

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Skagit County Board of Commissioners will hold a public hearing on **Monday, September 12, 2011**, in the County Commissioners Hearing Room, 1800 Continental Place, Mount Vernon, Washington, at **6:00 p.m.**, or soon thereafter, for the purpose of receiving public testimony and written correspondence on the general concepts of pipeline safety, that may or may not be included in a future proposal, and may include, but not be limited to: the use of a sensitive utility corridor overlay; public education/communication; emergency response coordination; a consultation zone; setbacks for new high consequence land uses and essential public facilities; development mitigation; dimensional standards; and, title notice.

The purpose of the hearing is to receive your views about the general concepts of pipeline safety standards. You may send written comments about this or any other issue to the Board of County Commissioners at the address below.

Linda Hammons, Clerk of the Board
1800 Continental Place, Suite 100
Mount Vernon, WA 98273

E-mail correspondence may be sent to commissioners@co.skagit.wa.us

TRANSMITTED TO THE SKAGIT VALLEY HERALD ON August 2, 2011
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**PIPELINE SAFETY PROJECT
WRITTEN COMMENT CORRESPONDENCE
AUGUST 4, 2011 – SEPTEMBER 19, 2011
(BCC – CONCEPTS)**

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August 15th, 2011

Skagit County Board of Commissioners to hold Pipeline Safety public hearing, September 12, 2011

SKAGIT COUNTY - On September 12, 2011, the Skagit County Board of Commissioners will hold a public hearing to discuss the general concepts of pipeline safety standards. The meeting will start at 6:00 p.m. in the Skagit County Commissioners Hearing Room located at 1800 Continental Place, Mount Vernon.

The purpose of the hearing is to receive public comment on the general concepts of pipeline safety, including, but not limited to: the use of a sensitive utility corridor overlay; public education and communication; emergency response coordination; a consultation zone; setbacks for new high-consequence land uses and essential public facilities; development mitigation; dimensional standards; and title notice.

Written comments may be submitted to the Board of County Commissioners at commissioners@co.skagit.wa.us. Comments may also be mailed to:

Linda Hammons, Clerk of the Board
1800 Continental Place, Suite 100
Mount Vernon, WA 98273

For more information, contact Linda Hammons, Clerk of the Board, at lindah@co.skagit.wa.us or at (360) 336-9300.

GaryChristensen

From: Dave Heenan [daveheenan@comcast.net]
Sent: Tuesday, September 13, 2011 1:06 PM
To: Commissioners
Subject: Pipe Line

Hello,

I was at the pipe line meeting last night.....WOW! It sure looks to me like we have some pretty pissed off land owners. I don't blame them.....do you? I would like to see you take this issue and flush it down the toilet. I would also like you to investigate the actions of all public employees during this entire process. This should be a public investigation. We, as tax payer, pay a lot to hire public employees and we have a right to be treated fairly. If we have employees that have not acted properly we have a right to protection from these people. You are in place to protect us from them.

Do the right thing by we the people.

Dave Heenan

September 9, 2011

VIA E-MAIL & FIRST CLASS MAIL

commissioners@co.skagit.wa.us
lindah@co.skagit.wa.us

The Honorable Skagit County Commissioners
C/O Linda Hammons, Clerk of the Board
1800 Continental Place, Suite 100
Mount Vernon, WA 98273

RE: Comments on Pipeline Safety Regulations/Alternative Ordinance Attached

Our Clients: John Bouslog and Bouslog Properties

Dear Honorable Commissioners:

The Commissioners must make every attempt to avoid transferring the risk, costs and potential liability attendant to owning and operating a pipeline to the adjacent property owners. Setbacks and other regulations placed upon adjacent properties intended to mitigate the failure of pipeline operators to properly maintain and operate those pipelines, as have been previously proposed, unlawfully transfer those burdens and costs to the adjacent property owners without just compensation. By and large, this was the basis of the public's overwhelming objection to the Planning Department's draft regulations presented to the Planning Commission.

A. Proposed Draft Consultation Zone and Title Notice Ordinance – Attached.

Adopting a consultation zone ordinance, as recommended in the Pipelines and Informed Planning Alliance ("PIPA") Report,¹ would provide a reasonable regulation addressing the public interest related to a property owner's proposal rather than imposing restrictive regulations on that property because of third party's action or inaction, i.e. a pipeline company's operation of a pipeline on the property. The extensive public comment submitted throughout the pipeline safety planning process has largely supported adoption of a reasonable consultation zone ordinance.

¹ The PIPA Report, fully titled "Partnering to Further Enhance Pipeline Safety in Communities Through Risk-Informed Land Use Planning – Final Report on Recommended Practices", is the widely cited source for land use regulations surrounding pipelines sponsored by the US Department of Transportation Pipeline Safety and Hazardous Materials Administration ("PHMSA") and published by the Pipelines and Informed Planning Alliance.

Attached hereto is a draft consultation zone and title notice ordinance for your review and consideration. The proposed ordinance would increase pipeline safety by requiring early communication between property owners and pipeline operators prior to the commencement of any work near the pipeline, as recommended in the PIPA Report. Moreover, the title notice provisions in this ordinance would supplement any existing recorded pipeline easements of record to notify potential purchasers of property where a pipeline is located.

B. High Consequence Land Use Restrictions.

Presently, the County can address concern related to a proposed "High Consequence Land Use's" ("HCLU") proximity to a pipeline through its SEPA environmental review process and the development specific conditions allowed to be imposed through the SEPA process.

There is simply no regulatory gap that would allow an HCLU to be constructed near an existing pipeline without reviewing potential significant adverse risk to an existing pipeline caused by the proposal, and imposing mitigation measures, which may, or may not, include setbacks. Thus, the most appropriate regulatory approach to address HCLUs is to use the proposed consultation zone ordinance in conjunction with the County's existing SEPA ordinance, as proposed herein.

There is no need or justification to adopt new regulations when the existing regulatory tools are already in place to address the very concerns associated with a proposed HCLU's proximity to an existing pipeline.

C. Sensitive Utility Corridor and Setbacks Contradict PIPA Report Recommendations.

The PIPA Report specifically discourages use of prohibitive setbacks, stating:

Fixed-distance setbacks commonly don't consider the risks involved with a specific pipeline and the physical environment in which the pipeline operates. ... Thus, PIPA recommends that implementing a risk-informed approach to land use planning and development and establishing good communication with the transmission pipeline operator is more appropriate than establishing a fixed-distance setback to be applied in all situations.²

Generally speaking, the issues of concern with regard to an explosive pipeline event relate to the combustible characteristic of natural gas, which generally does not exist with hazardous liquids. Due to the different characteristics of natural gas and hazardous liquids, hazardous liquid pipelines are treated differently in the PIPA Report and federal regulations than natural gas pipelines. As a result, broad brush overlay zones and setbacks, such as those previously proposed including the setbacks for land divisions, single- and multi-family residences, should not be included in any ordinance.

² PIPA Report at Pgs. 1-2 (emphasis added).

