

Q. *State your name and business address.*

A. Joy Keniston-Longrie, WA State Department of Natural Resources, P.O. Box 47014,
Olympia, WA 98504-7014

Q. *Where are you employed and what is your job title?*

A. I am the Division Manager of the WA State Department of Natural Resources' Resource
Planning and Asset Management Division

Q. *What is your educational background?*

A: *Master of Public Health, University of Washington, Seattle, WA, 1986.*
Bachelor of Science, Environmental Health, University of Washington, Seattle, WA, 1978
Bachelor of Arts, Spanish, University of Washington, Seattle, WA, 1978.

I also have course work at the Universidad de los Andes, in Bogotá, Colombia, South
America, as well as The Evergreen State College in Olympia, Washington. I have taken
numerous continuing educational courses in a variety of areas including, but not limited
to: Environmental Law; Risk Assessment, Management and Communication;
Environmental Pollution Prevention and Remediation; Human Resource Management
and Law: Environmental Health and Injury Prevention.

Q. *Summarize your professional experience.*

A: I have over 20 years of experience in environmental management. Below is a summary
of my professional experience.

Resource Planning & Asset Management Division Manager, WA State Department of

Prefiled Testimony of Joy Keniston-Longrie
Exhibit JKL-T

Natural Resources, Olympia, December 1996 - present. Manage six (6) diverse sections with over 150 employees, a biennial operational budget of \$25 million, and a capital budget of \$100 million. The Department of Natural Resources (DNR) is responsible for the management of over 5 million acres of upland and aquatic lands for named trusts and the public. Areas of responsibility include, but are not limited to:

Property Management: Rights of Ways; Commercial Properties; Lease Management; Communication Sites; Mineral; Rock, Sand, and Gravel; Urban & Rural Zones Property Management, Trespass, and Risk Management.

Transactions: Sale; Exchange; Purchase; and Reconveyance of upland Properties.

Resource Planning & Asset Stewardship: Growth Management; Asset Stewardship Planning; Landscape & Timber Harvest Planning.

Scientific Support: Economic Revenue Forecast; Fish; Hydrology; Soils; Wildlife; HCP Implementation Monitoring; Endangered Species Issues; Other.

Land Survey & Land Records:

Public Records and Land Survey (permanent repository for identification and preservation of survey points for the description of common land boundaries in Washington); Land Records (records of title, encumbrances, easements, leases, road use permits).

State Environmental Policy Act (SEPA) Center: SEPA, National Environmental Policy Act (NEPA), Rule Making.

Budget & Operations: Capital & Operating Budget; Human Resource Management; Division Accounting Function; Legislative Review; Year 2000 (Y2K); Worker Health & Safety.

Other: Department designated lead for Cross Cascades Pipeline Project.

Environmental Programs Manager, Water Pollution Control Division, King County Department of Natural Resources (formerly METRO), Seattle, 1994 - December 1996. Manage 6 diverse sections, 150 FTE, \$16 million dollar annual operating budget and \$228 million annual capital budget. METRO provided regional wholesale wastewater utility services serving a population of 1.2 million people, treating over 400 million gallons of wastewater per day. Areas of responsibility included, but were not limited to:

Capital & Facilities Planning: Long Range Planning; Capital Improvement; Capital Budget; National Pollution Discharge Elimination System (NPDES) Monitoring, Compliance, and Management; Tribal Relations; SEPA.

Water Resources: Monitoring and protection of fresh surface water bodies in service area (including Lake Washington, Lake Sammamish, Lake Washington); Marine Water Assessment; Estuarine Waters; Risk Assessment; Water Re-Use; Water Rights, SEPA Review; and Watershed Planning.

Hazardous Waste Program: Plan, implement and monitor King County Local Hazardous Waste Management Program collaboratively with Seattle Solid Waste, King County Solid Waste, Suburban Cities, and Seattle-King County Health Department.

Industrial Waste Program: Responsible for the implementation of the Clean Water Act as delegated by Environmental Protection Agency and Washington State Department of Ecology. Responsible for compliance and enforcement of industrial waste permits to customers discharging into wastewater system. Also responsible for the monitoring of METRO's discharge of treated waters in the receiving waters of Puget Sound.

SEPA/NEPA review.

Biosolids: Responsible for compliance with all federal, state and local requirements for

the beneficial reuse of biosolids. Customer base included beneficial reuse of biosolids product to agricultural, forestry, land reclamation and landscape uses.

Communications: Technical Writing support to Renton & Westpoint Treatment Plants; Communications to public impacted by capital improvement construction; coordination with King County Water Quality Citizens Advisory Committee; Public Education.

Budget & Operations: Capital and Operating Budget; Human Resource Management; Division Accounting Function; Legislative Review; Worker Health & Safety.

Assistant to Environmental Health Division Director, Tacoma-Pierce County Health Department, Tacoma, 1983-1994. (Other titles held include Section Manager, Environmental Program Coordinator, Senior Environmental Health Specialist and Environmental Health Specialist). Assisted Division Director manage 5 diverse sections, 100 FTEs and \$8 million annual operating budget. Responsible for oversight for multi-disciplinary environmental health programs serving an urban and rural population of 550,000 residents in Pierce County. Responsibilities included, but not limited to:

Land Use Development: Environmental compliance with local and state laws for land sub-division and development.

Water Resources: Environmental and public health protection for drinking water program, recreational surface water program, and groundwater monitoring program.

Solid Waste: Environmental public health review and compliance for a variety of solid waste issues including hazardous waste, solid waste, recycling, composting, and medical wastes.

Food Protection: Education and enforcement of local, state and federal food protection regulations to protect public health.

Environmental Disease Prevention: Responsible for the surveillance, investigation, and intervention of diseases caused by environmental exposure, including, but not limited to contaminated water, food, animals, air, chemicals, bacteria, viral and other modes of transmission, to protect public health.

Budget & Operations: Operating budget development & oversight; human resource management; information systems management; legislative review; policy development; facilities planning; Worker Health & Safety..

Environmental Health Specialist, Thurston County Environmental Health Department, Olympia, WA, 1979-1983.

Water Resources: Implementation of the drinking water program to protect public health; surface water quality monitoring and enforcement to protect public health.

Land Use Development: Review of sub-divisions, SEPA, and other issues to ensure public health protection and compliance with local/state regulations.

Environmental Health Consultant, Camp, Dresser & McKee, Ecuador, South America, May 1993. International Rescue Committee, Honduras, Central America, 1982.

Providing consulting and program oversight on a variety of environmental issues, including but not limited to:

- | | |
|---|---|
| <input type="checkbox"/> Risk Assessment, Management | <input type="checkbox"/> Drinking Water Programs |
| <input type="checkbox"/> Watershed Management | <input type="checkbox"/> On-Site Wastewater |
| <input type="checkbox"/> Surface & Groundwater Protection | <input type="checkbox"/> Disaster Response |
| <input type="checkbox"/> Marine & Fresh Water Quality Mgmt | <input type="checkbox"/> Air Quality (Indoor & Ambient) |
| <input type="checkbox"/> Hazardous Waste & Infectious Waste | <input type="checkbox"/> Industrial Waste |

- Biosolids Management
- Sediment Remediation
- Environmental Mgmt & Compliance
- Information Management
- Environmental Policy Development
- Risk Communication
- Communications
- Land Use & Growth Management
- Environmental Communicable Diseases
- Solid Waste
- Strategic Planning
- Injury Prevention & Surveillance

Q. *What is the subject matter of your testimony?*

R. The subject matter of my testimony is DNR managed state lands. My testimony is to provide a framework for EFSEC to understand the information which is needed for prudent land management and business decision making. I will endeavor to explain the reasons why the information is needed to ensure the decision makers have the information that is needed in order to determine if the proposed risks, weighed against the benefit to the trust and people of Washington State, is a good business decision based on our constitutional, statutory, and trust mandate.

Q. *How is your testimony organized?*

R. I will cover three (3) major themes: (1) a general overview of Washington State Department of Natural Resource’s responsibility and roles (2) background information on DNR’s role as a trust manager, what the trusts and what the different mandates are and (3) specific issues related to DNR managed uplands impacted by the proposed pipeline.

<u>Section</u>	<u>Topic</u>	<u>Page #</u>
Section I	Who am I?	1-6
Section II	Overview of DNR	8-11
Section III	What is the Board of Natural Resources?	11-12
Section IV	The Trust Responsibility	12-18
Section V	Policy Plans	18-26
Section VI	State Managed Upland Trusts Issues	26-63

Section VII
Section VIII

Tables and Figures
Exhibits

64-77

SECTION II: Overview of DNR

Q: What is your understanding of what kind of legacy the Commissioner of Public Lands wants to leave for the people of Washington state today and for future generations?

A: The Commissioner of Public Lands is a statewide elected official charged by law with managing state/public lands and resources. As an elected official, she has articulated a vision of the legacy for natural resources and state managed lands that DNR follows within the confines of constitutional and statutory mandates as it manages land and resources. The following is an excerpt from "*A Letter from the Commissioner of Public Lands, Our Changing Nature. Natural Resource Trends in Washington State*", 1998. In the introduction, Commissioner Jennifer Belcher writes:

At the Department of Natural Resources (DNR), we routinely talk about the kind of natural resource legacy we will leave for our children, their children and generations beyond. This internal dialogue spurred us to take a look at the condition of our natural resources.... The state's population is projected to double in the next 50 years, and our natural resources and the type of life we're used to are at risk. But the future is ours to decide. Together, we need to establish a dialogue about the legacy we inherited and the legacy we will leave. Clean air and water, abundant fish and wildlife, fully functioning wetlands and estuaries, natural resource jobs, outdoor opportunities for solitude and reflection - we want these things for today's generation, and we want them for the generations that follow. At DNR, we believe these things and more are within our reach, but only with an awareness and commitment on the part of all of Washington's citizens.

