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BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

IN RE APPLICATION NO. 96-1)
)
OLYMPIC PIPE LINE COMPANY:)
CROSS CASCADE PIPELINE PROJECT)
)
_____)

EXHIBIT _____ (MSK-T)
REBUTTAL TESTIMONY OF MICHAEL S. KELLY
ISSUE: CULTURAL AND HISTORIC RESOURCES
SPONSOR: OLYMPIC PIPE LINE COMPANY

1 **Q. Please provide your name and business address to the Council.**

2 A. My name is Michael S. Kelly. I am a Senior Archaeologist at Dames & Moore, 700 NE
3 Multnomah, Suite 1000, Portland, Oregon 97232.

4
5 **Q. Please summarize your qualifications and experience.**

6 A. I hold an M.A. in Anthropology, with a specialty in historical archaeology, from the
7 University of Nevada, Las Vegas (1986), as well as a B.A. in Anthropology from the
8 University of California, Santa Barbara (1978).

9
10 I am currently employed as a Senior Archaeologist with Dames & Moore, a firm with
11 which I have served as a supervisory archaeologist since 1983. As a Senior
12 Archaeologist, I currently manage Dames & Moore's cultural resources program in the
13 Pacific Northwest region and provide technical leadership for cultural resources staff
14 located in California and Nevada. I have over 18 years of experience in cultural resource
15 management and have been responsible for directing numerous archaeological
16 investigations throughout the Pacific Northwest, California, and the Great Basin.

17
18 I have worked extensively throughout the West, including management of archaeological
19 studies in Washington, Oregon, California, Alaska, Nevada, and Utah, as well as in U.S.
20 territories such as Guam. Among these projects are a number of linear surveys, including
21 management of the inventory and data recovery phases of several segments of the Kern
22 River pipeline, extending from Wyoming to California; assistance with cultural resources
23 compliance issues on Northwest Natural Gas Company's pipeline expansion projects in
24 northwestern Oregon; archaeological inventory of a fiber-optics cable corridor from
25 Seattle to Spokane, Washington; field direction and management of inventory, evaluation,

1 and data recovery efforts on the California-Oregon Transmission Line; and co-direction
2 of data recovery efforts on the Alturas Intertie Project.

3
4 My other experience in the Northwest includes co-direction of archaeological inventory
5 and evaluation efforts at Elk Creek and Lost Creek Lake, Oregon, for the Portland District
6 of the Corps of Engineers; archaeological inventory and evaluation projects on the
7 Deschutes, Mt. Hood, Willamette, and Tongass National Forests; and a variety of
8 archaeological inventory and management studies on selected portions of the Naval
9 Weapons Systems Training Facility, Boardman, Oregon; Bangor Submarine Base, and
10 Whidbey Island Naval Air Field . Recently, I also served as a consultant to the
11 Department of Energy at the Hanford Site in south central Washington, assisting DOE
12 staff in the revision of the facility's Cultural Resources Management Plan.

13
14 My ongoing projects include management of cultural resources investigations for
15 Olympic Pipeline Company's Cross-Cascades Pipeline; management of inventory and
16 evaluation studies on the Mt. Hood and Willamette National Forests; and management of
17 inventory and site documentation efforts on Nellis Air Force Base, Nevada.

18
19 A copy of my curriculum vitae is attached as Exhibit MSK-1.

20
21 **Q. What is the subject of your rebuttal testimony?**

22 A. My rebuttal testimony concerns the potential impacts to cultural and historic resources as
23 they relate to Olympic Pipe Line Company's proposed Cross Cascade pipeline. My
24 testimony is primarily directed to the prefiled testimony of Charles T. Luttrell and Fenelle
25 Miller.

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Q. Are you familiar with the archaeological resources along the proposed pipeline corridor?