D. Burdens of “Pipeline Safety” Regulations on Adjacent Property Violates Substantive Due Process.

Substantive Due Process requirements mean that a regulation must not impose an unfair burden on affected property owners (among other requirements). A proposed regulation must not be unduly oppressive on an affected property owner. A “pipeline safety” ordinance such as has been previously proposed that transfers the risk, costs and potential liability attendant to owning and operating a pipeline to an adjacent property owner through a setback or sensitive utility corridor violates the requirements of substantive due process by imposing unfair burdens on adjacent property owners.

E. Flaws with a Proposal Based upon Whatcom County Ordinance.

It has been suggested that the proposed pipeline safety regulations presented to the Planning Commission were both modeled after and less restrictive than Whatcom County's adopted pipeline ordinance. In fact, that proposal is *more* restrictive than Whatcom County's adopted pipeline ordinance and misapplies federal standards. That proposal:

- Includes setbacks for HCLUs that are unnecessarily restrictive and transfer the costs and burdens associated with transmission pipelines to the adjacent property owner rather than the appropriate pipeline operator;
- Misapplies federal regulations with regards to HCLUs, attempting to apply 49 CFR 192.903 to both natural gas and hazardous liquids despite its application only to natural gas;
- Defines HCLUs to include far more uses than the Whatcom County ordinance;
- Vaguely defines HCLUs such that it is impossible to reasonably determine what utilities and/or services constitute HCLUs; and
- Unreasonably and unconstitutionally grants Planning and Development Services broad and unlimited authority to condition private development for the benefit and protection of the pipeline operator's interests.

Moreover, just because Whatcom County adopted an ordinance certainly does not make that ordinance legal, proper or appropriate.

F. Conclusion.

Adoption of a consultation zone ordinance is a reasonable and measured approach to addressing concerns of future development by a property owner in proximity to a pipeline, particularly when combined with existing regulatory tools such as SEPA. Moreover, transferring the risks, costs and potential liability attendant to owning and operating a pipeline to an adjacent property owner through a setback or sensitive utility corridor imposes an unfair and unconstitutional burden on that property owner.

We urge the Commission to adopt the consultation zone ordinance as set forth in the attached document.

Sincerely,

CHMELIK SITKIN & DAVIS P.S.



Jonathan K. Sitkin

JKS/SAW/ams

Encl.

cc: Clients
Skagit County Planning & Development

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ORDINANCE NO. _____

**AMENDING TITLE 14 – UNIFIED DEVELOPMENT CODE
OF THE SKAGIT COUNTY CODE.**

WHEREAS, Skagit County (the "County") seeks to supplement the existing federal and state regulations related to hazardous liquid and natural gas transmission pipelines by establishing a consultation zone that requires proponents of proposed developments to notify pipeline operators of their proposed developments when located within 660 feet of a designated pipeline;

WHEREAS, the County has determined that the potential for accidental damage to hazardous liquid and natural gas transmission pipelines will be reduced through increased communication amongst and between land owners, developers and pipeline operators and the establishment of a consultation zone within 660 feet of a designated pipeline;

WHEREAS, the County has determined that the potential for accidental damage to hazardous liquid and natural gas transmission pipelines will be reduced through increased awareness that a property is burdened by an easement for a hazardous liquid and/or natural gas transmission pipeline;

WHEREAS, the County has determined that the establishment of a consultation zone and title notice provisions, as set forth in this ordinance, will reduce the risk of injury, death, property damage, and environmental damage by increasing awareness of pipelines and increasing communication amongst and between land owners, developers and pipeline operators;

WHEREAS, the County engaged pipeline operators and the public in discussions regarding potential land use control measures which could be employed to achieve the County's above stated goals, including holding an informal public meeting on May 9, 2011;

WHEREAS, on May 20, 2011, the County issued a Determination of Non-Significance pursuant to the State Environmental Policy Act, Chapter 43.21C RCW for the County staff's proposed amendments to Skagit County Code Title 14 - Unified Development Code addressing the above stated goals;

WHEREAS, on June 7, 2011, the County Planning Commission held a public hearing on the County staff's proposed amendments to Skagit County Code Title 14 - Unified Development Code addressing the above stated goals;

WHEREAS, the Planning Commission received extensive public comment in writing and at the June 7, 2011 public hearing regarding the draft amendments to Skagit

County Code Title 14 - Unified Development Code addressing the above stated goals;

WHEREAS, on July 19, 2011, the Planning Commission held a work-session on the proposed amendments to Skagit County Code Title 14 - Unified Development Code addressing the above stated goals and forwarded a recommendation on to the County Commissioners;

WHEREAS, on September 12, 2011, the Skagit County Commission held a public hearing on pipeline safety regulations and received public comment on the same; and

WHEREAS, the County wishes to amend Skagit County Code Title 14 - Unified Development Code.

NOW, THEREFORE, BE IT ORDAINED that Skagit County Code Title 14 - Unified Development Code is hereby amended as set forth in Exhibit A attached hereto and incorporated herein.

WITNESS OUR HANDS AND THE OFFICIAL SEAL of our office this _____ day of _____, 20__.

BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON

RON WESEN, Chairman

KEN DAHLSTEDT, Commissioner

SHARON DILLON, Chairman

ATTEST: _____
 , Clerk of the Board

Ordinance No.
Page 2

APPROVED AS TO FORM:

Skagit County Prosecuting Attorney
Chief Civil Deputy

Ordinance No.
Page 3

PROPOSED NEW DEFINITIONS 14.04.020:

Consultation Zone: means an area within 660 feet of a gas transmission or hazardous liquid pipeline's centerline.

Gas Transmission Pipeline: means a "transmission line" as defined by Title 49, Code of Federal Regulations, Section 192.3 as now adopted or hereafter amended.

Hazardous Liquid Pipeline: means a pipeline designed for the transmission of a "hazardous liquid", as defined by Title 49, Code of Federal Regulations, Section 195.2 as now adopted or hereafter amended.

Pipeline: means the same as is defined by Title 49, Code of Federal Regulations, Sections 195.2 and 192.3 as now adopted or hereafter amended.

PROPOSED NEW SECTION:

14.16.205 Consultation Zone.

(1) Purpose. The purpose of this Section is to assure that the proponent of potential development within the vicinity of an existing Pipeline consults with the operators of existing Pipelines to assure that the proposed development is designed, and constructed in a manner to minimize the likelihood of damage to existing Pipelines during development activities and avoid, where possible, unnecessary risk to the public health, safety, and welfare. The consultation process set forth herein is intended to supplement existing federal and state regulations related to hazardous liquid and gas transmission pipeline corridor management, and to ensure early communication between land owners, developers and pipeline operators.

(2) Consultation Zone Distance. A consultation zone is hereby established for all parcel(s) within 660 feet of the centerline of a hazardous liquid pipeline and/or gas transmission pipeline.

(3) Consultation Zone Notification. Within thirty (30) days of the receipt of an application for a development permit for property located within a consultation zone, County staff shall notify the applicant that their project is located within the consultation zone, explain the relevant procedures, and provide the applicant contact information for the applicable pipeline operator(s).

(4) Application Process within Consultation Zone.

