

1 BEFORE THE STATE OF WASHINGTON
2 ENERGY FACILITY SITE EVALUATION COUNCIL

3
4 In re Application No. 96-1

5 of

6 OLYMPIC PIPELINE COMPANY

7
8 For Site Certification

PREHEARING ORDER NO. 12
COUNCIL ORDER NO. 713

REQUEST FOR DRAFT
SCHEDULES (May 20, 1998)

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

12 **Procedural Setting:** The Council convened an eighth prehearing conference session on March
13 26, 1998, pursuant to due and proper notice, to discuss procedural matters in this adjudication.
14 The conference was held before Chair Deborah Ross and Council members Charles Carelli
15 (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

16 **Appearances:** Appearances were entered as follows:

17 APPLICANT

18 Joshua Preece and Karen McGaffey, attys., Seattle, and Claude Harshbarger, Olympic Pipe Line
Company, Renton

19 COUNSEL FOR THE ENVIRONMENT

20 Thomas C. Morrill, Asst. Atty. General, Olympia

21 STATE AGENCIES

22 **Dept. Of Ecology**, by Rebecca McInteer and Kurt Peterson, Asst. Attys. Gen., Olympia

23 **Dept. Of Fish & Wildlife**, by William Frymire, Asst. Atty. Gen., Olympia

24 **Dept. Of Natural Resources**, by Maryanne McGovern, Asst. Atty. Gen., Olympia

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

26 **Dept. Of Transportation**, by Steve Dietrich, Asst. Atty. Gen., 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

1 CITIES

2 **City of North Bend**, by Graham Black, atty., Issaquah

3 WATER DISTRICTS

4 **Woodinville Water District** and **Northshore Utility District**, by Rosemary Larson, atty.,
5 Bellevue

6 TRIBES

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

8 FEDERAL AGENCIES

9 **Dept. Of the Army**, by LTC Warren Foote, atty., Ft. Lewis, Washington

10 BUSINESSES OR OTHER ORGANIZATIONS

11 **Cascade Columbia Alliance**, by Claudia Newman, atty., Seattle

12 **Tidewater Barge Lines, Inc.** and **Tidewater Terminal Company**, by Jay Waldron, atty.,
13 Portland, Oregon

14 **Washington Environmental Council** and **People for Puget Sound**, by Grahame Bell, atty.,
15 Seattle

16 **Discussion:**

17 ENVIRONMENTAL IMPACT STATEMENT

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

21 LAND USE CONSISTENCY DETERMINATION

22 Olympic Pipe Line, Co. (Olympic) and the counties indicated that they have made steady
23 progress in the land use review. The Applicant has delivered draft consistency reports to each
24 county, and the counties have been diligent in their review, negotiation, and preparation of
25 comments. At this point, Olympic and county staff are waiting for the completion of the DEIS
26 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.

1 The applicant has incorporated most of the substance of the technical reports into its revised
2 application. Factoring in production times, the applicant stated that the revised application,
3 containing the most current route, should be ready to circulate during May.

4 SCHEDULING

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

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

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

20 CALL FOR PARTIES' SUGGESTED PROCEDURAL STRUCTURE

21 The Council recognizes that parties will need adequate advance notice of application-related
22 schedules to prepare and to assure that they are available. Most parties declined to provide
23 preferred schedules until after seeing the draft environmental impact statement.

24 While the Council agrees that it is premature to set actual dates for different events relating to the
25 application, the Council believes that it is time to begin thinking about the sequence and timing
26 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.

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

31 These submissions are due in the Council office no later than May 20, 1998. The Council will
32 consider these suggestions when preparing a draft structure for consideration at a prehearing
33 conference.

1 DATED and effective at Olympia, Washington, this _____ day of September, 1998.

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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