A. Yes. Dames & Moore (“D&M”) oversaw field work and surveys of the proposed route under contract to Olympic Pipe Line Company. I was the D&M Senior Archaeologist for the project. While much of the inventory and recordation was conducted by Historical Research Associates (“HRA”), under a subcontract with D&M, I assisted with the management of HRA’s studies and have working knowledge of all aspects of the documentation. In addition, D&M personnel assisted HRA with field investigations. I personally accompanied crews on a number of surveys of proposed reroutes and alternatives, particularly in the vicinity of Ginkgo State Park.

Q. Did you prepare any reports in connection with this work?

A. Yes. A report documenting results of the first phase of inventory, conducted in 1995, was prepared by HRA in 1996. Following completion of additional fieldwork, another version of the report was prepared by HRA and Dames & Moore in May 1997. This report was revised by HRA and Dames & Moore in June 1997 to incorporate extensive agency comments. The complete reference to this final document is *Results of a Cultural Resources Assessment for Olympic Pipe Line Company’s Proposed Cross Cascades Petroleum Products Pipeline, Washington*; Prepared for Olympic Pipe Line Company, by HRA, Inc. and Dames & Moore. The report includes three volumes: the Report and included Appendices A-D; Appendix E: Maps; and Appendix F: Forms. The Report was previously filed with EFSEC and is incorporated in Olympic’s Application by reference.

1 **Q. Please provide the Council with an overview of the type and variety of cultural and**
2 **historic resources found along the pipeline route.**

3 A. Inventory of most of the pipeline route resulted in the identification of 12 prehistoric
4 sites, 24 historic sites, 2 multi-component sites, 51 prehistoric isolates, and 137 historic
5 isolates. The prehistoric sites consist largely of lithic scatters, most of which are light to
6 moderate density scatters of flaked stone. Sites in the vicinity of Ginkgo State Park are of
7 much higher density, but also include high quantities of naturally occurring, unmodified
8 lithic materials. Historic sites are more variable and include foundations, historic trash
9 scatters, concrete footings and pilings, concentrations of ceramic insulators, and
10 segments of old roads and abandoned transmission lines. Many are related to the railroad
11 and include abandoned signal poles and ties, abandoned bridges and culverts, a trestle, a
12 tunnel, and a depot complex. Prehistoric isolates include single flakes or occasionally
13 groupings of two to three flakes, two recently stripped cedar trees, and a few possibly
14 prehistoric rock cairns. Historic isolates include individual historic artifacts, such as glass
15 bottle fragments or tin cans, occasional pieces of abandoned farming equipment, rock
16 piles related to field clearing and fence posts, railroad ties, and sections of irrigation
17 ditches and roadways. HRA has begun preparation of a linear site form documenting the
18 irrigation ditches belonging to the Kittitas Division of the Yakima Irrigation Project.

19
20 **Q. Describe the procedures used by HRA/D&M to identify cultural resources during**
21 **the Cross Cascades Pipeline survey.**

22 A. The field procedures followed by HRA/D&M were developed to ensure compliance with
23 Section 106 of the National Historic Preservation Act (“NHPA”), which states that a
24 reasonable and good faith effort must be made to identify historic properties that may be
25 affected by an undertaking and to gather sufficient information to evaluate the eligibility

1 of those properties that may be affected. Furthermore, efforts to identify historic
2 properties should follow the Secretary of the Interior’s Standards and Guidelines for
3 Archeology and Historic Preservation. A historic property, by definition, is any
4 prehistoric or historic district, site, building, structure, or object included in, or eligible
5 for inclusion in, the National Register of Historic Places (“NRHP”). HRA/D&M is
6 confident that the techniques employed during the inventory satisfy these requirements.
7

8 **Q. Is it necessary to evaluate the significance of all resources identified during an**
9 **inventory process against NRHP criteria?**