Q. Please provide a brief overview of the Department of Natural Resources?

R. The DNR is a state agency charged with land management, resource protection and public education. It is administered by the Commissioner of Public Lands, a statewide elected official, currently Jennifer M. Belcher. DNR has approximately 1350 permanent employees who are geographically dispersed in seven regions, plus Olympia headquarters offices. In addition to managing more than 5 million acres of state-owned lands, the DNR regulates surface mining reclamation, some outdoor burning and administers Forest Practices Act on 12 million acres of private and state-owned forests.

DNR protects 12 million acres of state-owned and unimproved private forest land from wildfire. The department's technical experts assist landowners and communities with information about ecologically sensitive areas, plant species, geologic hazards, and natural resource stewardship. The department also offers and administers financial grants for fire protection, aquatic land enhancement, and urban forestry.

(Source: LF 6-99, legislative fact sheet printed 1/12/99)

Q. *Please describe the lands which are managed by the DNR.*

R. DNR manages more than 5 million acres of state-owned lands and the associated resources including:

- 2.1 million acres of forests
- 1.2 million acres of agriculture and grazing lands
- 2.4 million acres of aquatic (submerged) lands
- 50,000 acres in 24 Natural Resource Conservation Areas
- 25,000 acres in 45 Natural Area Preserves
- Commercial properties; communications tower sites;
mineral, oil and gas leases; mining contracts; sand, gravel and rock sales.

Regulatory	Real Estate
------------	-------------

Most of these lands are federally granted and Forest Board Lands “trust land” which the DNR manages to produce income for specific named beneficiaries, as well as local services in many counties and the state’s general fund. DNR manages the state’s aquatic lands – shorelands, tidelands and beds of navigable waters – as a public trust. (*Source: LF 6-99, legislative fact sheet printed 1/12/99*)

Q. *Describe the organization of DNR.*

R. The DNR has both real property management responsibilities and regulatory responsibilities and is organized to meet these charges. The department manages uplands and aquatic resources in state ownership through its Forest Resources, Resource Planning and Asset Management, Agricultural Resources, Engineering and Aquatic Resources divisions, working in conjunction with staff in seven regions statewide as well as the department’s executive management team. Regulatory responsibilities are addressed by the Forest Practices, Geology and Earth Resources, and Resource Protection Divisions. Administrative support is provided by the Financial Services, Employee Services and Information Technology Divisions.

- Forest Practices
- Aquatic
- Resource Protection
- Uplands
- Geology & Earth Resources
- Geology

SECTION III: The Board of Natural Resources

Q. What is the Washington State Board of Natural Resources?

R. The Board of Natural Resources (BNR) was formed when the Washington Department of Natural Resources was created in 1957. R.C.W. 43.30.020.

The six (6) positions on the board are designated by statute R.C.W. 43.30.040. Positions and the current members are: the Commissioner of Public Lands (currently Jennifer M. Belcher); the Governor or the governor’s designee (Bob Nichols, Ph.D., representing Governor Gary Locke); the Superintendent of Public Instruction (Terry Bergeson, Ph.D.); the Dean of the College of Forest Resources of the University of Washington (David Thorud, Ph.D.); the Dean of the College of Agriculture at Washington State University (James Zuiches, Ph.D.); and a representative of those counties that contain state Forest Board Lands¹ purchased or acquired under R.C.W. 76.12 (Bob Paylor, Grays Harbor County Commissioner).

The Board is directed to “establish policies to insure that the acquisition, management and disposition of all lands and resources within the department’s jurisdiction are based on sound principles designed to achieve the maximum effective development and use of such lands and resources consistent with the laws applicable thereto.” R.C.W. 43.30.150(2). One of the ways the Board establishes policies is through

¹ Forest Board Lands are called state forest lands in statutes. R.C.W. 76.12.020

adoption of formal plans such as the Habitat Conservation Plan, Asset Stewardship Plan, Forest Resource Plan, Aquatic Lands Strategic Plan and Agricultural and Grazing Lands Program. Board members act as appropriate for the lands involved on behalf of the trusts and all the people of Washington. In accordance with the governing trust laws, the Board of Natural Resources requests, evaluates, and recommends approval/disapproval of timber and mineral sales from trust lands, and establish sustainable harvest levels; and also approves/disapproves the sale or exchange of trust lands.

The Board also acts as Board of Appraisers and Harbor Line Commission per R.C.W. 79.01.048 and R.C.W. 79.90.070.

SECTION IV: The Trust Responsibility

Q. *How and when did these lands come into state ownership and DNR management?*

R. Aquatic, federally granted trust lands, Forest Board Trust Lands, and escheat lands and the Milwaukee Road Corridor came into state ownership and DNR management at different times and through separate governmental actions. Each land ownership category has its own laws and purposes. They are also subject to laws of general applicability.

Aquatic lands: At statehood in 1889, Washington through the state constitution asserted ownership of aquatic lands, including the bedlands of marine waters (bedlands and tidelands), navigable lakes and rivers (shorelands and bedlands), aquatic dependent plants and animals and other commodities associated with waters or submerged lands. The constitution nullified any territorially-granted property rights and claims to navigable waters. The state's decision makers were concerned with protecting navigation and preventing monopolistic control of harbor areas. Since the state constitution could nullify territorial provisions and grants but not alter federal legislation, treaties with native American tribes -- including rights to fish and shellfish -- continue to apply to the state's aquatic holdings. The state constitution authorized leasing and sale of saltwater tidelands and lake and river shorelands. Beginning at statehood and until 1971 with the adoption of the Gissberg Amendment, R.C.W. 79.94.150 (2), the state sold aquatic lands to encourage waterfront and port development. In 1984, the legislature enacted a comprehensive Aquatic Lands Management Act, codified in R.C.W. 79.90– 79.96, which set policy for aquatic land and resources management, formulas for rent determinations and use of revenues. The legislation identifies five priorities: encourage direct public use and access; foster water dependent uses; ensure environmental protection, utilize renewable resources and generate income in a manner consistent with the priorities. Also in 1984, the Aquatic Lands Enhancement Account was established to fund enhancement of the aquatic assets. State-owned aquatic lands represent commitment to meeting critical public purposes such as navigation, habitat protection and access to the waters of the state. (*Source: Asset Stewardship Plan, 3.9-3.10*)

Federally granted trust lands: The federal government historically granted lands to new territories for the purposes of education. The Organic Act, approved in 1853, created the Washington Territory and reserved sections 16 and 36 of each township to benefit common schools. Later legislation in 1854 and 1864 granted 72 sections of land to the Territory of Washington to establish a state university (Enabling Act, Act of March 14, 1864 and Act of July 17, 1954.) The 1889 Enabling Act spelled out the terms of statehood for Washington, Montana and the Dakotas. The act also granted federal lands for specific purposes such as “support of common schools,” “public buildings at the state capitol,” “the support of agricultural colleges,” for “establishment and maintenance of a scientific school,” for “state normal schools” and for “state charitable, educational, penal and reform institutions.” The Enabling Act establishes requirements that the state must follow in selling granted lands, authorizes lease of these lands and allows the exchange of lands of equal value. The Enabling Act also contemplates the sale of timber and other crops from the lands, as well as oil, gas and other mineral leasing. It required the creation of permanent funds from the proceeds of permanent dispositions of certain lands. The state constitution, ratified in 1889, accepted the Enabling Act granted lands and specified that all the public lands granted to the state are held in trust for all the people.

In summary, the Enabling Act, state constitution and statutes relating to federally granted trusts have created a legacy of perpetual benefit for the trust beneficiaries and the people of Washington State. The Enabling Act, Act of March 14, 1864 and Act of July 17, 1954, and State Constitution, Article 16, Section 1. (*Source: Asset Stewardship Plan, Legal Framework and History, 3.10– 3.12*)

Forest Board Lands: During the early part of the 20th century, many Washington counties found themselves holding thousands of acres of logged or inaccessible forest lands that had been forfeited by landowners for non-payment of property tax. These “waste lands,” if they had any merchantable wood left, were sold by the counties to the highest bidder for as little as 10 cents per acre down and 10 cents per acre per year for 10 years. In the early 1920s, the Washington State Legislature authorized and funded the purchase of logged-over but

potentially productive forest lands. Nearly 44,000 acres of “Forest Board Purchase” lands were acquired to reforest and protect the lands in a system that provided professional management and administration. In 1927, legislation was passed to offer an opportunity for counties to transfer cut or burned-over lands they’d acquired by tax foreclosure or other means to the state for reforestation, protection and administration as part of the state forest system. This category, Forest Board Transfer Lands, includes nearly 550,000 acres located in 21 counties, including Snohomish County.

The state agreed to administer, replant and protect these lands, and to distribute the major portion of revenues from them to counties after deducting administration, reforestation and protection costs. Counties, in turn, distribute a portion of the revenues to junior taxing districts.

The legal authority for managing Forest Board Lands is found in R.C.W. 76.12. (*Source: Asset Stewardship Plan, Legal Framework & History, 3.13– 3.14*)

Q. *For whom are the federally granted lands managed?*

- A. The federally granted lands are managed for seven (7) different trusts:
- (1) The Common School Trust, including indemnity and escheat lands¹, benefits grades K-12 education statewide through the capital construction funds.
 - (2) The Capitol Building Trust provides for construction and permanent improvements of public buildings at the state capitol.
 - (3) The Charitable, Educational, Penal & Reformatory Institutions Trust provides for construction of institutions

¹ Indemnity and escheat land designations describe how certain parcels became part of the Common School trust ownership. Indemnity lands are the “in lieu” land selections made for the Common School Trust to make up for the section 16 and section 36 lands which had already been reserved for other purposes by the federal government. Escheat lands are properties which have reverted to the Common School Trust in the absence of legal heirs or claimants upon the death of the owner. (State Constitution, Article 9)

managed by State Department of Corrections and Department of Social and Health Services.

