYAN, Assistant
Attorney General

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of Law -5-