(a) Prior to the issuance of any development permit within a consultation zone, the applicant shall provide to the County written verification that the applicant has attempted to notify the pipeline operator(s) of the proposed development via mail or electronic mail at the address provided by the County, including the location of the proposed development. Such notice shall include a copy of a site plan that is otherwise required to be submitted to the County as part of a permit application.

(b) If the pipeline operator(s) with a pipeline in the affected consultation zone has not responded within thirty (30) days after being notified of the proposed

development as set forth in section 4(a) above, then the County shall be deemed to have not received a comment from the pipeline operator(s) and the County may proceed with permit issuance.

(5) Modifications. Planning and Development Services may require reasonable modifications to project proposals in response to pipeline operator comments based on the proposal's significant and direct impacts considering the severity of risk to the existing pipeline caused directly by the proposed development.

PROPOSED NEW SECTION:

14.16.206 Pipeline Notice Recording.

Prior to the issuance of any development permit for property burdened by an Easement for a Pipeline, the owner of such property must record a Notice of a Transmission Pipeline Easement with the Skagit County Auditor in the form set forth in this section.

(a) The form of the Notice of a Transmission Pipeline Easement shall be as follows:

**NOTICE AND ACKNOWLEDGMENT
OF TRANSMISSION PIPELINE EASEMENT**

Permit Number: _____

Property Legal Description:

NOTICE

The above referenced property is located near one or more hazardous liquid or gas transmission pipelines and is burdened by an easement for the same.

ACKNOWLEDGMENT

I, _____, the owner of the referenced property, hereby acknowledge that I Have read and understand the NOTICE provided above. I understand that this NOTICE AND ACKNOWLEDGEMENT will be recorded with the Skagit County Auditor.

The Auditor will convey notice of its contents to all persons or entities acquiring or obtaining an interest or right to occupancy in or on the subject property. I have freely executed this ACKNOWLEDGEMENT as a condition of approval for development permit number _____, as required by SCC 14.16.206.

Dated the ____ day of _____, 20__.

Owner Signature _____
Printed Name _____

Owner Signature _____

Printed Name _____

(Acknowledgment for Individual Grantor)

(Acknowledgment for Corporate Grantor)



P.O. Box 114
Bow, Washington 98232
September 16, 2011

Skagit County Board of County Commissioners
Skagit County Courthouse (hand delivered)

Dear Commissioners:

Thank you for this opportunity to suggest resolution to the Planning Commission recommendation on the pipeline safety project. This letter is narrowly focused on possible immediate measures. I join with several other private citizens in offering my services to assist you in any way you wish in deeper or ongoing efforts to resolve these matters.

By way of background, transmission pipelines were installed in Skagit County originally as a public safety measure in order to get tankers off of the highways and railroads. They were intentionally located in sparsely populated rural areas under oversight by national and state pipeline safety programs. The right-of-way for these pipelines was purchased as easements from property owners and recorded on the titles of the involved properties. The easements and safety programs exist to this day. The present safety programs of each of the four transmission safety pipeline operators were submitted as a matter of record as testimony during the Planning Commission Hearing process.

Over the past several decades of operation of these pipelines, Skagit County has never found cause to further address local pipeline safety issues, even though extreme public attention was brought to the topic of safety following the 1999 Bellingham incident in our backyard. No mention of safety concerns has been advanced through the process of developing the Skagit County Comprehensive Plan nor any of its elements, including the Utility Element. No federal, state, or local mandate has surfaced.

During these recent times of diminishing financial resources and subsequent budget cuts, the Skagit County Board of County Commissioners authorized the Planning Department to apply for a grant available from the US Department of Transportation, Pipeline Hazard and Material and Safety Administration for a Technical Assistance Grant; the grant period expired on July 31, 2011. I am not aware of any intent by any party to fund any additional activities beyond this grant.

The Planning Commission and public testimony considered has recommended to you that the submittal by the Planning Department is fatally flawed both in content and process and has not been advanced to you. I recommend that you take advantage of the expertise and good will offered to you by your constituents by assigning the products of the grant to the Public Works Department for a Risk Assessment Study as suggested by the granting agency with the

cooperation of a Citizens' Task Force answering to you. I recommend that you address a letter to the Granting Authority admitting that the proposal for an ordinance including setbacks in sparsely populated areas was not a productive approach to enhancing pipeline safety, notwithstanding several other areas of potential issues. These remaining issues could easily be moved forward onto next year's agenda for policy consideration.

I have previously testified that the single most effective measure that could be undertaken immediately at the local level would be pre-development permit application check list notification of licensees for consultation between operators and applicants. Each of the Pipeline licensees tells me that they have intake programs in place for this procedure. They tell me that this was the one issue upon which they reached consensus with the Planning Department at the March 30, 2011 meeting hosted by the Planning Department, even though no minutes or report of the results of this meeting are on the record. Our Permit Center has the pipeline maps, which should be verified and distributed by Public Works, and parcel numbers of relevant properties to do this at no cost or delay. Please issue a resolution, or a phone call to do this now.

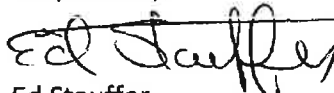
Please recognize that the research on pipeline safety indicates increased risk of transmission pipeline accident only in areas of high density infrastructure and population in previously rural areas adjacent to urban areas, such as we see in northeast Sedro-Woolley, and the Bayview Ridge Areas. It is only these areas that have been singled out to be increased risk. Additional safety issues such as High Consequence Uses and signage and awareness also have support but need to be developed under scrutiny of public process at a later date.

Therefore, I suggest that the Board of County Commissioners resolve this year's agenda on transmission pipeline safety by:

1. Accepting the Planning Commission Action.
2. Assigning pipeline safety to the Public Works Department.
3. Thanking the TAG officials for their resources and our subsequent enlightenment.
4. Taking advantage of the resources offered by your constituents.

Through this process, I have been encouraged by access to dialog with each of you, and by the integrity, thoroughness, and courage of our Planning Commission, in particular its chairman Mr. Jason Easton. We have all learned through this experience, and I look forward to a brighter and more positive future.

Respectfully,


Ed Stauffer





Letter to Skagit County Commissioners concerning Pipeline Safety

September 18, 2011

After spending a considerable amount of time studying pipeline safety, using National Transportation Safety Administration, Pipeline and Hazardous Materials Safety Administration and other accident reports, there seems to be very little that Skagit County could have done that would have saved even one innocent bystander's life. Two or three items that do have merit are:

1. Establishing a consultation zone to keep the public aware of nearby pipelines.
2. Insure that first responders are trained in evacuation procedures in the event of a pipeline incident. The public should also know how to leave the area if necessary.
3. Skagit County should become more involved in the Call before you dig program. I understand that the County does not contribute any funds to make this program effective.

As I stated in my previous testimony, every fatal accident over the last 10 years could have been avoided had the pipeline operators and regulators acted with more diligence. Of the 36 deaths of innocent bystanders or residents, 11 were due to failure of safety equipment, 4 died because of improper digging near a pipeline, and 21 lost their lives due to internal or external corrosion and or improper repair. Several lives were saved during this last decade by timely evacuation, but 5 of the above deaths occurred because no evacuation took place.