(4) The Normal School Trust benefits Western Washington University, Central Washington University, Eastern Washington University and The Evergreen State College.

(5) and (6) The Agricultural School Trust and Scientific School Trust both benefit Washington State University.

(7) University (transferred and original) Trust benefits the University of Washington. (*Source: State of the Trusts, Oct. 1997*)

The Enabling Act, State Constitution and statutes relating to federally granted trusts have created a legacy of perpetual benefit for the trust beneficiaries and the people of the state. The many statutes and court decisions interpreting the state's trust obligations have also prescribed prudent asset management.

The Constitution, as ratified, accepted the Enabling Act grant lands. The state constitution specified that the granted lands are held in trust for all the people of the state. This language has been reflected in many state statutes as requiring that the best interests of the state could be considered along with the best interests of the trusts for which they are managed. (*Source: Asset Stewardship Plan*)

Q. *For what specific purposes are the federally granted trust lands managed?*

A. Income for trust beneficiaries, in perpetuity and, under the 1974 Multiple Use Act, R.C.W. 79.68.010 and 79.68.020, multiple use for all the citizens of Washington (hunting, fishing, recreation areas, scientific studies, etc.) simultaneously when in the best interests of the state and the general welfare of the citizens, when compatible with trust management.

Q. *For what specific purposes are the Forest Board Lands managed?*

R. Development of forest lands for timber production (these lands were acquired

“to promote generally the interests of reforestation,...and for the purpose of developing and growing timber”) in accordance with R.C.W. 76.12.020. Revenue is a very important benefit derived from timber production. R.C.W. 76.12.120 directs that all Forest Board Lands be reserved from sale but that timber may be sold in the same manner as is authorized for federally state granted land if the department finds such sale to be in the best interests of the state. R.C.W. 76.12.030 directs that any monies derived from the lands are to be distributed first for expenses incurred by the state for administration, reforestation and protection and second, any balance remaining shall be distributed in the same manner as property taxes are distributed. Other priorities set by the legislature include multiple use R.C.W. 79.68.010 and 79.68.020 which directs the department to manage the lands under its jurisdiction to provide for several uses (hunting, fishing, recreation areas, scientific studies, etc.) simultaneously when in the best interests of the state and the general welfare of the citizens, and reconveyance of lands, in select cases, to a county for park purposes, as authorized in R.C.W. 76.12.”
(Source: *DNR Response to Joint Legislative Administrative Rules Committee (JLARC) November 7th, January 20, 1999 DRAFT*, p. 6 and 13)

Q. *What are the department’s obligations or duties as a trust land manager?*

A. “The duties of a private trustee have been described in various ways and include: a duty to administer the trust in accordance with provisions creating the trust, a duty of undivided loyalty to the beneficiaries, a duty to manage trust assets prudently, a duty to make the trust property productive without unduly favoring present beneficiaries over future beneficiaries, a duty to reduce the risk of loss to the trusts, and a duty to keep and render accounts. Several¹ of these duties have been discussed by the courts specifically in the context of federal land grant trusts.” (*Source: Forest Resource Plan 1992, p. C-4*)

Q. *Is “public benefit” required to be considered as part of a business decision as a land manager?*

A. Yes, in fact as outlined in the Asset Stewardship Plan “... we have come to recognize the complexity of managing to achieve the direction of the constitution to manage to benefit all the people of the state while carrying out our fiduciary obligation to named beneficiaries”. (Asset Stewardship Plan (ASP) 1998, p. 1.3)

Q *Indicate the trusts whose properties would be crossed by the proposed route or routes for the Olympic Cross Cascade Pipeline.*

A. According to the maps and other information provided by OPL, we have determined there are several DNR managed trust lands impacted. Trusts impacted include: Forest Board Transfer, Common School Trusts and the Milwaukee Road Corridor. Aquatic lands are held in public trust. See Exhibit JKL-1, map 5.

¹ County of Skamania vs. State of Washington and Attorney General Opinion No. 11.

SECTION V: Board Adopted Policy Plans - Asset Stewardship Plan (ASP) and Habitat Conservation Plan (HCP) and Forest Resource Plan (FRP)

Q. What is the Asset Stewardship Plan?

A: The Asset Stewardship Plan was adopted by the Board of Natural Resources in January 1998.

The Asset Stewardship Plan is a commitment to doing our best to address changing and widely expanding public needs and values through wise repositioning decisions and sustainable management. By proceeding prudently now, we can conserve and enhance our rich endowment for generations to come.

At the heart of this plan are strategies that lay the groundwork for well-informed decisions to position the many assets in our care for improved outcomes over the next century.

Decisions about which lands to keep, exchange, or sell will be important for every Washington resident, now and in the future. This plan will help us make critical choices to address the challenges and opportunities posed by Washington's significant population growth.

The strategies discussed in the plan, will help DNR find innovative ways to:

- maintain healthy and productive trust lands,
- provide the greatest possible sustainable benefits to current and future generations of Washingtonians,
- work collaboratively with each trust's beneficiaries to establish the most appropriate asset mix,
- decide which lands to keep or sell to provide ongoing revenue for trust beneficiaries and for local services,
- meet growing public needs for recreation,
- provide broad public benefits from aquatic resources managed on behalf of all Washington

- residents, and
improve the department's business practices and systems using technological innovations.

The Asset Stewardship Plan contains a summary of how we came to manage the current mix of assets. It's also a commitment to doing our best to address changing and widely expanding public needs and values through wise repositioning and sustainable management. By proceeding prudently now, we can conserve and enhance our rich endowment for generations to come.

Q. What are the Asset Stewardship Plan Guiding Principles?

The Guiding Principles were adopted by the Board of Natural Resources as part of the Asset Stewardship Plan. Below is an excerpt from that document:

Guiding Principles

These are statements of what we believe to be important in the execution of our departmental responsibilities. As such, they should guide our deliberation in policy development and program implementation, and lead us to better decisions.

Asset Management

The asset value of Washington's public lands will be protected and enhanced over time. We recognize the asset value to include, economic, ecological and social values.

- Where trust lands are involved, the trust mandate will be our primary consideration.
- The trust lands shall be managed in a way that both protects and advances the fiduciary best interests of the designated trust beneficiaries.
- The economic and ecological values of our lands are inherently related, and we will integrate these values in our decision making for the lands we manage.
- Management activities should generate an equitable return to each generation of trust beneficiaries, taking care to not favor one generation over another.

- Direct and immediate protection will be provided for natural resources at risk of loss or unacceptable decline over time, whether under our management or regulatory control.
- Management activities on public lands will consider and seek to minimize negative impacts to our neighbors' lands.
 - Appropriate public use of public lands will be welcomed; inappropriate public use will be discouraged.
 - The public will be encouraged to participate in our policy-making processes regarding management of public lands."

Q. What is the projected population growth for Washington State over the next several decades?

A. "It's estimated that our state will have 8.4 million resident by 2020, an increase of 2.8 million from today." (Asset Stewardship Plan, DNR 1998).

Washington's population could double by the middle of the 21st century, adding the equivalent of 29 cities the size of Tacoma or Spokane. That's twice as many people who will need places to live, play, and work. They'll need fresh air, clean water, and places to find solitude and natural beauty. The challenge is to decide how to provide space and natural resources for the current citizens of Washington while ensuring the same natural resource options are available to the people who will call Washington their home in the coming century.

With twice as many people, another challenge will be how to minimize our damage to the environment and how to protect the remaining forests, fish, wildlife and grasslands. Now and in the future, at least three factors significantly threaten our natural resources; (1) the number and location of people living in our state, (2) the amount of resources we consume, and (3) the waste we produce.... More people

will likely result in greater challenge to provide a clean and adequate supply of drinking water. Our Changing Nature, Natural Resource Trends in Washington State, DNR, 1998, page 5 and 6.

Q. How does the Asset Stewardship Plan help establish a strategy which provides policy guidance as it relates to a long term proposed product pipeline?

A. The Asset Stewardship Plan sets the policy context and guidance as it relates to near-term decisions and long-term impacts. It is critical that DNR thinks strategically today for tomorrow. Below is an excerpt from the Asset Stewardship Plan:

Today's Washington is not the infant state of 1889 that received the federal trust and aquatic lands; nor is it the Depression-era state that took responsibility for Forest Board Lands. In another 50 years, Washington won't be the state it is today. At statehood, forested land was more valuable when cleared for agriculture. Today, just 100 short years later, forests are immensely valuable as sources of fiber, revenue, fish and wildlife habitat and recreational opportunity. And in that time we've learned much about the need to be strategic in our efforts to manage the lands to meet those many values.

Due in part to our good stewardship thus far, the values and benefits from state lands are greater and more diverse than at statehood. Our citizens' values and expectations reflect the incredible diversity of benefits from these lands, including:

- 👍 income to trust beneficiaries, including money for schools and public services,
- 👍 commodities such as timber for houses, range forage, agricultural produce, shellfish, minerals
- 👍 jobs and tax revenue generated through production, harvest and processing of commodities from state lands
- 👍 amenities that include scenic landscapes, open space and visible confirmation that Washington is "the Evergreen State"
- 👍 clean air and water resources of very high quality
- 👍 ecological values that include biological diversity and habitat for fish and wildlife, including threatened and endangered species

- 👉 opportunities for recreation, tourism, and navigation on the state's waters
- 👉 special places that fulfill our needs for solitude and renewal
- 👉 cultural resources that document and preserve our Native American and early European settlements and heritage
- 👉 future health values in the form of undiscovered medicines
- 👉 a sense of community, place, security and cultural diversity.

Increasing recognition of the complex relationship between trust mandates and habitat and ecosystem management requires careful asset stewardship planning. The listing of several species of fish and wildlife as threatened or endangered under the Endangered Species Act (ESA) creates a corresponding obligation of the state and other landowners to correct this circumstance and to prevent future listings. These listings have jeopardized our ability to generate revenue for the beneficiary institutions and increased operating costs, but the public increasingly has demanded and expects a more deliberate, holistic approach to managing these lands so that benefits and values generate an equitable return for current and future generations.