10 A. It is not necessary to evaluate the significance of all resources identified during an
11 inventory process against NRHP criteria if an undertaking is not going to impact them.
12 HRA/D&M adopted an approach which in effect treats unevaluated cultural resources as
13 eligible for listing on the NRHP, with avoidance as the preferred means of mitigation. If
14 avoidance is not feasible, an approved Programmatic Agreement (“PA”) will address
15 appropriate evaluation and mitigation procedures. This approach avoids unnecessary
16 testing, which in itself impacts archaeological sites. Moreover, minimizing testing is
17 usually more appropriate for meeting the concerns of Native Americans.
18

19 **Q. What is a “Programmatic Agreement.”**

20 A. A Programmatic Agreement, or “PA,” is a document that can be used by a Federal
21 agency to fulfill its Section 106 responsibilities for a large or complex project (36 CFR
22 800.13[a]). It is reviewed and signed by the agency and the State Historic Preservation
23 Officer. Other signatory or concurring parties can include the Advisory Council on
24 Historic Preservation, other Federal or state land or resource management agencies, and
25 Indian tribal organizations. In this case, the USFS is the lead agency.

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Q. Does Section 106 of the National Historic Preservation Act require Federal agencies to protect significant sites from disturbances or mitigate expected negative impacts?

A. Under Section 106 of the National Historic Preservation Act, Federal agencies must take into account the effects of undertakings on their properties included in or eligible for the National Register of Historic Places. Federal law does not state that significant sites must either be protected from disturbance or that expected negative impacts must be mitigated.

Q. Will Olympic prepare a Programmatic Agreement for the Cross Cascade Project?

A. Yes. Appendix D of the cultural resources technical report includes a PA in draft form. Olympic will assist the USFS in preparation of a final approved PA following consultation with the appropriate parties.

Q. What will be included in the PA for the Cross Cascade Project?

A. The PA for the Project contains stipulations that set out how the rest of the cultural resources work will be conducted and reviewed by oversight agencies. One stipulation deals with continuing consultation with the agencies and affected Indian tribal organizations, while other stipulations treat additional identification and National Register-evaluation of cultural resources, assessment of Project effects on eligible resources (which are called historic properties), and the treatment of adverse effects. The stipulations provide for the preparation and review of a Treatment Plan to mitigate adverse effects on historic properties, a Monitoring Plan to control monitoring during construction and operation, and an Emergency Plan to treat situations such as leaks or fires. A stipulation deals with the development of a plan to treat burials and associated remains. Additional stipulations provide for the professional qualifications and research

1 standards to be met in the work, for reporting of the work, and for the curation of
2 materials and records that result from the work.

3
4 **Q. What is the status of tribal consultation at this point in the project?**

5 A. Tribal consultation has continued following that discussed in the June 1997 technical
6 report. This has included a July 1997 meeting with the Snoqualmie Tribe, an August
7 1997 letter to the Warm Springs Tribes requesting a meeting, an August 1997 field trip to
8 the Yakima Training Center with the Wanapum Tribe, and a December 1998 meeting
9 with the Yakama Indian Nation (YIN) on cultural resources and stream crossing
10 construction. The YIN recently proposed to conduct a Traditional Cultural Places
11 (“TCP”) inventory and OPL has requested revisions to the survey plan.

12
13 **Q. What is DNR’s role in development of the PA?**

14 A. The draft PA specifically identifies the Department of Natural Resources as a participant
15 through review and concurrence. As stated above, specific protection and mitigation
16 measures will be provided in the PA.

17
18 **Q. Does the cultural resources technical report or draft PA address development of
19 monitoring plans, discovery plans, and other important impact management
20 documents?**

21 A. The cultural resources technical report specifically references development of a
22 construction monitoring plan, as well as a cultural resources treatment plan; specific data
23 recovery plans, as necessary; a Native American Graves Protection and Repatriation Act
24 plan; and an emergency plan. All such plans will be developed and reviewed by
25 oversight agencies prior to initiation of ground-disturbing activities. A discovery plan

1 will also be developed to specifically address discovery of previously unidentified or
2 buried cultural materials.

