BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In re Application No. 96-1
of
OLYMPIC PIPELINE COMPANY
For Site Certification

PREHEARING ORDER NO. 12
COUNCIL ORDER NO. 713
REQUEST FOR DRAFT SCHEDULES (May 20, 1998)

Nature of the Proceeding: This matter involves an application to the Washington State Energy Facility Site Evaluation Council (the Council) for certification of a proposed site in six Washington counties for construction and operation of a pipeline for the transportation of refined petroleum products between Woodinville and Pasco.

Procedural Setting: The Council convened an eighth prehearing conference session on March 26, 1998, pursuant to due and proper notice, to discuss procedural matters in this adjudication. The conference was held before Chair Deborah Ross and Council members Charles Carelli (Department of Ecology), Ellen Haars (Department of Health), Dean Judd (Department of Community, Trade, and Economic Development), Gary Ray (Department of Transportation), and C. Robert Wallis (Utilities and Transportation Commission). This order sets forth the results of this discussion.

Appearances: Appearances were entered as follows:

APPLICANT

COUNSEL FOR THE ENVIRONMENT
Thomas C. Morrill, Asst. Atty. General, Olympia

STATE AGENCIES
Parks & Recreation Commission, by Joseph Shorin, Asst. Atty. Gen., Olympia, and Pat Butler, Parks & Recreation Commission, Olympia

COUNTIES
King County, by Janene Collins, atty., Seattle, and Randy Sandin, King County Planning Department, Renton
Adams, Kittitas and Grant Counties, by Dennis D. Reynolds, atty., Seattle
CITIES
City of North Bend, by Graham Black, atty., Issaquah

WATER DISTRICTS
Woodinville Water District and Northshore Utility District, by Rosemary Larson, atty., Bellevue

TRIBES
Tulalip Tribes, by K.F. Hausmann, atty., Everett, and Kurt Nelson, Tulalip Tribes

FEDERAL AGENCIES
Dept. Of the Army, by LTC Warren Foote, atty., Ft. Lewis, Washington

BUSINESSES OR OTHER ORGANIZATIONS
Cascade Columbia Alliance, by Claudia Newman, atty., Seattle
Tidewater Barge Lines, Inc. and Tidewater Terminal Company, by Jay Waldron, atty., Portland, Oregon
Washington Environmental Council and People for Puget Sound, by Grahame Bell, atty., Seattle

Discussion:

ENVIRONMENTAL IMPACT STATEMENT
Although not an adjudicative matter, the Council for the convenience and information of the parties to the adjudication set aside time for a summary of the status of the EIS process from Mr. Fiksdal, Acting Council Manager and responsible official, and for parties' questions to him.

LAND USE CONSISTENCY DETERMINATION
Olympic Pipe Line, Co. (Olympic) and the counties indicated that they have made steady progress in the land use review. The Applicant has delivered draft consistency reports to each county, and the counties have been diligent in their review, negotiation, and preparation of comments. At this point, Olympic and county staff are waiting for the completion of the DEIS and for decisions on pending text amendments in Grant and Kittitas counties in order in order to continue the land use process.

The counties indicated that they are considering hiring a Project Coordinator pursuant to the terms of the stipulation agreement with Olympic, to facilitate the final stages of the county review after the issuance of the DEIS.¹

ADJUDICATION
The parties reported that discovery was proceeding smoothly. The Council thanked the parties for their cooperation in allowing this informal process to proceed successfully.

¹ Stipulation for and Agreement to Commence Negotiation Process as to Land Use Determinations and Project Review, pp. 5-6.
The applicant has incorporated most of the substance of the technical reports into its revised application. Factoring in production times, the applicant stated that the revised application, containing the most current route, should be ready to circulate during May.

SCHEDULING
Given that the Council must operate within legal requirements and must coordinate its process with that of the federal agencies, Mr. Wallis solicited other factors that the parties would like the Council to bear in mind as schedules are drafted. Although some parties declined to estimate their time needs until after the issuance of the DEIS, most of the parties were able to provide the Council with useful estimates of their needs.

Parties wanted to ensure that they would have adequate time (i) to negotiate effective mitigation agreements with the applicant, (ii) to provide quality comments on the DEIS, (iii) to prepare for the land use consistency hearings, and (iv) to prepare for the adjudication. While supporting a quality process, the applicant asked that Council to assess the time needed for each phase carefully, so as not to promote unnecessary delay.

The Council understands the parties' needs for adequate time and will consider parties' requests when it sets a schedule. The Council notes that much, perhaps most, of the information that will underlie the EIS is presently available and that a revised application will be distributed soon, incorporating changes to which the applicant has committed. The Council requests that parties consider not waiting until issuance of the DEIS before beginning negotiations.

CALL FOR PARTIES’ SUGGESTED PROCEDURAL STRUCTURE
The Council recognizes that parties will need adequate advance notice of application-related schedules to prepare and to assure that they are available. Most parties declined to provide preferred schedules until after seeing the draft environmental impact statement.

While the Council agrees that it is premature to set actual dates for different events relating to the application, the Council believes that it is time to begin thinking about the sequence and timing of these events. The Council wants to hear suggestions from parties on the structure and sequence of events, relating to all phases of the application process. To that end, the Council requests that parties set forth their preferences for the Council’s consideration. Parties are encouraged to include preferences for the sequence of all events needed for processing the application and for the structure of the hearings, with as many stated time limits as they are comfortable recommending. It is probably not useful at this stage to suggest actual dates, until the Council and parties have more information about the timing of other events, such as the issuance of the DEIS.

Please describe your suggestions with as much detail as is necessary for understanding. Submissions may include preferred locations for hearings and a preferred organization for the hearings (e.g., by party, by subject, or any combination; a single session or truncated; etc.). You may submit illustrative diagrams if you desire.

These submissions are due in the Council office no later than May 20, 1998. The Council will consider these suggestions when preparing a draft structure for consideration at a prehearing conference.
DATED and effective at Olympia, Washington, this _____ day of September, 1998.

**Notice to Participants.** Unless modified, this prehearing order will control the course of the hearing. Objections to this order may be stated only by filing them in writing with the Council within ten days after the date of this order.

____________________________________
C. Robert Wallis
EFSEC Vice Chair