During this same time period, several courts rendered opinions which made the management of trust lands much more complex; the Skamania ruling affirmed the fiduciary obligation of the trust manager to act with undivided loyalty to the trusts, while the "Classic U" case and the challenge to the Forest Land Management Plan set forth the obligation of the trust manager to abide by other laws designed to protect public resources. Additionally, the court-upheld ban on log exports from state trust lands further affirmed the right of Congress to act outside the trust mandate in order to benefit the state and nation as a whole.

Thus we have come to recognize the complexity of managing to achieve the direction of the constitution to manage to benefit all the people of the state while carrying out our fiduciary obligation to named beneficiaries.

With the expectation that Washington's current population of 5.5 million is expected to reach 8.4 million by 2020, and potentially doubling by 2040, and with this increase

in population will surely come increased complexity.

The growth in population has specific effects on state lands, including: more children needing more class rooms (and a related demand for more money from our product sales); more people seeking high quality affordable forest product building materials for housing; more developed land placing greater pressure on recreational lands. A few years ago hundreds of people rode mountain bikes on state lands; now thousands do, and soon there will be tens of thousands. Similar growth in recreational pressure affects state lands such as Mount Si Natural Resources Conservation Area in King County, which has become the most popular hiking trail in the state, with 80,000 hikers each year.

Discussions about these issues have renewed our awareness of the challenge of maintaining an asset based in land during times of great change and great population growth. We believe the value of maintaining land as a vital part of the state's asset portfolio is so significant that the challenge must be met.

Land is a marvelous asset for public ownership from both social and fiscal perspectives. Real estate investments have been well regarded as a hedge against inflation because of their continuing appreciation. At the same time, well managed natural resource lands offer an ongoing source of revenue from products of their forests, fields and waters. Additional social benefits, such as recreational access, are frequently compatible with sustainable management.

Good stewardship requires us to regularly examine our assets, the condition of their health and well being, and their ability to continue to meet the state's needs. The Asset Stewardship Plan (ASP) is the Department of Natural Resources' attempt to do that for the lands we manage as part of the state's portfolio of assets. This is a report (ASP) about the lands and resources, their economic and other values, the benefits they provide to the people of the state, and most importantly, how we intend to ensure that the lands continue to be one of the state's most valued assets, in perpetuity.

The development of an effective asset stewardship strategy should help ensure that state lands provide the same, or even greater, benefits in the future as today. A strategy for asset stewardship which considers the entire endowment of resources and the long-term changes in population and citizen

needs will assist the Board of Natural Resources and the department to manage and position state lands and assets to take advantage of opportunities, to minimize risk and to increase benefits for current and future beneficiaries and residents.

Q. How does the Asset Stewardship Plan relate to other Board policies?

R. The “Asset Stewardship Plan” provides the overarching policy guidance for each specific programmatic policy. See Figure 2.

Q. What is the Forest Resources Plan?

R. The “Forest Resources Plan” was adopted by the Board of Natural Resources in July 1992. The Plan was developed and written by DNR to guide it in managing 2.1 million acres of state forest land for the ten year period 1992-2002. The department recognizes that assets owned by the trusts include the entire ecosystem and manages each site with the entire ecosystem in mind. (*Forest Resource Plan, 1992*)

Q. What is the Agricultural and Grazing Lands Program Policy Plan?

R. The “Agricultural and Grazing Lands Program Policy Plan” was adopted by the Board of Natural Resources in 1989. The goal of the plan is to conserve and manage Washington’s trust agricultural and grazing lands to enhance the financial performance of trust assets in perpetuity. (AGLPPP, 1989, p. 11)

Q. *What is the Habitat Conservation Plan?*

R. The “Habitat Conservation Plan” (HCP) was approved and adopted by the Board of Natural Resources (Resolution 96-911, November 5, 1996).

The Washington State Department of Natural Resources (DNR) prepared a multi-species Habitat Conservation Plan (HCP) to address state trust land management issues relating to compliance with the federal Endangered Species Act (16 U.S.C. 1531 et seq.). The plan covers more than 1.5 million¹ acres of state trust lands managed by DNR within the range of the norther spotted owl.

The total area of trust lands covered by the HCP is more than 1.5 million acres, of which all but about 50,000 acres are forested. These lands range from scattered isolated parcels under 40 acres to large contiguous blocks in excess of 110,000 acres. The conservation strategies apply to lands DNR manages or will manage under the HCP.

SECTION VI : DNR Managed Uplands

Q. *What DNR managed lands will be impacted?*

According to the maps and other information provided to DNR by OPL, DNR has determined there are several DNR managed trust lands impacted.

Upland lands impacted: There are 18 parcels, in 4 counties (Snohomish, Kittitas, Grant, and Adams). Nearly 10 miles of pipeline are proposed to be on state lands. Trusts impacted include: Forest Board Transfer, Common School Trusts and the Milwaukee Road Corridor.

There are also an additional 3 parcels in 3 counties impacted due to very close

¹ The HCP land base coverage is dynamic and will have slight shifts as DNR repositions assets by land purchase, sales, and exchanges.

proximity to proposed pipeline in other ownerships. (See Table 1).

Aquatic Lands Impacted: Based on the application OPL submitted to DNR and EFSEC (refer to Exhibit JAB-1) there are at least six (6) crossings with a yet undetermined potential for more crossings depending on the final proposed route. The major river crossings include Tolt, Snoqualmie, South Fork Snoqualmie, Yakima and the Columbia Rivers. Please refer to Exhibit JKL-5. For additional information on aquatic lands, refer to testimony of Tom Mumford, John Bower, and Dave Bortz.

Q. What type of facilities does OPL propose to put onto DNR managed lands?

A. Information provided to us to date indicate that only a pipeline will be on state managed uplands. There does not appear to be any proposed block valves, pump stations or delivery facility sites on state managed uplands.

Q. What facilities are being proposed? Are there any proposed block valves, pump stations or delivery facility sites on DNR managed uplands?

A. No. Not according to the information provided to date.

Q. What products are proposed to be transported in the Cross Cascades Pipeline?

A. The application states in the Project Summary, Page S-1 that “The proposed pipeline will transport gasoline, diesel, and jet fuel refined at western Washington refineries to eastern Washington.” Per phone message (2/99) from Katie Chaney, the initial percentages usage for the pipeline will be 60% gasoline, 30% diesel fuel, and 10% jet fuel.

Q. What are the pollutants and toxic of concern and why?

A. I have been unable to locate in any of the documents provided a clear, concise description which links what the refined petroleum product(s) are with what they are made up of, and how these constituents relate to the environment (air, fresh water, marine water, soils etc.); the potential modes of exposure and what the environmental and health impacts would be for either acute or chronic exposure. This information is important to help us understand the risk associated with damage to the environment and human health. This information is used in making good business decisions for the trust.

Q. *What is the Beverly Railroad Bridge?*

R. The Beverly Bridge Railroad is one of the alternative crossing for the Columbia River. The Beverly Railroad Bridge was a railroad bridge owned and operated by the Chicago, Milwaukee, St. Paul and Pacific Railroad (Milwaukee Road) until the Milwaukee Road declared bankruptcy in 1981.

Q. *Who currently owns the Beverly Railroad Bridge?*

R. The state of Washington in January 1982 purchased 213 miles of the main line right-of-way Milwaukee Road hereafter the right-of-way will be referred to as the Milwaukee Road Corridor which includes the Beverly Railroad Bridge. The state legislature in 1984 and 1989 gave portions of the Milwaukee Road Corridor and Beverly Railroad Bridge, management responsibility to the Department of Natural Resources (DNR) under state statute R.C.W. 79.08.275 through 283.

Q. *Where is the Beverly Railroad Bridge located?*

R. The Beverly Railroad Bridge is located on the Columbia River, south of Interstate 90 crossing and Wanapum Dam near the Town of Beverly. Legal description is Township 16 North, Range 23 East, S1/2 Section 33 spanning between Kittitas and Grant Counties.

Q. *What is the dimensions of the Beverly Railroad Bridge?*

R. The Beverly Railroad Bridge built in 1909 and added onto in 1915 and 1947 is 3113 feet 8 inches long and 85 feet high (Above the Columbia River). It has concrete abutments at both ends and consists of eight deck steel girder spans ranging from 80 to 216 feet long with one 266 foot Thru Truss Span for water passage. The bridge is open wooden tie (rails removed) with a foot only walk way on the north side. The railroad grade or Corridor is on large earth fills at both ends.

Q. *What is the condition of the Beverly Railroad Bridge?*

R. A structural assessment of the bridge was done for Olympic Pipeline Company by Dames & Moore July 24, 1997.

Q. *What are the uses of the Beverly Railroad Bridge?*

R. As stated in the statute R.C.W. 79.08.275-283 Milwaukee Road Corridor shall be opened for recreation purposes (the Corridor is open for non-motorized recreation use - by permit only) unless closed due to hazardous conditions and the DNR may enter into agreements to allow the realignment or modification of public roads, farm crossings, water conveyance facilities, and other utility crossings.

Q. *What are the uses of the Beverly Railroad Bridge?*

R. Currently, the Beverly Railroad Bridge is closed, by eight foot chain link fence with the top and sides in barb wire, to all access except by written permission by the DNR. The closure is due to safety concerns such as there is only four foot cable fence on walk way side of bridge in different conditions, open gaps between ties and some of the wooden walk way planks are missing.

Q. What are the future uses of the Beverly Railroad Bridge?

R. There are plans to have the bridge decked and minimum six foot chain link installed to open the bridge to recreation users. There is also a bill in state legislature HB1550 which gives the department of transportation the authority to negotiate a franchise with a rail carrier to establish and maintain a rail line over portions of the Milwaukee Road Corridor.