3
4 **Q. Can you address the claim by Ms. Miller that the draft PA is inadequate?**

5 A. Yes. Again, it is important to note that Appendix D of the cultural resources technical
6 report is a draft PA. The draft PA is subject to review and revision based on agency
7 comments, and is not intended to be a final document. Stipulation 1(section 1.3),
8 however, does state that the Forest Service will ensure that OPL continues consultation
9 with the Indian Tribes and will include a minimum number of written information
10 requests and meetings. Additional sections that address Native American concerns
11 include Stipulation 2 (section 2.3), which provides provisions for consultation and
12 inventory on traditional cultural properties; Stipulation 7, which addresses consultation
13 and treatment of burials, human remains, associated artifacts, and cultural items; and
14 Stipulation 10, which focuses on curation.

15
16 Stipulation 2 (section 2.4) in the draft PA specifically states that the Forest Service, in
17 consultation with SHPO, will ensure that determinations of eligibility are made in
18 accordance with 36CFR800.4(c) for potential historic properties in the APE on which the
19 Project may have an effect. Evaluation of significance under 36 CFR 800.4(c) requires
20 application of National Register criteria. HRA/D&M recognize that subsurface testing
21 may be necessary before application of these criteria.

22
23 OPL has agreed to avoid cultural resources when feasible, and we are confident that this
24 will be the case in most circumstances. To accomplish this, HRA/D&M have worked and
25 will continue to work closely with OPL and appropriate agencies with regard to pipeline

1 placement. If situations arise where construction of pipeline segments may compromise
2 this approach, inventory of potential realignments and evaluation of identified resources,
3 if appropriate, will be conducted well in advance of construction. Potential discovery
4 situations will be addressed in approved discovery and monitoring plans.

5
6 Treatment plans, data recovery plans, a monitoring and discovery plan, and an emergency
7 plan have not yet been developed. As stipulated in the draft PA, however, these plans
8 will be developed in conjunction with, and approved by, the Forest Service and other
9 agencies, as appropriate.

10
11 **Q. Was a field investigation conducted along the entire length of the proposed pipeline**
12 **corridor and, if so, were the methods employed adequate?**

13 A. As noted in Ms. Miller's testimony, approximately 97% of the proposed pipeline corridor
14 has been inventoried for cultural resources. Unsurveyed portions include those for which
15 landowner access was denied, small areas that were flooded, or small areas of
16 impenetrable brush or other vegetation. Survey of these areas will be accomplished prior
17 to ground-disturbing activities, and this will be addressed under an approved PA.
18 Furthermore, multiple alternatives have been studied in some areas. For instance, an
19 option through the Yakima Training Center ("YTC"), was considered as an alternative
20 but dropped from consideration early in the planning process. The YTC still is considered
21 to be an alternative, but has not been actively pursued.

22
23 Again, the field procedures followed by HRA/D&M were developed to comply with
24 Section 106 of the NHPA, which states that a reasonable and good faith effort must be
25 made to identify historic properties that may be affected by an undertaking. We are

1 confident that the techniques employed during the inventory were appropriate for
2 identifying potentially significant resources.

3
4 **Q. Were the transact intervals used appropriate for surveying a pipeline route?**

5 A. HRA has used a 61-meter right-of-way and a 30-meter transect interval on numerous
6 natural gas pipeline projects that have been reviewed and accepted by the Washington
7 State Office of Archaeology and Historic Preservation and also by the Federal Energy
8 Regulatory Commission. A few examples of such reports are listed below:

9
10 1993 Results of a Phase I Cultural Resources Study for the Northwest Pipeline
11 Corporation Expansion II Project, Washington Facilities, 2 Vols. Report prepared
12 for Ebasco, Inc. On file, State Office of Archaeology and Historic Preservation,
13 Olympia. July 30.

14 1994 Results of a Phase 1 Cultural Resources Study of the Northwest Pipeline
15 Corporation's Hood River Pipeline Expansion Project. Report prepared for
16 Enserch Environmental Corporation. On file, State Office of Archaeology and
17 Historic Preservation. February 18.