Pipelines are a necessary part of our oil products distribution system, and it will only expand in the future. Pipelines are also the safest method of transporting oil products averaging only 3 ½ deaths per year over the entire US. Over 7 times as many accidental deaths occur each year in the distribution of natural gas between the pipeline and our homes, not including carbon monoxide poisoning. Transportation by rail and tanker truck is even more dangerous, but I was unable to find precise data to confirm actual statistics.

Just because pipelines are relatively safe, doesn't mean that they cannot be safer. In addition to the 3 items listed earlier, it would be advisable for the county to petition our National Leaders to improve the pipeline regulatory agency. In the last 2 years, 13 people have died in the San Bruno CA incident and the Allentown PA accident caused by pipelines that were over 50 years old and should have been replaced or repaired. We need to have better oversight, but Skagit County is probably not able to do much to correct this problem.

Prohibiting High Consequence Land Uses and Essential Public Facilities within 500 ft of a pipeline is liable to cause some unintended problems with little or no increase in safety. The Bayview Fire Station, which also serves the airport, and the Allen School will be unable to expand. The site next to the Bayview fire station, being considered for a new school will need to be relocated, even though it is otherwise an excellent site. Location of these facilities should be decided during the permitting process.

I have included the preliminary accident report by the NTSB on the San Bruno accident. San Bruno was considered one of the worst pipeline accident in recent history. This report was released just last month, and the final report will be released in a few weeks, but basically all of the pertinent information is here. I include this not to make it part of the record, but it does give one a little insight into one of the major causes of pipeline failures.



Bill Knutzen

Landowner

[Home](#) > [News & Events](#) > [Past Events](#) > [Pipeline Accident Report](#)

PIPELINE ACCIDENT REPORT: PACIFIC GAS AND ELECTRIC COMPANY NATURAL GAS TRANSMISSION PIPELINE RUPTURE AND FIRE, SAN BRUNO, CA, SEPTEMBER 9, 2010

- [Meeting Information](#)
- [Presentations](#)
- [Accident Investigation](#)

This is a synopsis from the Safety Board's report and does not include the Board's rationale for the conclusions, probable cause, and safety recommendations. Safety Board staff is currently making final revisions to the report from which the attached conclusions and safety recommendations have been extracted. The final report and pertinent safety recommendation letters will be distributed to recommendation recipients as soon as possible. The attached information is subject to further review and editing.

Executive Summary

On September 9, 2010, about 6:11 p.m. Pacific daylight time, a 30-inch-diameter segment of an intrastate natural gas transmission pipeline known as Line 132, owned and operated by the Pacific Gas and Electric Company (PG&E), ruptured in a residential area in San Bruno, California. The rupture occurred at mile point 39.28 of Line 132, at the intersection of Earl Avenue and Glenview Drive. The rupture produced a crater about 72 feet long by 26 feet wide. The section of pipe that ruptured, which was about 28 feet long and weighed about 3,000 pounds, was found 100 feet south of the crater. PG&E estimated that 47.6 million standard cubic feet of natural gas was released. The released natural gas ignited, resulting in a fire that destroyed 38 homes and damaged 70. Eight people were killed, many were injured, and many more were evacuated from the area.

Investigation Synopsis

The National Transportation Safety Board's investigation found that the rupture of Line 132 was caused by a fracture that originated in the partially welded longitudinal seam of one of six short pipe sections, which are known in the industry as "pups." The fabrication of five of the pups in 1956 would not have met generally accepted industry quality control and welding standards then in effect, indicating that those standards were either overlooked or ignored. The weld defect in the failed pup would have been visible when it was installed. The investigation also determined that a sewer line installation in 2008 near the rupture did not damage the defective pipe.

The rupture occurred at 6:11 p.m.; almost immediately, the escaping gas from the ruptured pipe ignited and created an inferno. The first 911 call was received within seconds. Officers from the San Bruno Police Department arrived on scene about 6:12 p.m. Firefighters at the San Bruno Fire Department heard and saw the explosion from their station, which was about 300 yards from the rupture site. Firefighters were on scene about 6:13 p.m. More than 900 emergency responders from the city of San Bruno and surrounding jurisdictions executed a coordinated emergency response, which included defensive operations, search and evacuation, and medical operations. Once the flow of natural gas was interrupted, firefighting operations continued for 2 days. Hence, the emergency response by the city of San Bruno was prompt and appropriate.

However, PG&E took 95 minutes to stop the flow of gas and to isolate the rupture site - a response time that was excessively long and contributed to the extent and severity of property damage and increased the life-threatening risks to the residents and emergency responders. The National Transportation Safety Board found that PG&E lacks a detailed and comprehensive procedure for responding to large-scale emergencies such as a transmission pipeline break, including a defined command structure that clearly assigns a single point of leadership and allocates specific duties to supervisory control and data acquisition staff and other involved employees. PG&E's supervisory control and data acquisition system limitations caused delays in pinpointing the location of the break. The use of either automatic shutoff valves or remote control valves would have reduced the amount of time taken to stop the flow of gas.

PG&E's pipeline integrity management program, which should have ensured the safety of the system, was deficient and ineffective because it --

- Was based on incomplete and inaccurate pipeline information.
- Did not consider the design and materials contribution to the risk of a pipeline failure.
- Failed to consider the presence of previously identified welded seam cracks as part of its risk assessment.
- Resulted in the selection of an examination method that could not detect welded seam defects.
- Led to internal assessments of the program that were superficial and resulted in no improvements.

Several deficiencies revealed by the National Transportation Safety Board investigation, such as PG&E's poor quality control during the pipe installation and inadequate emergency response, were factors in the 2008 explosion of a PG&E gas pipeline in Rancho Cordova, California. (See Explosion, Release, and Ignition of Natural Gas, Rancho Cordova, California, December 24, 2008, Pipeline Accident Brief NTSB/PAB-10/01 (Washington, DC: National Transportation Safety Board, 2010)). This 2008 accident involved the inappropriate installation of a pipe that was not intended for operational use and did not meet applicable pipe specifications. PG&E's response to that event was inadequate: PG&E initially dispatched an unqualified person to the emergency, causing an unnecessary delay in dispatching a properly trained and equipped technician. The National Transportation Safety Board concluded that PG&E's multiple, recurring deficiencies are evidence of a systemic problem.

The investigation also determined that the California Public Utilities Commission, the pipeline safety regulator within the state of California, failed to detect the inadequacies in PG&E's integrity management program and that the Pipeline and Hazardous Materials Safety Administration integrity management inspection protocols need improvement. Because the Pipeline and Hazardous Materials Safety Administration has not incorporated the use of effective and meaningful metrics as part of its guidance for performance-based management pipeline safety programs, its oversight of state public utility commissions regulating gas transmission and hazardous liquid pipelines could be improved. Without effective and meaningful metrics in performance-based pipeline safety management programs, neither PG&E nor the California Public Utilities Commission was able to effectively evaluate or assess PG&E's pipeline system.