Q. Would a pipeline attached to the bridge and rail carrier use of the bridge be compatible?

R. An analysis would have to be done prior to the pipeline's attachment.

Q. Are there any state or federally listed threatened and endangered species on DNR managed lands along the proposed pipeline corridor?

R. Yes. Tables 2 and 3 summarize the state and federally threatened and endangered (T& E) listed birds and mammals which were in DNR's database as of February 5, 1999, and which are on DNR managed upland parcels along the proposed pipeline corridor (Refer to Exhibit JKL-1). DNR's database showed there are:

Threatened and Endangered Bird and Mammal Species: Northern Spotted Owl, Bald Eagle, Sharp-tailed Grouse, Sandhill Crane.

Threatened and Endangered Mammal Species: Gray Wolf, Grizzly Bear, Pygmy rabbit, Western Gray Squirrel, Fischer, Lynx.

Threatened and Endangered Reptile Species: None known in proposed project area on DNR managed uplands.

Threatened and Endangered Amphibians Species: None known in proposed project area on DNR managed uplands.

Threatened and Endangered Beetle Species: None known in proposed project area on DNR managed uplands.

Threatened and Endangered Butterfly Species: None known in proposed project area on DNR managed uplands.

Threatened and Endangered Insect Species: None known in proposed project area on DNR managed uplands.

This data reflects either federally or state threatened, endangered, species of concern, sensitive or candidate species that either DNR definitely knows are close to or on the pipeline corridor; or the habitat of a species is being crossed by the pipeline; or DNR has either no data, or there has been a few historic observations that indicate there may be a presence along pipeline corridor.

Q. *What sources of information were utilized to obtain the information in Tables 2 and 3.*

R. The above tables were derived from three (3) databases DAR utilizes on a regular basis: (1) TRAX; (2) Priority Species and Habitat ; (3) GAP Analysis Database. Below is a brief description of these databases.

TRAX - wildlife species and habitat data from WDFW and DNR organized into general codes to indicate items of note to the department. These general reference

codes are overlaid on other GIS coverages.

Priority Species and Habitats- data developed and maintained by WDFW with Arc/Info and GIS software. It includes information developed from research and surveys by WDFW, DNR and federal agencies. DNR has direct access to the database.

GAP Analysis Database - a cooperative database from state, federal and academic sources compiled by the National Biological Service.

Q. *Are there any federally or state listed threatened and/or endangered species or candidate species listing on aquatic lands or water along the proposed project corridor?*

R. Yes, see Gary Sprague's testimony of Washington State Department of Fish & Wildlife (WDFW). Please refer to Exhibit 3 which indicates there are listed salmonid species, species proposed for listing and candidates for listing along the majority of the proposed pipeline corridor.

Q. *Is the proposed project in the geographic area covered by DNR's Habitat Conservation Plan?*

A. Yes. Please refer to Exhibit JKL-1.

Q. *Are there any issues addressed in the HCP on DNR managed lands along the proposed pipeline route?*

R. Yes. Exhibit JKL-1 map # 2 shows one parcel that is designated Nesting, Roosting and Foraging (NRF) habitat for the Northern Spotted Owls (NSO). The rest of the DNR

managed lands covered along the proposed pipeline route do not play a role in marbled murrelet or Northern Spotted Owl recovery. Other endangered, threatened and species of concern can be found in Tables 2 and 3.

Q. Why are we concerned about the threatened and endangered species in Tables 2 and 3?

R. If a right-of-way is granted along the proposed corridor it may be inconsistent with the HCP commitments. For trust lands which are not covered the by HCP, there could be a potential violation of ESA.

Q. What are the right-of-way requirements of the HCP?

Page IV.193 of the HCP Implementation Agreements speaks to nontimber resources:

Rights-of-way – Policy No. 26 of the FRP addresses granting public rights-of-way. It says:

The department will grant rights-of-way to private individuals or entities when there is an opportunity for enhancing trust assets and when detriments are offset. Easements for rights-of-way are granted for roads, power lines and pipelines. Large power line and pipeline rights-of-way are subject to review under SEPA. DNR has adopted the following SEPA policy for granting rights-of-way WAC 332-41-665. Recognizing that construction and/or reconstruction under upland right of way grants can create adverse impacts to the elements of the environment, it is the policy of the department to condition grants where necessary: (i) to protect all surface resources including but not limited to soil and water, through authorized right of way operation on public lands, and to cause rehabilitation or reestablishment on a continuing basis the vegetative cover, soil stability and water condition appropriate to intended subsequent use of the area; (ii) to meet air quality standards; and (iii) to protect recreational and special use areas under lease by requiring mitigating action.

Q. How are nontimber activities such as rights-of-way impacted by the HCP?

A. HCP Implementation Page B.4, Section 16.2 states:

Excepting designations and leases under subsection 25.3. a.(2) of this agreement, DNR will incorporate the relevant commitments of the HCP into all nontimber resource transaction documents pertaining to permit lands including, but not limited to leases, licenses, permits, contracts, and sales, executed on or after January 1, 1999. As leases, licenses, contracts and permits of permit lands are renewed, DNR shall alter such leases, licenses, contracts and permits, to the extent permitted by law, to ensure compatibility with the commitments of the HCP. The level of nontimber resource activity and associated take, if any, of SPECIES addressed in the HCP will be reviewed annually in conjunction with the annual meeting under subsection 17.2 of the Agreement. The annual review meetings will be used by the parties to ensure that any expansion in the level of DNR's nontimber resource activities, as described in Chapter IV of the HCP, that occur on permit lands, do not result in increased incidental take of species addressed in the HCP. If increased incidental take will result, DNR will initiate the amendment process under subsection 25.3(b)-(c) of this agreement. At the annual meeting, DNR will provide the SERVICES with the results of the nontimber resource monitoring efforts as described in the HCP.

Q. Has this proposed Olympic Pipeline been discussed by DNR with USFWS and NMFS?

R. No. DNR has not had an opportunity to discuss this with the USFWS/NMFS, as the EFSEC deadlines have not coincided with DNR's annual meeting with USFWS/NMFS.

Q. How does the EFSEC process overlap with the need to consult with USFWS/NMFS on the impacts of the HCP and incidental take permit on the proposed pipeline project?

R. It is unclear. If DNR were making the decision on DNR managed upland right-of-way issues, DNR would be required to consult with USFWS/NMFS prior to making a decisions. As of the time of writing this testimony, DNR has not issued any right-of-ways in Nesting, Roosting, or Foraging or dispersal designated areas for Northern

Spotted Owl since the effective date of the HCP. The proposed fish listings and how that process fits with EFSEC, USFWS/NMFS, and DNR's HCP is unclear. DNR will be discussing this issue with USFWS/NMFS at an upcoming meeting. This information regarding ESA in this process is critical in the context of making a prudent business decision in light of DNR's legal and contractual obligations.

Q. *What kind of information does DNR as trust manager consider in whether a proposal for right-of-way on state trust land is a good business decision?*

A. The department has a phased approach for making a determination if a proposal is a good business decision. 1) Is the proposal a use compatible with our trust mandate and guiding principles? 2) What alternative routes have been considered? 3) Critical questions and analysis including what conditions must be met to avoid or reduce liability, risk and reduction of harm and value to assets in DNR manages, if a right-of-way were to be granted.

Q. *What kind of questions and analysis does DNR consider in a proposal and R/W review?*

A. The department considers a number of points relating to legal, economic, environmental and social issues. Each application requesting a right-of-way grant is considered as to the unique characteristics of the proposal and the specifics regarding the location of the proposed activity. There are different categories of risk DNR considers in our decision making including, but not limited to: legal, economic, property risk, personal injury risk, environmental risk, and social. Below is a summary of some of the questions DNR considers in its decision-making:

Legal:

- A. Would DNR consider mitigation as an alternative compatible with DNR's guiding principles and trust mandate?
- Is the proposed project in the geographic area covered by our Habitat Conservation Plan?
 - If yes:
 - a. Does the proposal meet all requirements under the HCP?
 - b. Could the proposed activity result in a take as defined by the DNR's incidental take permit?
 - c. What risk does the proposed project pose to DNR? Is this a risk we are willing to accept?
 - If no:
 - What potential resource impacts and ecosystems are at risk?
 - Is the proposed use a permitted use compatible with local, state, federal regulations or guiding principles and trust mandate?
 - Are compensations offered or other mitigation possibilities

consistent with mandate and legacy?

Economic:

- Is the proposed use compatible with near and long-term potential use for the trust lands?
- What are the near and long-term, and intergenerational potentials and risks associated with the proposal?
- What is the economic benefit to the trust? What are potential economic costs near-term and long-term?
- Is there a public benefit or a private benefit? What is that benefit in dollars?
- Is there a public/private cost associated with this project? What is that cost in dollars?

Risk - Property: (including but not limited to loss, gain of property value and revenue producing capabilities and assets.)

- Will the proposed project have indirect impacts on state managed lands and/or neighboring lands?
- Is there an increased risk of property damage as a result of construction, operation and/or maintenance of proposed project?
- Does the proposed project impair income producing capacity of state trust lands?
- Does the proposed project impact the value (near-term, long-term, and inter-generational) of the trust asset?
- Does the proposed project foreclose options for trust lands?

- Does the proposed project impair quality and/or quantity of public resources on DNR managed state owned lands or quality and/or quantity of resources on adjacent lands?
- Is this an existing right-of-way corridor or other current uses?
 - a. If so, what else is in the existing corridor?
 - b. Is it compatible with the proposed use?
 - c. Will the ongoing operation or maintenance of the existing R/W use or otherwise have a potential to impact the proposed R/W use, and pose an increased risk to trust lands?
 - d. Will the construction, and/or ongoing operation and/or maintenance of the proposed project impact the existing R/W use or other use, and pose an increased risk to the trust?
 - e. Are there statewide resources of significance at risk during construction or operation or maintenance?
 - f. Is this an area with probable cultural/archeological/historical importance?
- Is this a proposal in a new right-of-way corridor, or a corridor which has not had ground disturbance?
 - What is the proposed use? Is it compatible?
 - What resources will be impacted?
 - Can it be avoided, minimized or mitigated?