18 1994 Results of a Cultural Resources Assessment for the Northwest Pipeline
19 Corporation Expansion I Project, Washington Facilities. Report prepared for
20 Northwest Pipeline Corporation. On file, State Office of Archaeology and
21 Historic Preservation. June 17.

22 1994 Draft Report – Cultural Resources Inventory of Washington Public Power Supply
23 System's Satsop Combustion Turbine Project, Thurston and Grays Harbor
24 Counties, Washington. Report prepared for Dames & Moore. On file, State
25 Office of Archaeology and Historic Preservation. July 27.

These reports and other similar ones are on file at OAHP.

24 **Q. Were surveys conducted of potential impact areas, such as staging areas, outside the**
25 **pipeline corridor?**

1 A. We recognize that staging areas and similar facilities will be required during pipeline
2 construction. These are most appropriately identified during the latter stages of pipeline
3 engineering and, following their identification, they will be subject to inventory as per the
4 stipulation of an approved PA. It is not practical or necessary to survey a wider corridor
5 for the entire length of the pipeline to allow for these facilities. In addition, the placement
6 of these facilities will usually be flexible enough to allow for avoidance of resources
7 identified during such inventory.
8

9 **Q. Why didn't HRA/D&M conduct widespread subsurface testing of the proposed**
10 **route?**

11 A. Ms. Miller asserts that substantial subsurface testing should have been conducted along
12 large portions of the route through the Columbia Basin. This is also not practical, given
13 the low probability of random or patterned shovel tests encountering cultural deposits of
14 which no evidence appears on the surface.
15

16 **Q. Was subsurface testing conducted at locations where isolated artifacts were**
17 **encountered? If not, why?**

18 A. As Ms. Miller notes in her testimony, isolated artifacts are rarely considered eligible for
19 inclusion in the NRHP. Subsurface testing of isolated occurrences is not required under
20 State or Federal law, and is not a standard practice. Furthermore, the HRA/D&M field
21 crews noted no evidence suggesting a high potential for buried cultural deposits at the
22 locations cited by Ms. Miller. We have, as yet, been unable to obtain access to Ms.
23 Miller's fieldnotes or other documentation so we cannot tell whether her claims are
24 supported.
25

1 **Q. What definitions did HRA/D&M use in the course of field studies to differentiate**
2 **between sites and isolates?**

3 A. Washington State has no statutory definition of site versus isolate, but relies on empirical
4 data from archaeologists' observations in the field. Isolates usually consist of individual
5 items, while sites usually consist of 5-10 items within a visible, contiguous perimeter.
6 HRA/D&M defined a site as 5 or more objects within a 10m² area, which fits well within
7 these parameters.

8
9 **Q. If Olympic Pipe Line Company agreed to try to avoid cultural resources, why is this**
10 **not apparent on maps provided in the technical report or DEIS?**

11 A. Ms. Miller is correct in stating that OPL has decided to avoid sites within the pipeline
12 corridor. The maps included in the DEIS and Cultural Resources Technical Report are
13 printed at such a scale as to preclude accurate depiction of avoidance. Given that these
14 documents are available for public review, and the fact that site locations are considered
15 confidential, precise site locational information is not included, but has been made
16 available for discussions with appropriate agencies and Tribes.

17
18 **Q. Is HRA/D&M aware of any missed sites or isolates that should have been recorded**
19 **as sites? What about treatment of stripped cedar trees?**

20 A. Old roads 33-1 and 33-2 and railroad grade 53-6 have not been noted as part of a
21 particular road or railroad system, respectively. HRA has begun preparation of a linear
22 site form for the irrigation ditches belonging to the Kittitas Division of the Yakima
23 Irrigation Project. Inventory documentation identified the two stripped cedar trees (22-1
24 and 22-2) as isolates. We do not understand it to be standard practice to consider all
25 stripped cedar trees as traditional cultural properties unless identified as such by affected