FINDINGS

1. The following were not factors in this accident: seismic activity, corrosion, direct third-party damage, or drug use by the workers at the Milpitas Terminal.
2. The accident pipe comprising the pups did not conform to PG&E or other known specifications for pipe and was fabricated at an undetermined facility to no known specification.
3. The accident pipe would not have met generally accepted industry quality control and welding standards in 1956, indicating that those standards were overlooked or ignored.
4. PG&E's inadequate quality control during the 1956 relocation project led to the installation and commissioning of a defective pipe that remained undetected until the accident, 54 years later.

5. The fracture of Line 132 Segment 180 originated in the partially welded longitudinal seam of pup 1, which was progressively weakened due to ductile crack growth and fatigue crack growth.
6. The combination of the size and shape of the weld defect significantly reduced the strength of the pup 1 longitudinal seam, making it susceptible to unstable crack growth under internal gas pressure.
7. The 2008 sewer line installation did not damage the defective pipe that later ruptured.
8. The internal line pressure preceding the rupture did not exceed the PG&E maximum allowable operating pressure for Line 132 and would not have posed a safety hazard for a properly constructed pipe.
9. Had a properly prepared contingency plan for the Milpitas Terminal electrical work been in place and been executed, the loss of pressure control could have been anticipated and planned for, thereby minimizing or avoiding the pressure deviations.
10. PG&E lacked detailed and comprehensive procedures for responding to a large-scale emergency such as a transmission line break, including a defined command structure that clearly assigns a single point of leadership and allocates specific duties to supervisory control and data acquisition staff and other involved employees.
11. PG&E's supervisory control and data acquisition system limitations contributed to the delay in recognizing that there had been a transmission line break and quickly pinpointing its location.
12. The 95 minutes that PG&E took to stop the flow of gas by isolating the rupture site was excessive.
13. Use of automatic shutoff valves or remote control valves along the entire length of Line 132 would have significantly reduced the amount of time taken to stop the flow of gas and to isolate the rupture.
14. Considering the challenges of the prolonged fire fueled by natural gas, the emergency response was well coordinated and effectively managed by local responders.
15. The 6-hour delay before ordering drug and alcohol testing, the commencement of alcohol testing at the Milpitas Terminal 1 hour after it was no longer permitted, the failure to properly record an explanation for the delay, and the failure to conduct drug or alcohol testing on the supervisory control and data acquisition center staff all demonstrate that the PG&E postaccident toxicological program was ineffective.
16. If the grandfathering of older pipelines had not been permitted since 1961 by the California Public Utilities Commission and since 1970 by the U.S. Department of Transportation, Line 132 would have undergone a hydrostatic pressure test that would likely have exposed the defective pipe that led to this accident.
17. There is no safety justification for the grandfather clause exempting pre-1970 pipelines from the requirement for postconstruction hydrostatic pressure testing.
18. The premise in Title 49 Code of Federal Regulations Part 192 of the Federal pipeline safety regulations that manufacturing- and construction-related defects can be considered stable even when a gas pipeline has not been subjected to a pressure test of at least 1.25 times the maximum allowable operating pressure is not supported by scientific studies.
19. The PG&E gas transmission integrity management program was deficient and ineffective.
20. PG&E's public awareness program self-evaluation was ineffective at identifying and correcting deficiencies.
21. The deficiencies identified during this investigation are indicative of an organizational accident.
22. The multiple and recurring deficiencies in PG&E operational practices indicate a systemic problem.
23. Because in-line inspection technology is not available for use in all currently operating gas transmission pipeline systems, operators do not have the benefit of a uniquely effective assessment tool to identify and assess the threat from critical defects in their pipelines.
24. The Pipeline and Hazardous Materials Safety Administration integrity management inspection protocols are inadequate.
25. Because PG&E, as the operator of its pipeline system, and the California Public Utilities Commission, as the pipeline safety regulator within the state of California, have not incorporated the use of effective and meaningful metrics as part of their performance-based pipeline safety

management programs, neither PG&E nor the California Public Utilities Commission is able to effectively evaluate or assess the integrity of PG&E's pipeline system.

26. Because the Pipeline and Hazardous Materials Safety Administration has not incorporated the use of effective and meaningful metrics as part of its guidance for effective performance-based pipeline safety management programs, its oversight of state public utility commissions regulating gas transmission and hazardous liquid pipelines needs improvement.

27. The ineffective enforcement posture of the California Public Utilities Commission permitted PG&E's organizational failures to continue over many years.

28. The Pipeline and Hazardous Materials Safety Administration's enforcement program and its monitoring of state oversight programs have been weak and have resulted in lack of effective Federal oversight and state oversight exercised by the California Public Utilities Commission.

Probable Cause

The National Transportation Safety Board determines that the probable cause of the accident was the Pacific Gas and Electric Company's (PG&E) (1) inadequate quality assurance and quality control in 1956 during its Line 132 relocation project, which allowed the installation of a substandard and poorly welded pipe section with a visible seam weld flaw that, over time grew to a critical size, causing the pipeline to rupture during a pressure increase stemming from poorly planned electrical work at the Milpitas Terminal; and (2) inadequate pipeline integrity management program, which failed to detect and repair or remove the defective pipe section.

Contributing to the accident were the California Public Utility Commission's (CPUC) and the U.S. Department of Transportation's exemptions of existing pipelines from the regulatory requirement for pressure testing, which likely would have detected the installation defects. Also contributing to the accident was the CPUC's failure to detect the inadequacies of PG&E's pipeline integrity management program.

Contributing to the severity of the accident were the lack of either automatic shutoff valves or remote control valves on the line and PG&E's flawed emergency response procedures and delay in isolating the rupture to stop the flow of gas.

Recommendations

The National Transportation Safety Board makes new recommendations to the U.S. Secretary of Transportation, the Pipeline and Hazardous Materials Safety Administration, the governor of the state of California, the California Public Utilities Commission, and the Pacific Gas and Electric Company.

The National Transportation Safety Board previously issued recommendations to the Pipeline and Hazardous Materials Safety Administration, the California Public Utilities Commission, and the Pacific Gas and Electric Company as a result of this accident.

NEW RECOMMENDATIONS

To the U.S. Secretary of Transportation:

1. Conduct an audit to assess the effectiveness of the Pipeline and Hazardous Materials Safety Administration's oversight of performance-based safety programs. This audit should address the (1) need to expand the program's use of meaningful metrics; (2) adequacy of its inspection protocols for ensuring the completeness and accuracy of pipeline operators' integrity management program data; (3) adequacy of its inspection protocols for ensuring the incorporation of an operator's leak, failure, and incident data in evaluations of the operator's risk model; and (4) benefits of establishing performance goals for pipeline operators.
2. Include in the audit conducted pursuant to Recommendation [1] a review of the Pipeline and Hazardous Materials Safety Administration's enforcement policies and procedures, including, specifically, the standard of review for compliance with performance-based regulations.

3. Conduct an audit of the Pipeline and Hazardous Materials Safety Administration's state pipeline safety program certification program to assess and ensure state pipeline safety programs and Federal pipeline safety grants are used effectively to conduct oversight of intrastate pipeline operations, including an evaluation of state inspection and enforcement activities.
4. Ensure that the Pipeline and Hazardous Materials Safety Administration amends the certification program, as appropriate, to comply with the findings of the audit recommended in Recommendation [3].

