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BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of Application)
of the) APPLICATION NO. 79-1
)
TRANS MOUNTAIN OIL PIPE LINE) PREHEARING PROCEDURE
CORPORATION,) ORDER FOR CONDUCT OF
) HEARING
A Delaware Corporation)
_____)

I.

CASE FORMAT

- A. Commencement--Appearances.
- B. Preliminary matters--motions, stipulations, etc.
- C. Opening statement--statements will be limited to no more than two hours; parties may reserve their opening statements until the beginning of their case in chief.
- D. Applicant's case in chief. Each witness shall provide summary direct testimony with regard to the relevant prefiled testimony, and will then be subject to immediate cross examination as to all testimony.
- E. Other parties' case in chief. Evidence will generally be presented by the parties on a topical basis rather than a party by party basis. Each of the parties will be offered one opportunity, at a common point in the case to present direct evidence on each topic within the parties' 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 may present summary direct testimony with regard to the relevant prefiled testimony and will be subject to immediate cross examination.
- F. Rebuttal evidence.
- G. Public testimony.
- H. Closing procedural matters.
- I. Closing statement.

II.

TOPICAL PRESENTATION OF EVIDENCE BY APPLICANT

A. General policy issues.

1. Structural description of applicant.
2. Project overview.
3. Purposes and benefits of proposed project.
4. Project costs and financing.

B. Project description--construction and operation, design of physical project features.

1. Terminal facilities.
2. Underwater pipelines.
3. Terrestrial pipelines.

C. Environmental issues. Construction and operation by project features related to environmental element and categories.

1. Terminal and tank farm facilities--physical elements.
2. Terminal and tank farm facilities--social elements.
3. Underwater pipeline.
4. Terrestrial pipeline.

D. Other topics.

1. NPDES.
2. Potential future activities.
3. Alternatives.
4. Other issues.

See Appendix A attached hereto and incorporated herein by this reference for a more detailed description of topical subjects.

III.

LIMITATIONS ON NUMBERS OF WITNESSES FOR VARIOUS TOPICS

The parties shall be limited to the following number of witnesses for each of the following categories.

A. "Structural description of applicant"--1 witness.

B. "Project overview"--1 witness. Direct and cross examination with regard to this topic shall be limited to the general nature of the project.

1 C. "Purposes and benefits of proposed project"--1 witness for
2 each subtopic (unless a panel is used).

3 IV.

4 FURTHER PROCEDURAL MATTERS

5 A. Unnecessarily repetitive questions will not be permitted
6 and the cumulative testimony rule will be strictly enforced.

7 B. Consolidation permitting hearing of design, construction,
8 operation and environmental components of each geographically
9 located element of the project successively may be permitted upon
10 good cause shown.

11 C. The Administrative Law Judge will consider motions by a
12 party to be allowed to vary from the topical presentation of
13 testimony. Such motions must be made within 30 days of the close
14 of the Applicant's case in Chief and address the following
15 factors:

- 16 1. Location of the hearing.
- 17 2. Special or unique qualities of the issues to be addressed.
- 18 3. Expense to the parties and Council.
- 19 4. The time which will be required.
- 20 5. Cohesiveness and understandability of the testimony.

21 V.

22 SCHEDULING

23 A. Hearings shall be held four days a week--Tuesday through
24 Friday.

25 B. The following schedule shall be observed for each full
26 days' evidentiary hearing unless otherwise announced.

27 9:00 a.m. Preliminary matters.

28 9:15 a.m. Evidence taken.

29 11:45 a.m. Lunch and recess.

30 1:15 p.m. Reconvene.

31 4:30 p.m. Afternoon recess.

32 VI.

PREFILED TESTIMONY

A. The direct testimony to be presented by all witnesses

1 shall be prefiled in the form of written questions and answers on
2 line numbered paper. All demonstrative and illustrative evidence
3 shall be described in and submitted with the corresponding pre-
4 filed testimony.

5 B. The applicant shall submit its prefiled testimony as
6 follows:

7 1. Its testimony relating to topics II, A, General
8 policy issues by April 1, 1981;

9 2. Its testimony relating to topics II, B, Project
10 description by April 15, 1981;

11 3. Its testimony relating to topics II, C and D,
12 Environmental issues and other topics by May 1, 1981.

13 Late filed or additional prefiled testimony may be filed only
14 upon leave of the Administrative Law Judge, for good cause shown.
15 The Judge shall consider the adverse affect of such late filing
16 or additional testimony with regard to its affect on other par-
17 ties and the hearing process. Provided, however, that in no
18 event shall prefiled testimony be submitted less than 28 days in
19 advance of the date on which taking of the evidence from the
20 applicant is anticipated to commence.

21 C. Applicant will submit preliminary witness lists on
22 April 1, 1981. Final witness lists shall be filed on May 1,
23 1981.

24 D. Prefiled testimony shall be submitted by all other par-
25 ties no less than 28 days in advance of the date on which the
26 taking of evidence from the witness is scheduled to commence.

27 E. Simultaneously with the first filing of pre-filed
28 testimony, by a party other than the Applicant, each party other
29 than the Applicant shall submit a position outline paper iden-
30 tifying their position on the issues they expect to address, and
31 a short description of the issues which will be addressed by each
32 witness.