1 Tribes. The question about whether additional cultural resources exist in the pipeline
2 corridor beyond those recorded in the HRA/D&M survey can only be resolved by
3 reviewing survey documentation in the field.
4

5 **Q. Can you clarify the potential effects the proposed pipeline may have on**
6 **archaeological or historical resources located along the John Wayne Pioneer Trail**
7 **or in Twin Falls or Ginkgo Petrified Forest State Parks?**

8 A. As noted in Mr. Luttrell's testimony, few recorded cultural resources are located on the
9 trail surface of the John Wayne Pioneer Trail, within which portions of the proposed
10 Cross Cascade Pipeline will be buried. The majority of resources identified along the
11 trail and related to the Chicago, Milwaukee, St. Paul, & Pacific Railroad (CMSPPRR) are
12 located at some distance from the trail itself and will therefore be avoided during
13 construction of the pipeline. Again, OPL's intent is to avoid cultural resources wherever
14 feasible and few if any resources are anticipated to be impacted by pipeline construction
15 and operation. We recognize that few identified resources along the pipeline corridor
16 have been formally evaluated. In practice, the HRA/D&M approach has been to stipulate
17 that unevaluated cultural resources be treated as if eligible for listing in the NRHP, with
18 avoidance as the preferred means of mitigation. If avoidance is not feasible, appropriate
19 evaluation and mitigation procedures will be addressed according to an approved PA.
20

21 **Q. Are you familiar with the sites identified as 45KT316, 45KT835 and 45KT836?**

22 A. Yes. All three are prehistoric sites located along the west bank of Lake Keechelus. The
23 sites consist of two prehistoric seasonal camps (45KT316 and 45KT836) and a low
24 density lithic scatter (45KT835) (Hicks and Bishop 1993; DePuydt 1990) . Sites
25 45KT316 and 45KT836 are located within the maximum pool elevation of Lake

1 Keechelus, where project construction would not take place. Site 45KT835 is located
2 east of the lake shoreline and is about 100 to 200 feet away from the center of the
3 proposed pipeline. A report that included a cultural resource survey of the Lake
4 Keechelus drawdown zone prepared for the Wenatchee National Forest by BOAS, Inc.
5 (Hicks and Bishop 1993) recommended no additional work at 45KT835 due to the extent
6 of erosion at the site.
7

8 **Q. What is your opinion regarding the potential impacts to those three sites, in**
9 **particular?**

10 A. To my knowledge, no cultural materials related to previously identified sites 45KT316,
11 45KT835, or 45KT836, each of which is a prehistoric site located along the west bank of
12 Lake Keechelus, have been identified within the proposed pipeline corridor. As noted
13 above, this portion of the pipeline is proposed for construction within the berm of the
14 CMSPPRR, elevated above the level of the prehistoric site deposits. As a result, we
15 believe that pipeline construction will have no effect on these resources. In the event that
16 cultural materials are identified during construction, provisions detailed within an
17 approved Discovery Plan will take effect.
18

19 **Q. Have records of the sites recorded by HRA/Dames & Moore been submitted to the**
20 **state's OAHP for review?**

21 A. Site forms prepared for resources identified during the HRA/D&M inventory have been
22 submitted to the OAHP for assignation of trinomials. OAHP, however, was included on
23 the distribution list for the inventory report, inclusive of maps and site forms, prepared in
24 June, 1997, and should, therefore, have some knowledge of the presence of these sites. In
25

1 fact, correspondence received from OAHP dated November 25, 1998, provided review
2 comments on cultural resources as described in the DEIS for the project.
3

4 **Q. Have you recommended further archaeological testing for sites located within the**
5 **pipeline corridor?**