To the Pipeline and Hazardous Materials Safety Administration:

5. Require operators of natural gas transmission and distribution pipelines and hazardous liquid pipelines to provide system-specific information about their pipeline systems to the emergency response agencies of the communities and jurisdictions in which those pipelines are located. This information should include pipe diameter, operating pressure, product transported, and potential impact radius. [Supersedes Recommendation P-11-1]
6. Require operators of natural gas transmission and distribution pipelines and hazardous liquid pipelines to ensure that their control room operators immediately and directly notify the 911 emergency call center(s) for the communities and jurisdictions in which those pipelines are located when a possible rupture of any pipeline is indicated. [Supersedes Recommendation P-11-2]
7. Require that all operators of natural gas transmission and distribution pipelines equip their supervisory control and data acquisition systems with tools to assist in recognizing and pinpointing the location of leaks, including line breaks; such tools could include a real-time leak detection system and appropriately spaced flow and pressure transmitters along covered transmission lines.
8. Amend Title 49 Code of Federal Regulations 192.935(c) to directly require that automatic shutoff valves or remote control valves in high consequence areas and in class 3 and 4 locations be installed and spaced at intervals that consider the factors listed in that regulation.
9. Amend 49 CFR 199.105 and 49 CFR 199.225 to eliminate operator discretion with regard to testing of covered employees. The revised language should require drug and alcohol testing of each employee whose performance either contributed to the accident or cannot be completely discounted as a contributing factor to the accident.
10. Issue immediate guidance clarifying the need to conduct postaccident drug and alcohol testing of all potentially involved personnel despite uncertainty about the circumstances of the accident.
11. Amend Title 49 Code of Federal Regulations 192.619 to delete the grandfather clause and require that all gas transmission pipelines constructed before 1970 be subjected to a hydrostatic pressure test that incorporates a spike test.
12. Amend Title 49 Code of Federal Regulations Part 192 of the Federal pipeline safety regulations so that manufacturing- and construction-related defects can only be considered stable if a gas pipeline has been subjected to a postconstruction hydrostatic pressure test of at least 1.25 times the maximum allowable operating pressure.
13. Assist the California Public Utilities Commission in conducting the comprehensive audit recommended in Safety Recommendation [19].
14. Require that all natural gas transmission pipelines be configured so as to accommodate in-line inspection tools, with priority given to older pipelines.
15. Revise your integrity management inspection protocol to (1) incorporate a review of meaningful metrics; (2) require auditors to verify that the operator has a procedure in place for ensuring the completeness and accuracy of underlying information; (3) require auditors to review all integrity management performance measures reported to the Pipeline and Hazardous Materials Safety Administration and compare the leak, failure, and incident measures to the operator's risk model; and (4) require setting performance goals for pipeline operators at each audit and follow up on those goals at subsequent audits.
16. (1) Develop and implement standards for integrity management and other performance-based safety programs that require operators of all types of pipeline systems to regularly assess the effectiveness of their programs using clear and meaningful metrics, and to identify and then correct deficiencies; and (2) make those metrics available in a centralized database.
17. Work with state public utility commissions to (1) implement oversight programs that employ meaningful metrics to assess the effectiveness of their oversight programs and make those metrics

available in a centralized database, and (2) identify and then correct deficiencies in those programs.

To the Governor of the State of California:

18. Expeditiously evaluate the authority and ability of the pipeline safety division within the California Public Utilities Commission to effectively enforce state pipeline safety regulations, and, based on the results of this evaluation, grant the pipeline safety division within the California Public Utilities Commission the direct authority, including the assessment of fines and penalties, to correct noncompliance by state regulated pipeline operators.

To the California Public Utilities Commission:

19. With assistance from the Pipeline and Hazardous Materials Safety Administration, conduct a comprehensive audit of all aspects of Pacific Gas and Electric Company operations, including control room operations, emergency planning, record-keeping, performance-based risk and integrity management programs, and public awareness programs.

20. Require the Pacific Gas and Electric Company to correct all deficiencies identified as a result of the San Bruno, California, accident investigation, as well as any additional deficiencies identified through the comprehensive audit recommended in Safety Recommendation [19], and verify that all corrective actions are completed.

To the Pacific Gas and Electric Company:

21. Revise your work clearance procedures to include requirements for identifying the likelihood and consequence of failure associated with the planned work and for developing contingency plans.

22. Establish a comprehensive emergency response procedure for responding to large-scale emergencies on transmission lines; the procedure should (1) identify a single person to assume command and designate specific duties for supervisory control and data acquisition staff and all other potentially involved company employees; (2) include the development and use of trouble-shooting protocols and checklists; and (3) include a requirement for periodic tests and/or drills to demonstrate the procedure can be effectively implemented.

23. Equip your supervisory control and data acquisition system with tools to assist in recognizing and pinpointing the location of leaks, including line breaks; such tools could include a real-time leak detection system and appropriately spaced flow and pressure transmitters along covered transmission lines.

24. Expedite the installation of automatic shutoff valves and remote control valves on transmission lines in high consequence areas and in class 3 and 4 locations, and space them at intervals that consider the factors listed in Title 49 Code of Federal Regulations 192.935(c).

25. Revise your postaccident toxicological testing program to ensure that testing is timely and complete.

26. Assess every aspect of your integrity management program, paying particular attention to the areas identified in this investigation, and implement a revised program that includes, at a minimum, (1) a revised risk model to reflect the Pacific Gas and Electric Company's actual recent experience data on leaks, failures, and incidents; (2) consideration of all defect and leak data for the life of each pipeline, including its construction, in risk analysis for similar or related segments to ensure that all applicable threats are adequately addressed; (3) a revised risk analysis methodology to ensure that assessment methods are selected for each pipeline segment that address all applicable integrity threats, with particular emphasis on design/material and construction threats; and (4) an improved self-assessment that adequately measures whether the program is effectively assessing and evaluating the integrity of each covered pipeline segment.

27. Conduct threat assessments using the revised risk analysis methodology incorporated in your integrity management program, as recommended in Safety Recommendation [26], and report the results of those assessments to the California Public Utilities Commission and the Pipeline and Hazardous Materials Safety Administration.

28. Develop, and incorporate into your public awareness program, written performance measurements and guidelines for evaluating the plan and for continuous program improvement.