Risk - Personal Injury:

- Does the proposal expose the state through DNR, department employees, lessees (and other users), and/or public users to liability or risk?

- Is there an increased risk of personal injury as a result of construction, operation and/or maintenance of proposed project?

Risk - Environmental:

- What alternative routes are available to the applicant?
- What kind of environmental damage or risk would be associated with the proposed project on the proposed and alternative routes?
- What are the environmental resources DNR is trying to protect in the specific geographic area of the proposed project?
- What environmental impacts could the proposed project have during construction, operation and maintenance?
- Can environmental risks be avoided?
- Can environmental risks be minimized?
- Does the proposed project have potential to pollute groundwater resources on DNR managed lands or on neighboring properties?
- Does the proposed project have potential to pollute surface water resources on DNR managed lands or on neighboring properties?
- Is the proposed project in the geographic area covered by our Habitat Conservation Plan?¹ If yes:
 - a. Does the proposal meet all requirements under the HCP?
 - b. Could the proposed activity result in a take as defined by the DNR's incidental take permit?

¹ Also falls into the “legal” category because of HCP obligations.

- c. What risk does the proposed project pose to DNR? Is this a risk we are willing to accept?
- d. Is it in compliance with established HCP policies and guidelines?
- If the proposed project is not in the geographic area covered by the HCP:
 - a. Could this proposed project have a potential impact on threatened or endangered species?
 - b. Could this proposed project result in a take as defined by the Endangered Species Act?

Social: (These issues include statutory mandates, as well as projected resources required to manage a proposal).

- Are there impacts to historical, archeological or cultural resources of significance?
- Are there social issues, including public opposition to similar types of proposals, or social issues associated with a specific geographic area?
- Does the proposed project have the potential to cause odor problems on state lands or neighboring properties?
- Does the proposed project have the potential to cause noise problems on state lands or neighboring properties?

Q. *Does the proposed OPL Cross Cascades Pipeline Project impair quality and/or quantity of public resources on DNR managed state-owned lands or quality and/or quantity of*

resources on adjacent lands?

R. There appears to be a potential for impairment. And the issues brought up in all DNR's testimony need to be answered fully and satisfactorily in order to make an informed decision.

Q. What alternative routes have been considered around DNR lands, and what are the relative risks, costs and benefits associated with the alternative routes?

A. There have been no alternative routes identified around any DNR managed lands. There is not enough information to make an informed decision regarding relative risks, costs and benefits associated with alternative routes specific to DNR managed lands.

Q. Why is it important to know what alternative routes have been considered?

A. The department uses this information to evaluate the risk associated with the alternative routes considered (environmental, cultural resources, resources of significance, social, and engineering issues), as well as potential cost to applicant to use the alternative routes. The department uses this information to determine if the proposed route on state land is the least risk alternative to the trust environment and public benefit as it relates to our legal requirements and best interest of the trust. DNR uses cost information to help us in our valuation determinations.

Q. Are there any existing right-of-ways on the proposed Cross Cascades Pipeline alignment?

A. Yes. Table 1 is a description, parcel by parcel as graphically shown in Exhibit JKL-1, of the existing right-of-ways on state managed upland parcels. There are 18 upland parcels

on the proposed pipeline route and 23 existing easements on these parcels.

Q. Is there a potential for physical damage by third party action exposing the pipeline?

A. Yes. As outlined in answers above, we have 23 existing easements granted in the proposed pipeline corridor. Any time an existing or future grantee enters the right of way for maintenance and operation of their facilities or linear facilities, there is a potential for accidental rupture of the proposed petroleum pipeline. Cross Cascade Pipeline App No. 96-1, Page 3.3-74 states, "It is much less likely that a spill will occur along the pipeline unless the pipeline is physically damaged by third party actions exposing the pipeline, corrosion or the effects of water forces at stream crossings."

Table 2.9-1, on page 2.9-4 of the Cross Cascade Pipeline EFSEC Application 96-1, indicates that the highest single event of petroleum release in their history took place on 8-23-88, when a mainline was ruptured. A note on this same page indicates that after facility spills, third party damage was the second most common cause of petroleum release.

Page 7.2-11, Cross Cascades Pipeline EFSEC App. No. 96-1 states, "Washington State R.C.W. 70.105 and WAC 173-303 (Dangerous Waste Regulations) may classify oil spill wastes as extremely hazardous waste or dangerous waste upon spillage due to its toxicity, persistence, carcinogenicity, and/or flammability."

Q. Does DNR manage any roads along the proposed pipeline corridor?

R. Yes. Please refer to testimony of Dave Wolfer, DNR.

Q. What are the assets at risk on DNR managed upland trusts that Cross Cascades project

could potentially impact?

- A. There are a number of possibilities of how assets could be at risk, including, but not limited to: Loss of opportunities for land use; Loss of capacity for other types of right-of-way such as fiber optics; appreciation value of property; and foreclosure of future options for the R/W Corridor; groundwater contamination, either on DNR lands or migrating to neighboring property or migrating onto DNR lands; loss of future value of groundwater and surface water quality; wildlife habitat for threatened and endangered species; soil contamination; incompatibility with commercial or residential or other potential uses.

Q. If there were a petroleum product leak or spill, could it contaminate soils?

- A. Yes.

Q. What is the concern with soils contaminated with petroleum products?

- A. Page 7.2-11, Cross Cascades Pipeline App. No. 96-1 states, "Washington State R.C.W. 70.105 and WAC 173-303 (Dangerous Waste Regulations) may classify oil spill wastes as extremely hazardous waste or dangerous waste upon spillage due to its toxicity, persistence,, carcinogenicity, and/or flammability." From a landowners perspective, there is always a risk of spill or contamination. If DNR were to consider selling, leasing, or doing something different with this property, DNR may be restricted as to options and/or lose property value due to either a spill and contaminated site, continued use as a pipeline or "brownfield" impacts.

Q. Could there be quality or quantity impacts to groundwater which are in the proposed pipeline alignment?

A. Yes. As indicated on page 3.3-66 of the Cross Cascades Pipeline App. No. 96-1, The sensitivity of groundwater to potential impact along the pipeline route depends on the ground water conditions and the users of the aquifers crossed by the pipeline. Generally, groundwater is susceptible to contamination if the pipeline were to leak or rupture. Impacts may also be incurred if the trench were to act as a preferential pathway for ground water movement, however these impacts would be minor with regard to the ground water resource, but could have more significant impacts to a receiving stream or other surface water body." Page 3.3-72 of the Cross Cascade Pipeline EFSEC Application indicates, "Thus, the potential for significant impacts will occur primarily during the operation phase of the project." Page 3.3-74 states, "The potential for leaks and spills from the pipeline during operation is a function of the integrity of the pipe and pipeline facilities...It is much less likely that a spill will occur along the pipeline unless the pipeline is physically damaged by third party actions exposing the pipeline, corrosion or the effects of water forces at stream crossings.

Pages 2.11-1 through 2.11-5 talks about criteria pollutants and toxic pollutants for air emissions. The pollutants discussed include volatile organic compounds. I could not find information in the documents where the toxic pollutants of concern related to petroleum products and groundwater quality were discussed for informed decision making. OPL needs to provide more specific information in order to determine risk and magnitude associated with spills on state lands to groundwater.

Q. Why is DNR concerned about groundwater issues?

A. There are two major reasons DNR is concerned about groundwater in relation to the proposed project:

1) Water is a valuable asset: The Board of Natural Resources adopted the Asset Stewardship Plan in January 1998. The review and adoption process involved much discussion with the Board of Natural Resources and the public. Strategy #4 and #9 deal

with water as an asset. (ASP 1998, p.9.62)

2) Risk management: If there were a leak or spill from the proposed pipeline, there is potential for groundwater contamination either on state lands, as well as migrating off state lands onto neighboring lands. The state could become a potential responsible party as the underlying property owner. There are economic penalties and negative environmental impacts associated with this. It is our mandate to be a good steward for the resources (ASP DNR 1998). There are also concerns where the proposed pipeline is not actually on DNR managed lands, but it is in close enough proximity that it could damage DNR managed assets. (See Exhibit JKL-4)

Q. What is a sole source aquifer (SSA)?

A. Cross Cascade Pipeline App. No. 96-1, Revised May 1, 1998, page 3.3-60, states:
The Safe Drinking Water Act, Public Law 93-523, was signed into law on December 16, 1974. Section 1424(e) of the Act provides that the EPA administrator can designate an aquifer as a sole source aquifer if it is the sole or principal drinking water source for an area and which, if contaminated, would create a significant hazard to public health.

The Environmental Protection Agency (EPA) publication dated January 1997, entitled Support Document for Consideration of the Eastern Columbia Plateau Aquifer System as a Sole Source Acquirer, 1997 page 4-5, states:

If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the Federal Register.... Based on this statutory language, major criteria to be considered by EPA in regard to Sole Source Aquifer (SSA) determination are:

- (1) whether the aquifer is the sole or principal source of drinking water; and
- (2) whether contamination of the aquifer would create a significant hazard to public health.

EPA Region 10 has further interpreted the statutory language so that 'sole or principal' means that the aquifer must supply at least 50 percent of the drinking water for the aquifer service area (the area above the aquifer including any area that may not be above the aquifer but which is supplied with drinking water from the petitioned SSA). Furthermore, there should be no alternate drinking water source(s) which can physically, legally, and economically supply all those who depend upon the aquifer for drinking water, should it become contaminated.