6 A. HRA/D&M have recommended archaeological testing to determine eligibility to the
7 NRHP for sites that cannot be avoided during pipeline construction. As noted above,
8 however, avoidance is the preferred option and will be practiced where feasible. Given
9 the width of the survey corridor and the size and nature of recorded resources, avoidance
10 is not anticipated to be a problem. In fact, during the course of inventory, when large or
11 dispersed sites were identified, survey crews expanded coverage in order to provide for
12 avoidance recommendations.
13

14 **Q. Is HRA/D&M aware of the sensitivity of the paleontological resources in Gingko**
15 **State Park and the relationship between these resources and prehistoric sites?**

16 A. HRA/D&M recognize the relationship between prehistoric sites and outcrops of petrified
17 wood or related stone-tool-grade lithic materials on and within the vicinity of Gingko
18 State Park lands. In fact, we have worked closely with OPL engineers and State Parks
19 personnel to identify and survey several alternatives to ensure to the extent feasible that
20 recorded cultural and paleontological deposits are avoided by the selected route.
21

22 **Q. Are you aware of the potential effects the proposed pipeline activities may have on**
23 **the cultural resources that may be found in Gingko State Park?**

24 A. HRA/D&M recognizes that heavy equipment and unauthorized collection can result in
25 adverse effects to historic properties. Furthermore, we recognize that prehistoric sites, as

1 well as some historic sites, may have subsurface deposits. As a result, we are working
2 with OPL to ensure that identified resources are avoided wherever feasible. If a resource
3 is identified that cannot be avoided, evaluation and, if appropriate, mitigation measures
4 will be implemented, according to the provisions of an approved PA. No staging areas or
5 pumping stations will be located within the state park.

6
7 **Q. Are you familiar with the vulnerability ranking assigned to cultural resources by**
8 **Mr. Charles Luttrell?**

9 A. HRA/D&M staff have reviewed these rankings but we are currently unclear as to the
10 criteria used by Mr. Luttrell to determine vulnerability of sites along the pipeline corridor.
11 We would note, however, that in our opinion only above-ground resources are susceptible
12 to visual impacts and in situations where the pipeline would be attached to a bridge or
13 similar structure.

14
15 **Q. Is HRA/D&M currently proposing to conduct archaeological evaluation at all sites**
16 **identified along the pipeline corridor, or reevaluation of sites previously determined**
17 **not eligible for listing, such as Snoqualmie Pass Tunnel or sites 45KT316 and**
18 **45KT836?**

19 A. As noted above, HRA/D&M has adopted an approach that treats unevaluated cultural
20 resources as potentially eligible for listing on the NRHP, with avoidance as the preferred
21 mitigation. This approach avoids unnecessary testing, which in itself impacts
22 archaeological sites, and minimizing testing is usually more appropriate for meeting the
23 concerns of Native Americans.

1 With regard to the Snoqualmie Pass Tunnel and site 45KI481, which were determined not
2 eligible for listing in the NRHP in 1990, we are unclear as to what conditions, if any, may
3 have changed to warrant a reevaluation.

4
5 As noted earlier, no evidence of archaeological sites 45KT316 or 45KT836 was observed
6 within the proposed pipeline corridor. Both of the sites are located below the maximum
7 pool level of the reservoir. As a result, no adverse effects to these resources are
8 anticipated. Should cultural materials be noted during pipeline construction, however,
9 stipulations within an approved discovery plan would be invoked and an approved course
10 of action followed.

11
12 **Q. What are HRA/D&M's plans for assisting Olympic Pipe Line Company with the**
13 **elimination or reduction of impacts to archaeological and historical resources?**

14 **A.** The HRA/D&M cultural resources studies have been designed to provide compliance
15 with Section 106 of the National Historic Preservation Act, and also to address NEPA
16 and SEPA requirements. As stated above, however, it is unnecessary and inappropriate to
17 evaluate all identified cultural resources within the survey corridor. Rather, resources
18 have been treated as if eligible for listing in the NRHP, and if feasible, these will be
19 avoided. Should avoidance be found infeasible for one or more resources, evaluation
20 techniques will be implemented, followed by assessment of impacts and mitigation, if
21 appropriate. By following this approach, adverse effects to cultural resources, including
22 those caused by archaeological testing, will be minimized.