To the American Gas Association and the Interstate Natural Gas Association of America:

29. Report to the National Transportation Safety Board on your progress to develop and introduce advanced inline inspection platforms for use in gas transmission pipelines not currently accessible to existing inline inspection platforms, including a timeline for implementation of these advanced platforms.Ä

PREVIOUSLY ISSUED RECOMMENDATIONS

To the Pipeline and Hazardous Materials Safety Administration:

Through appropriate and expeditious means such as advisory bulletins and posting on your website, immediately inform the pipeline industry of the circumstances leading up to and the consequences of the September 9, 2010, pipeline rupture in San Bruno, California, and the National Transportation Safety Board's urgent safety recommendations to Pacific Gas and Electric Company so that pipeline operators can proactively implement corrective measures as appropriate for their pipeline systems. (P-10-1) (Urgent)

Issue guidance to operators of natural gas transmission and distribution pipelines and hazardous liquid pipelines regarding the importance of sharing system-specific information, including pipe diameter, operating pressure, product transported, and potential impact radius, about their pipeline systems with the emergency response agencies of the communities and jurisdictions in which those pipelines are located. (P-11-1)

Issue guidance to operators of natural gas transmission and distribution pipelines and hazardous liquid pipelines regarding the importance of control room operators immediately and directly notifying the 911 emergency call center(s) for the communities and jurisdictions in which those pipelines are located when a possible rupture of any pipeline is indicated. (P-11-2)

To the California Public Utilities Commission:

Develop an implementation schedule for the requirements of Safety Recommendation P-10-2 (Urgent) to Pacific Gas and Electric Company (PG&E) and ensure, through adequate oversight, that PG&E has aggressively and diligently searched documents and records relating to pipeline system components, such as pipe segments, valves, fittings, and weld seams, for PG&E natural gas transmission lines in class 3 and class 4 locations and class 1 and class 2 high consequence areas that have not had a maximum allowable operating pressure established through prior hydrostatic testing as outlined in Safety Recommendation P-10-2 (Urgent) to PG&E. These records should be traceable, verifiable, and complete; should meet your regulatory intent and requirements; and should have been considered in determining maximum allowable operating pressures for PG&E pipelines. (P-10-5) (Urgent)

If such a document and records search cannot be satisfactorily completed, provide oversight to any spike and hydrostatic tests that Pacific Gas and Electric Company is required to perform according to Safety Recommendation P-10-4. (P-10-6) (Urgent)

Through appropriate and expeditious means, including posting on your website, immediately inform California intrastate natural gas transmission operators of the circumstances leading up to and the consequences of the September 9, 2010, pipeline rupture in San Bruno, California, and the National Transportation Safety Board's urgent safety recommendations to Pacific Gas and Electric Company so that pipeline operators can proactively implement corrective measures as appropriate for their pipeline systems. (P-10-7) (Urgent)

To the Pacific Gas and Electric Company:

Aggressively and diligently search for all as-built drawings, alignment sheets, and specifications, and all design, construction, inspection, testing, maintenance, and other related records, including those records in locations controlled by personnel or firms other than Pacific Gas and Electric Company, relating to pipeline system components, such as pipe segments, valves, fittings, and weld seams for Pacific Gas and Electric Company natural gas transmission lines in class 3 and class 4 locations and class 1 and class 2 high consequence areas that have not had a maximum allowable operating pressure established through prior hydrostatic testing. These records should be traceable, verifiable, and complete. (P-10-2) (Urgent)

Use the traceable, verifiable, and complete records located by implementation of Safety Recommendation P-10-2 (Urgent) to determine the valid maximum allowable operating pressure, based on the weakest section of the pipeline or component to ensure safe operation, of Pacific Gas and Electric Company natural gas transmission lines in class 3 and class 4 locations and class 1 and class 2 high consequence areas that have not had a maximum allowable operating pressure established through prior hydrostatic testing. (P-10-3) (Urgent)

If you are unable to comply with Safety Recommendations P-10-2 (Urgent) and P-10-3 (Urgent) to accurately determine the maximum allowable operating pressure of Pacific Gas and Electric Company natural gas transmission lines in class 3 and class 4 locations and class 1 and class 2 high consequence areas that have not had a maximum allowable operating pressure established through prior hydrostatic testing, determine the maximum allowable operating pressure with a spike test followed by a hydrostatic pressure test. (P-10-4)

Require your control room operators to notify, immediately and directly, the 911 emergency call center(s) for the communities and jurisdictions in which your transmission and/or distribution pipelines are located, when a possible rupture of any pipeline is indicated. (P-11-3)

Class 3 refers to any location unit that has 46 or more buildings intended for human occupancy. Class 4 refers to any class location unit where buildings with four or more stories above ground are prevalent.

Class 1 refers to an offshore area or any class location unit that has 10 or fewer buildings intended for human occupancy. A class 2 location is any class location unit that has more than 10 but fewer than 46 buildings intended for human occupancy.

A high consequence area is any class 3 or 4 location or any area where a potential impact radius of 660 feet would contain more than 20 buildings intended for human occupancy.

Accident Docket

- NTSB ID Number: DCA10MP008 - September 09, 2010 San Bruno, CA

Resources	Publications	NTSB.gov	About Us
Press Releases	Accident Animations	Site Map	Organization
Speeches/Testimony	Accident Reports	Glossary of Terms	Across the Board
Databases	Annual Review of Aircraft	Org Chart	Office Locations
Accident Dockets	Accident Data	FAQs	Investigative Process
Training Center		FOIA	Directions to Conference Center
Safety		No Fear	Board Members
Recommendations		Privacy Statement	Contact Us
Strategic Plan, Performance & Accountability Reports & More			Employment
			Web Policies & Notices



ROGER H. MITCHELL, PH.D., MBA

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Bow, Washington 98232
360.766.8914
rmsendit@startouch.net

The Board of Skagit County Commissioners
1800 Continental Place
Mount Vernon, Washington 98273

19 September 2011

re: Proposed pipeline safety regulation

Dear Commissioners,

As you consider ideas for the pipeline safety proposal, please consider this bigger picture thought, not only with regard to the proposed pipeline safety regulation at hand, but also for any and all new County regulation proposals in the future.

Premise: The main intent of any regulation is compliance by the people to whom the regulation applies.

One significant barrier to compliance is the regulated person's failure to understand what is being required. The principal reason for that failure to understand is the language that is often used by the regulating entity.

Throughout history, the use of arcana, jargon, and bureaucratese was done purposefully to obscure and fog the actual intent of the rules. High priests used this tactic to ensure they were the only ones who could correctly interpret the rules.

A cynical person (a group I believe is growing rapidly due to the way the Planning Department has handled the entire pipeline safety proposal) might believe regulatory bureaucratese is intentional. A perfect example of bureaucratic jargon is "sensitive utility corridor overlay". This *not* a term immediately understood by the property owner. It requires "interpretation" of its meaning, or of the property owner's compliance, by the Planning Department. Sadly, it is not just the Skagit County Planning Department that is guilty of such gobbledygook, it pervades every level of government.

Regulatory compliance comes from clear, simple understanding by those being regulated. Perhaps one significant legacy of the Board of County Commissioners could be to direct County agencies to use common, simple language for all future regulations. Eliminate jargon, gobbledygook, and bureaucratese. Use only everyday language as a first step in making regulations easily understood by the reader. The goal should be that anyone you pull in off the street can read and easily understand any regulation without the need for "interpretation" by the issuing government department.

Thanks

Best regards,



Roger H. Mitchell

September 19, 2011



Skagit County Commissioners
1800 Continental Place
Mt. Vernon, Washington

Re: Written Comments
September 12 Hearing re:
Recovery of PHMSA Technical Assistance Grant Intent

Dear Commissioners,

On September 12, several people tangentially or recently involved in this referenced the thousands of hours citizens were forced to spend protecting our land. None of you acknowledged the level of effort with a facial tick, let alone an apology. Just like \$12 billion/month spent on war doesn't soak in as \$451/second to most Americans; thousands of hours is money and real time lost forever.