Q. Are there any sole source aquifers underlying DNR land along the proposed pipeline route?

A. Yes. There are several DNR managed parcels of lands along the proposed pipeline route which are near or directly on top of sole source aquifers. The Cross Valley Sole Source Aquifer is near DNR lands along the pipeline corridor. See Exhibit JKL-4. The Cross Cascade Pipeline App. No. 96-1, states on page 3.3-60,

In 1987 the EPA designated the Cross Valley Source Aquifer, an area of approximately 36 square miles in south central Snohomish County. This aquifer is the only sole source aquifer crossed by the proposed pipeline alignment." Again, on page 3.3-74 of the Cross Cascades Pipeline EFSEC App. No. 96-1 the document states: "Other than the Cross Valley Aquifer, there are no other sole source aquifers along the pipeline route.

State parcels proposed in pipeline route are very close to this aquifer.

Q. Are there any candidates for listing of sole source aquifers along the proposed pipeline corridor?

A. Yes. The Eastern Columbia Plateau Aquifer System is a proposed sole source aquifer (See Exhibit JKL-4). As described on Page 4 of the EPA Support Document for

Consideration of the Eastern Columbia Plateau Aquifer System as a Sole Source Aquifer,

This document provides background information and outlines a technical basis for designation of the Eastern Columbia Plateau Aquifer System (ECPAS) as a sole source aquifer (SSA) by the U.S. Environmental Protection Agency (EPA) as authorized under the federal Safe Drinking Water Act (SDWA). At the publication date of this document (January 1997), EPA Region 10 has decided to indefinitely hold in abeyance the proposed designation pending the development and evaluation of a voluntary, comprehensive, and community-based approach to ground water protection for the Eastern Columbia Plateau area. Should EPA decide to designate the Eastern Columbia Plateau Aquifer System as a Sole Source Aquifer at some future time, the agency will publish notice of that determination in the Federal Register, as required by law.

Q. If the decision is indefinitely on hold in abeyance or pending local involvement, is the aquifer still at risk from contamination from a ruptured pipeline transporting refined petroleum products.

R. Yes.

Q. Was the Eastern Columbia Plateau Aquifer System mentioned in the Cross Cascades Pipeline Application 96-1?

A. No. This was a major oversight and could be considered a fatal flaw in the document and analysis, in order for informed decision making.

Q. Does the proposed pipeline corridor impact state managed lands which are located over the Eastern Columbia Plateau Aquifer System which is a candidate sole source aquifer?

R. Yes. Refer to Exhibit JKL-4, Maps 5 and 6 and Table 1. There are six (6) DNR managed upland parcels that are located directly above the candidate sole source aquifer. An additional two (2) DNR managed parcel(s) are very near (within five (5) feet) of the pipeline over the aquifer (refer to Exhibit JKL-6 and JKL-7). DNR also has nine (9) water right claims from this aquifer. Claims may be for stock water use on permit ranges, grazing lands, domestic use and other uses (R.C.W. 90.44 and R.C.W. 90.03).

Q. What are the mitigation methods proposed for public water supplies and groundwater mitigation?

A. The mitigation measures are outlined on pages 3.3-75 through 3.3-81 of Application No. 96-1.. Specific examples include:

Preventing corrosion and impacts from potential leaks and spills from the pipeline is a function of initial design, and also a function of effective monitoring....

- * Routine pipeline inspections and pressure sensing in the pipe will provide early detection of spills if they should occur. (3.3-76)
- * Early spill detection prevents significant quantity of petroleum products leakage and allows for rapid cleanup before significant spread of product. (3.3-76)
- * ...OPL will perform pipeline monitoring for the entire pipeline, maintenance and integrity testing along the pipeline

and implementation of appropriate design features for sensitive ground water and surface water sections. (3.3-81)

- * In the event that a spill occurred and occurred in an area that caused impact a (sic) public water supply, OPL would provide alternative water supplies and compensation to the water users until the water supply is restored. (3.3-81)

Q. In your opinion are these mitigation measure sufficient?

A. No. The basic principle behind designating a candidate for sole source aquifer status is outlined on Page 29-30 of EPA Support Document for Consideration of the Eastern Columbia Plateau Aquifer System as a Sole Source Aquifer.

EPA Region 10 has determined that the ECPAS meets all of the criteria for SSA designation.

(1) The aquifer is the sole or principal source of drinking water.

The ECPAS supplies approximately 83.8% of the drinking water by volume to area residents. In addition, EPA found no other sources of drinking water which can economically supply all those who depend upon the aquifer system for drinking water based on sound hydrogeologic principles and the best available scientific information and EPA has concluded that the ECPAS is hydraulically separate from other aquifers or aquifer systems.

(2) Contamination of the aquifer would create a significant hazard to public health.

The aquifer system is vulnerable to contamination through its recharge zones from various anthropogenic sources. In general, the shallow aquifers within the area are much more vulnerable to contamination than the deep aquifers. However, scientific information indicates that there is a significant hydrogeologic interconnection between the major aquifers of the area, and collectively, they can be considered as an aquifer system.

EPA believes there is sufficient data to indicate that cross-contamination of aquifers within the aquifer system can occur, and within a period of time that is meaningful for public health concerns and ground water protection effort to be relevant for all parts of the aquifer system.

As the area meets the technical criteria, and the boundaries have been appropriately determined, EPA finds that the Eastern Columbia Plateau Aquifer System qualifies for designation under the statutory language for SSA determinations.

In order to understand the risks and proposed mitigation to DNR managed assets, site specific information related to each state managed uplands needs to specifically and adequately: evaluate the water quality concerns; the potential for accidental releases and associated impacts; leakage detection and maximum release quantities need to be identified, along with notification, response time; delivery pathways to sensitive ecosystems; monitoring plans, scrutiny and maintenance plans. Emergency response procedures should be documented.

In summary, if the aquifer becomes contaminated there is a possibility depending on the extent of contamination, that it could not be usable and OPL has not identified what water supply they have legal rights to substitute for the uses of this aquifer.

Q. Are there existing R/W on the state parcels over the candidate sole source aquifer, Eastern Columbia Plateau Aquifer?

R. Yes. There are seven (7) parcels which DNR manages that are in the proposed pipeline corridor that are impacted. See Exhibit JKL-4 and Table 1. Of these seven (7) parcels there are eight (8) existing encumbrances, three (3) of which have buried utilities within the proposed pipeline corridor.

Q. What is your concern?

R. As stated in App. No. 96-1, the greatest risk of spill is during operation of pipeline. The second most frequent cause of refined petroleum product spills according to OPL's operating history (Table 2.9.1, page 29.3 and 29.4) is due to third party line ruptures. Hence because there are pre-existing grantees who have right of entry into the proposed pipeline corridor, there is an increased risk of pipeline rupturing due to third party entry. OPL has not provided us with information to determine where block valves would be located in proximity to state lands, nor the potential volume of the spill. This proposal puts a candidate sole source aquifer at great risk from a potential rupture on state lands.

Q. What are the resources at risk?

R. There are economic and environmental resources at risk. There are risks to current and future uses of DNR managed assets that use water resulting in the loss of potential

income to beneficiaries. There is public health risk. There is risk to animals, people, and ecosystems exposed to hazardous and dangerous wastes and/or contaminated water sources.

Q. What does the Cross Cascades Pipeline App. No. 96-1 indicate the impact of contamination and water the proposed Cross Cascade pipeline on property value?

A. Page 8.1-29 of the application states,

Since the Cross Cascades pipeline will be buried at all locations except for the pump station, it should have no impacts on property values along the right-of-way. Above ground facilities will be located in non-sensitive settings (e.g., not in residential or recreation areas), and their effects will be further diminished through landscaping and structural design features.

Q. Is the information provided by the Cross Cascades Pipeline EFSEC App. No. 96-1 regarding impacts on property value consistent with DNR's past experience and/or future plans?

A. No. As mentioned earlier in my testimony, in evaluating rights of way applications we examine a number of issues including, but not limited to the following:

Is the proposed use compatible with near and long-term potential use for the trust lands?

- What are the trust resources we are trying to protect in the specific geographic area of the proposed project?
- What trust impacts could the proposed project have during construction, operation and maintenance?
- Are there social issues, including public opposition to similar type of proposals, or social issues associated with a specific geographic area?
- What are the near-term, long-term, and intergenerational potentials and risks associated with the proposal?
- Does the proposed project impair income producing capacity of state trust lands?
- Does the proposed project impact the value (near-term, long-term, and inter-generational) of the trust asset?
- Does the proposed project foreclose options for trust lands?
- Does the proposed project impair quality and or quantity of public resource on DNR managed state lands or adjacent lands?
- Does the proposal expose DNR, department employees, lessees, and/or public users to liability or risk?
- Will the proposed project have indirect impacts on state managed lands and/or neighboring lands?
- Is there an increased risk of personal injury as a result of construction, operation and/or maintenance of proposed project?
- Is there an increased risk of property damage as a result of construction, operation and/or maintenance of proposed project?

There is potential for loss of value and income (economic, environmental and social) today and for future generations, if this proposal were to be permitted on DNR lands.

Q. Are there potential future uses which could go into the proposed pipeline corridor?

A. Yes. A wide range of potential uses could be requested in the future, including, but not limited to fiber optic and other utility, resource and/or transportation uses, as well as recreation and other non-traditional uses.

Q. Are there any DNR managed trust lands impacted by the proposed pipeline route which could have future options foreclosed due to the pipeline right of way?

A. Yes. Exhibit JKL-2 maps 1, 5 & 6 indicate that there are at least 3 state managed parcels of land that are on the proposed pipeline corridor which have been identified today for future potential use changes for revenue production. There may be other parcels on the proposed pipeline route that are impacted due to future population growth pressures and opportunities to benefit the trust and the people of Washington State.