23
24 **Q. Are you aware of the potential impacts to cultural resources from pipeline**
25 **construction? If so, what are OPL's plans to mitigate these impacts?**

1 A. As stated in the technical report, pipeline construction has the potential to disturb or
2 destroy cultural resources located at the ground surface and to a depth of approximately 4
3 feet. As a result, OPL has committed to avoid resources identified during inventory
4 efforts. Sites that cannot be avoided will be evaluated as appropriate according to the
5 provisions of an approved PA. Archaeological testing has not been conducted at
6 proposed pump stations because no evidence of archaeological materials has been
7 identified in these locations. OPL has, however, committed to archaeological monitoring
8 in identified areas of high archaeological sensitivity, and this will be addressed in an
9 approved monitoring plan. If the areas identified by Ms. Miller are determined to have
10 high sensitivity, monitoring procedures will be established. In addition, Ms. Miller is
11 correct in stating that there is always a possibility that unmarked graves occur within the
12 area. Such a discovery cannot be anticipated, unless particularly sensitive areas are
13 identified by Native American consultants or other information sources. The possibility
14 of encountering such a grave, however, is considered remote, given the lack of identified
15 historic or ethnographic occupation sites within the proposed pipeline corridor. If such a
16 situation does occur, it would fall under the stipulations of an approved Native American
17 Graves Protection and Repatriation Act (NAGPRA) plan.

18
19 Additional impacts of the nature specified by Ms. Miller, including equipment turn-
20 around, casual parking, and avoidance of resources, are not anticipated. Such activities
21 will be guided by a strictly enforced construction and operation plan, a standard practice
22 for pipeline construction. The stipulations included within this plan will ensure that
23 impacts are confined to approved areas. In addition, as stated earlier, proposed staging
24 areas will be inventoried prior to ground disturbing activities, and identified resources
25 within these areas will be avoided or evaluated and subject to appropriate mitigation

1 measures. Leakage, fire, or other emergencies and subsequent clean-up activities will be
2 guided by an approved operations Emergency Plan.

3
4 **Q. Are cumulative impacts to cultural resources anticipated as a result of pipeline
5 construction, as asserted by Ms. Miller?**

6 A. Cumulative impacts to cultural resources from pipeline construction are not anticipated.
7 Indirect impacts resulting from vandalism, looting, or erosion, however, are a possibility
8 and will be addressed in the PA as well as the construction monitoring plan.

9
10 **Q. Can you give us some examples of how these type of impacts will be addressed in the
11 PA.?**

12 A. Indirect impacts will be addressed through a variety of plans and measures included in the
13 PA. OPL will be directed to minimize use of any roads strictly under their control, to
14 limit access to previously inaccessible portions of the corridor. Monitoring during
15 construction will be stipulated for sensitive areas, and a worker education program will be
16 conducted prior to initiation of construction. Erosion control measures will be included
17 within the construction plan as a standard practice. If appropriate, selective cover,
18 seeding, or other techniques may also be stipulated to protect cultural resources.

19
20 **Q. Are you satisfied that adequate plans for mitigating impacts to cultural resources
21 are being developed?**

22 A. Yes. As stated above, OPL has agreed to avoid cultural resources identified within the
23 survey corridor. In fact, during the initial survey, as well as during subsequent visits to
24 the project areas, suitable avoidance alternatives were identified for almost all
25 archaeological sites. In almost all circumstances, pipeline placement is flexible enough to

1 allow for realignment and avoidance. Realignments, most of which are minimal, have
2 been or will be inventoried; pipeline construction activities will not be undertaken within
3 areas not inventoried for cultural resources.
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I declare under penalty of perjury under the laws of the State of Washington that the foregoing testimony is true and correct to the best of my knowledge and belief.

DATED this _____ day of March, 1999.

Michael S. Kelly