1 E. Upon being sworn, each witness will be permitted not more
2 than 15 minutes to present a summary of the material contained in
3 that witness' prefiled testimony. Additional time will be
4 allowed for the explanation of illustrative or demonstrative
5 evidence. A witness will not be permitted to exceed the 15
6 minute summary testimony limitation except upon a showing to the
7 Administrative Law Judge that additional time is needed to
8 fairly summarize the witness's testimony.

9 F. The conduct of the hearing will generally be governed by
10 the rules of evidence which are applied in the Superior Courts of
11 the State of Washington, for trials not tried to a jury.

12 VI. WITNESSES

13 A. All parties should attempt to establish panels of wit-
14 nesses with regard to their cases, on a topical basis.

15 B. Parties other than the Applicant are encouraged to
16 establish joint party witness panels on a topical basis.

17 C. The cross examination of each witness panel shall be con-
18 ducted as follows: (1) Cross examination of the designated wit-
19 ness panel chairman by Council members and all parties; (2)
20 Cross examination of other witness panel members by Council mem-
21 bers and all parties. Cross examination of panel members will be
22 limited to questions directly referred to them or matters
23 relating to their specific expertise. Cross examination of indi-
24 vidual witnesses will also be allowed to Council members and all
25 parties.

26 D. At the close of a witness' direct testimony, each party
27 will inform the Administrative Law Judge of the probable length
28 of their cross examination. Those parties whose cross examina-
29 tion is not expected to require more than 15 minutes shall then
30 be allowed to cross examine first. At the close of their cross
31 examination they may request to be excused from further atten-
32 dance at the testimony of that witness.

1 VII.

2 MOTION PROCEDURE

3 Parties filing motions with regard to the application shall
4 file the motion with the Council. The Administrative Law Judge
5 will then contact the parties with regard to a date of hearing,
6 and then note the motion for hearing. Notice shall be given to
7 all parties and shall be made pursuant to WAC 463-31-010 which
8 provides that notice shall not be less than twenty (20) days
9 prior to the date set for hearing, unless waived by the
10 Administrative Law Judge for good cause shown. Parties wishing
11 to have an expedited hearing shall file an affidavit requesting
12 an expedited hearing, reciting the need therefor and providing
13 assurances that an expedited hearing on the matter would not
14 substantially affect the rights of other parties.

15 All motions shall be heard by the Administrative Law Judge
16 except the following, which will be heard by the Council:

- 17 1. Motions to dismiss the application;
18 2. Motions requiring the Applicant to supplement the
19 application;
20 3. Other motions, at the discretion of the Administrative
21 Law Judge, which may have a significant substantive effect on the
22 application and/or the application process.
23 4. The Administrative Law Judge's rulings on motions which
24 are not heard by the Council shall be final and will not be
25 considered by the Council.

26 VIII.

27 No variance from the procedure outlined in this order will be
28 permitted except upon good cause shown and upon specific con-
29 sideration of the interests of the Council and of the other
30 parties.

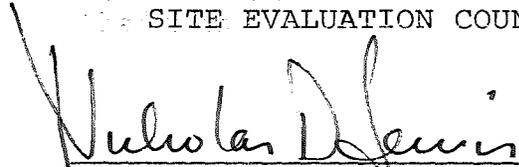
31 X.

32 A subsequent order or orders will establish schedules for the

1 filing of position papers, witness lists, prefiled testimony and
2 other matters for parties other than the Applicant. Such order
3 or orders will also establish the topical structure for the pre-
4 sentation of evidence by those parties.

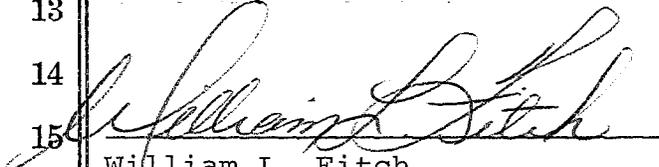
5 DATED This 9th day of February, 1981.

7 WASHINGTON STATE ENERGY FACILITY
8 SITE EVALUATION COUNCIL

9 

10 Nicholas D. Lewis
11 Chairman

12
13 ATTEST:

14 

15 William L. Fitch
16 Executive Secretary

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18 APPROVED AS TO FORM:

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21 Kevin M. Ryan
22 Assistant Attorney General

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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. Ultimate demand
 - b. Alternate supply sources
- 2. West Coast oil supply
 - a. West coast sources
 - b. North 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 and Tank Farm Facilities (Construction and Operation)

- 1. Low Point Facility
- 2. SPM
- 3. Additional tank farms
- 4. Scheduling overview

B. Underwater Pipeline

- 1. Cross Sound portion (Admiralty Inlet)
 - a. Construction
 - b. Operation
 - (1) block valves
 - (2) leak detection system

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- 2. Cross Sound portion (Saratoga Passage)
 - a. Construction
 - b. Operation
 - (1) block valves
 - (2) leak detection system
- 3. Alternative methods of crossing
- 4. Scheduling overview of all crossings

C. Terrestrial Pipeline

- 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

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- 10. Human health
- 11. Population
- 12. Housing
- 13. Public services
- 14. Utilities
- 15. Energy
- 16. Transportation
- 17. Human safety
- 18. Aesthetic
- 19. Cultural resources
- 20. Recreation
- 21. Spill risk

D. Terrestrial Pipeline

- 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 service
- 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