Q. Does the proposed project impair income producing capacity of state trust lands?

R. Potentially, yes.

Q. Does the proposed project impair income producing capacity to value of trust assets?

R. Potentially, yes.

Q. Does it foreclose options for trust lands?

R. Potentially, yes.

Q. Does the proposal expose the state, department employees, lessees and/or public users to liability or risk?

A. Potentially yes.

Q. Did the App No. 96-1 identify the elements for the basis for full disclosure of foreseeable direct, indirect and cumulative environmental impacts?

R. No.

Q. What could some of the potential indirect impact be of this proposal which were not disclosed?

R. The need for more petroleum products refined in northwest Washington, resulting in either/or more petroleum refineries and/or increased capacity of existing refineries. Water quality, sediment, air impacts were not discussed. Public health and natural resource damage impacts as a result of these indirect impacts were not disclosed. Increased tanker ships - both in quantity/quality or more pipelines delivering crude products to refineries and their impacts were not discussed.

Other demographic factors associated with the indirect impacts were not disclosed or analyzed.

Indirect effects and their significance (40 CFR 1502.16(b))” should be evaluated in the application. Indirect effects are”...caused by the action and are later in time foreseeable. Indirect effects may include growth-inducing effects, growth rate, and related effects on air and water and other natural system, including ecosystem.” (40 CFR 1508.9(b). The CEQ regulations also indicate that the DEIS should include the ‘means to mitigate adverse environmental effects.’ (40 CFR 1502.16(h). This provision applies to indirect effects as well as direct effects.

Increased growth rates for residential, commercial and industrial purposes, indirectly caused by a project, constitute indirect effects and should be evaluated. Induced residential, commercial, and industrial growth can adversely affect water quality, streams, lakes, wetlands, and other natural resources. These types of indirect effects and appropriate mitigation measures should be fully disclosed in App. No. 96-1.

The indirect impacts are important for DNR to know and understand, as there are linkages between upland DNR right-of-way and associated future project on aquatic lands managed by DNR for the people of Washington State.

Q. Is it clear to you in the documents what is driving the increased need for product delivery to eastern Washington?

A. No. In order for us to evaluate the public benefit of this project, OPL needs to provide an easily understood needs assessment analysis which clearly states what the drivers are for the increased demand for these products. A sensitivity analysis on key factors will also help DNR understand how sensitive the product needs are based on key assumptions made. This information has not been shared in the documents. It is not clear in the documents if the projected need for the product is based on population growth, or if the projected need is a result of the goal of a private company to get a larger percentage of

the market share. It is not clear to DNR what the economic and environmental costs and benefits would be to the natural resources and the people of Washington State. This information is needed in order for the department to determine if the proposed risks weighed against the benefit to the trust is a good business decision, based on our constitutional and statutory mandates.

Q. Is the proposed Cross Cascades Pipeline project in the best interests of the trust consistent with constitutional and statutory mandates today and for future generations?

A. There is not enough information to make an informed decision. There are concerns regarding risk (economic, property, personal injury, and environmental damage), foreclosing future options for the trust, and economic impact/benefit to the trust. Information in the documents indicate that this proposal would have a clear benefit to private interests. There is concern that there is a potential for the loss of value and income. DNR does not have a complete comparative risk analysis to make an informed decision.

Q. Is there enough information in the 1998 revised application to EFSEC and the DNR application to make an informed decision on whether or not this is a good business decision near-term and long-term for the trust?

A. No.

Q. Is the proposed Cross Cascades Pipeline route which crosses DNR managed trust lands the least risk alternative to the trust?

A. There is not enough information to make an informed decision. No alternative routes specific to state lands are discussed in any of the documents provided to us to date. No relative risk analysis has been done with respect to the proposed pipeline options (pipeline, trucking, and/or barging). One alternative which was rejected by OPL in both the DEIS and the EFSEC application which could potentially pose lesser risk would be the full utilization of the existing Chevron Pipeline and the Yellowstone Pipeline to deliver petroleum products to eastern Washington. Due to lack of specific information on this rejected alternative DNR cannot evaluate relative risk of the preferred alternative to the rejected alternative for an informed decision.

Q. What are the major issues that arise "in your critical thinking" and analysis of this proposed project?

A. Based on the information in the revised application, I have concerns on all of the things that I mentioned in my previous testimony. I also understand that as time goes on in this adjudicative process there may be new and/or different information which could raise more issues, while satisfactorily addressing other issues. Concerns at this time for this proposed right-of-way on DNR managed lands include the following:

Compatibility with trust mandate? Once we get a full understanding whether or not the project is compatible with DNR's trust mandate and guiding principles, and DNR has all the information provided to us to make an informed decision, DNR will be able to speak to specifics on this issue.

Loss of Value and/or Future Opportunities for Trust Managed Lands: A petroleum products pipeline right of way may have a negative impact on future value of the land, as well as potential future uses of our land. Washington State is projected to have significant population growth in the next few decades. This type of product in our right of way could have a negative influence on our flexibility both during operation, as well as after decommissioning of the site.

Water Quality and Quantity Surface Water Potential Groundwater Contamination:

Water is a valuable resource: The Board of Natural Resources recently adopted "The Asset Stewardship Plan." One of the strategies adopted by this board in this plan has to do with water quality and quantity as an important resource for the people of the state, the department, the trust and the beneficiaries.

Drinking water essential for today's population and projected population: Water is essential to life as we know it. We rely on water to irrigate crops, and for recreational activities such as fishing, boating, and swimming. Water provides habitat for fish and wildlife. We harness water to provide hydroelectric power for homes and businesses. And the 5.6 million people living in Washington require safe, clean source of drinking water...Groundwater is the source of drinking water for 60-70 percent of our state's citizens. As the population continues to increase, there will be increased pressure to use groundwater as a source of water supply. Meanwhile, contamination of groundwater from metals, nitrates, pesticides, petroleum leakage, and/or synthetic organic chemical has been detected in each county of the state. Our Changing Nature, Natural Resource Trends in Washington State, DNR, 1998", page 36-37

Candidate Sole Source Aquifer in eastern Washington under pipeline route: The revised application does not mention the fact that there is a very large aquifer on the eastside called the Eastern Columbia Plateau Aquifer System, see Exhibit JKL-4, which underlies DNR managed upland trusts lands along the proposed pipeline route. DNR also has several water claims from this aquifer. This groundwater resource is essential to support the population of Washington today, and perhaps even more so in the years to come with tremendous population growth pressures.

Potential for Water Quality Degradation Exists: If there were to be leak or spill, there is a possibility that the candidate sole source aquifer(s) could be at risk for water quality degradation. Given the fact that even if the computer system, Supervisory Control and Data Acquisition system, (SCADA) were to shut off the block valves, as indicated on page 2.9-1, of the Cross Cascades Pipeline EFSEC App. No. 96-1, there is still a considerable amount of product in-between the block valves which would leave the

pipeline before it could be fixed. In addition, there is a concern that the SCADA System is not effective at detecting a leak of less than 1% of the pipeline volume. This product could potentially enter into the aquifer. This is true for single and multiple events. Acute and cumulative impacts to this aquifer were not addressed anywhere in the revised application. There has not been any specific analysis for the proposed crossings on state managed lands, nor for the Eastern Columbia Plateau Aquifer System as a candidate Sole Source Aquifer.

Where would the replacement water come from? Since the aquifer system is vulnerable to contamination, and restoring ground water quality can be difficult or even impossible; and because the aquifer system is the principal source of drinking water for the area and there are no other sources which can legally, physically, and economically supply all those who depend upon it for drinking water; EPA finds that contamination of the aquifer system would pose a significant hazard to public health. Where and how would OPL get the water for the people of Washington State?

Endangered Species Act: There are concerns about DNR's responsibility to protect endangered and threatened species, both in our HCP covered lands, as well as in the lands which are not included in our HCP. Major concerns have to do with direct and/or indirect take of listed state and federal species which have already been listed, which the state could be held liable for as the landowner, as well as those (such as Bull Trout, Chinook Salmon, Chum Salmon, Sockeye Salmon and Steelhead) which are currently proposed for listing under the Endangered Species Act (ESA). OPL did not discuss how or if they will propose to comply with ESA in the application. It is very unclear how this will all work with NMFS and USFWS and activities which will impact these species. For proposed activities potentially affecting endangered or threatened species listed pursuant to the Endangered Species Act (ESA), the application should include the Biological Assessment and the associated U.S. Fish and Wildlife Service (USFWS) or National Marine Fisheries Service (NMFS) Biological Opinion or formal concurrence.

Both the Biological Assessment and the App. No. 96.1 should disclose and evaluate potential project impact to listed species. This is a critical business concern for DNR, and needs to be clearly addressed to meet our legal mandates and responsibility in order for us to make an informed business decision.

Q. What legacy does the Commissioner of Public Lands want to leave?

A. The following is an excerpt from "A Letter from the Commissioner of Public Lands, Our Changing Nature. Natural Resource Trends in Washington State", 1998. In this letter, Commissioner Belcher writes:

At the Department of Natural Resources (DNR), we routinely talk about the kind of natural resource legacy we will

leave for our children, their children and generations beyond. This internal dialogue spurred us to take a look at the condition of our natural resources.... The state's population is projected to double in the next 50 years, and our natural resources and the type of life we're used to are at risk. But the future is ours to decide. Together, we need to establish a dialogue about the legacy we inherited and the legacy we will leave. Clean air and water, abundant fish and wildlife, fully functioning wetlands and estuaries, natural resource jobs, outdoor opportunities for solitude and reflection - we want these things for today's generation, and we want them for the generations that follow. At DNR, we believe these things and more are within our reach, but only with an awareness and commitment on the part of all of Washington's citizens.

Figure 1

Figure 2

Table 1

Prefiled Testimony of Joy Keniston-Longrie
Exhibit JKL-T

Table 2

Table 3

Prefiled Testimony of Joy Keniston-Longrie
Exhibit JKL-T

I certify and declare under the penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge and belief.

Signed at Olympia, Washington on the ____ day of February, 1999.

Joy Keniston-Longrie