To help you comprehend what this required, I translated the thousands of hours into a Citizens Invoice in the amount of \$1,062,693.75, which is attached. It cost Skagit citizens the amount of the TAG funding for the entire nation to protect their property from the abuse of one \$50,000 grant in the hands of Skagit employees. This must be the last time. Camp Run-A-Muck needs to be closed down immediately.

Attached is "A Way Out", my name for a preliminary work plan leading to the implementation of a final public pipeline safety work plan. We first presented a viable Plan B in June, but it was ignored by staff and elected officials alike. Using this approach, CAPS volunteers would be able to teach county staff professional approaches heretofore not seen locally. There is a tremendous amount of education, experience, and talent waiting to channel the rage this generated into a positive outcome for the community.

An "Alternative Next Steps" work plan has also been developed as another possible use for the unprecedented citizen synergy generated by this situation, but "A Way Out" would be more fun. Both offer opportunity for positive change.

For "A Way Out" to be successful, obvious staff adjustments must occur. Recommendations and reasons are attached. When the procurement process for the bulk mailing "private vender" is reviewed, more adjustments may be necessary.

Don't worry! My involvement will be temporary (to help implement "A Way Out"), and then intermittent throughout the actual work plan. Beginning in January, my

plans already include lengthy periods in Thailand and Haiti, available only via internet and Skype for several months.

The Commissioners have chance to make a vast improvement in a rotten situation overdue for overhaul. You have the tools and justification to correct many problems, and would have bi-partisan support from a cross section of Skagit County never before seen together in the same room. People are ready to work on this!

"A Way Out" would also start restoring credibility in the pipeline safety community. Ken Dahlstedt had a taste of what's out there. Let's try and change that before the annual pipeline safety convention in New Orleans in November. Although I've joked my way through, as Carl did, it's embarrassing, and will definitely be a topic this year. Would be nice to have it be a story of recovery instead of a roast. Another one of those heroes or bums scenarios.

This is the last, best and final chance to join the Planning Commission as heroes and not continue to defend ethically bankrupt county employees as bums. Please take it.

Finally, I have two excellent DVD s about the Bellingham Pipeline Explosion. One I used to lobby for the pipeline safety bill in 2001/2002 and it is very powerful. Much more so than the usual stock stuff you've seen. The other is a Discovery show about the NTSB investigation. It goes into great detail about what happened at the **Bayview Pump Station** that **caused** the Bellingham explosion. Skagit County could have prevented the explosion if pipelines were governed by the same standards as waterlines. (They still aren't.) When I approached the planning staff about this as the vice chair of Governor Locke's charter Citizen's Pipeline Advisory Committee in 2001, they weren't interested. Let me know if you'd like a copies of these excellent educational pieces and we'll make arrangements to burn copies.

Looking forward to positive progress on this. Also attaching an old project list to see if perhaps I can lose the "crazy loon" designation by providing evidence to the contrary! :-)

Cordially,



Sarah Spence
1922 Barrel Springs Road
Bellingham, WA 98229
360/319-3085

Citizen Invoice

Defending Property against Government Taking

Invoice for services necessary to protect private land from government taking, abuse of federal funds, and lack of political or administrative leadership. Hours are understated.

MAY 1

THROUGH SEPTEMBER 15, 2011:

Citizens:	Hours	Rate	Extension	
Ken Meyer	50	\$125.00	\$6,250.00	
Nancy Meyer	50	\$125.00	\$6,250.00	
Greg Bormuth	50	\$125.00	\$6,250.00	
Maggie Sullivan	500	\$125.00	\$62,500.00	
Ed Stauffer	500	\$125.00	\$62,500.00	
Sondra Stauffer	500	\$125.00	\$62,500.00	
Tom Henry	50	\$125.00	\$6,250.00	
Mary Henry	50	\$125.00	\$6,250.00	
Kathy Mitchell	500	\$125.00	\$62,500.00	
Ed Mitchell	300	\$125.00	\$37,500.00	
Sarah Spence	500	\$125.00	\$62,500.00	
Paul Bouslog	100	\$125.00	\$12,500.00	
Bill Knutzen	100	\$125.00	\$12,500.00	
Bill Wallace	100	\$125.00	\$12,500.00	
Mike Newman	100	\$125.00	\$12,500.00	
Other Citizens Time in Hearings avg. 60 people x 4 hearings x 3 hours	740	\$125.00	\$92,500.00	
Subtotal Citizen Time	3150	\$125.00		\$523,750.00
Concerned Professionals:				
Paul Taylor, Atty (est. hourly rate)	50	\$250.00	\$12,500.00	
John Ravnik, PE (est. hourly rate)	50	\$200.00	\$10,000.00	
Mr. Stowe (commercial appraiser)	50	\$200.00	\$10,000.00	
Subtotal Concerned Professionals				\$22,500.00
Reimbursable Expenses				
Bouslog Atty Fees (est.)			\$30,000.00	
Mileage (200 miles each, estimate)				
70 autos @ 150 miles = 7500 miles	8500	\$1.25	\$10,625.00	
Printing/software costs (estimate)			\$250.00	
Sub-Total Due Citizens for Attempted Taking				\$587,125.00
ITP Surcharge for Commissioners' Failure To act in a timely Manner to Mitigate Damage to Citizens 15%			\$88,068.75	
Sub-total Due Ordinary Citizens for Bad Government Actions				\$675,193.75
Planning Commission <u>Volunteer</u> Hours Converted to Billable Time				
Jason Easton & Carol Easley (500 each)	1000	\$125.00	\$125,000.00	
7 other Commissioners @ 300 hrs. each	2100	\$125.00	\$262,500.00	
Subtotal Wasted Time of Dedicated Volunteer Citizens				\$387,500.00
<u>GRAND TOTAL thru 9/15/11</u>				<u>\$1,062,693.75</u>

(More than all the TAG funds awarded nationwide.)

A Way Out

Task Name	Assignments	Notes
RIF/Personnel Changes	Commissioners	
Candid discussions with involved staff re: options	Commissioners	
Complete review of planning department policies and procedures	To be determined, Finance Director	
Reconcile grant funds remaining as of 6/24/11	Finance Director, To be determined	
Finance Director to accumulate costs through June 24, 2011	Finance Director, CAPS volunteers	
Provide to CAPS to develop budget and preliminary workplan	Finance Director, County personnel	
Build teams, not walls	Everybody	
Establish Citizens Alliance For Pipeline Safety 501c3	CAPS volunteers, County personnel, Commissioners, All interested citizens	
From grant funds, pay costs to establish PHMSA approved non-profit (likely volunteer services for most of it)	Commissioners	
Officers chosen by interested citizens	CAPS volunteers, All interested citizens	
Temporary CAPS representative (lowest legal title) Sarah Spence to negotiate grant modification with PHMSA		
Public Works assumes County "lead", working cooperatively w/ CAPS	County personnel	
Develop Workplan and Schedule	Sondra Stauffer, Ed Stauffer, Bill Wallace, Paul Taylor, Sarah Spence, County personnel, Kathy Mitchell, Roger Mitchell, Maggie Sullivan, CAPS volunteers, All interested citizens	
CAPS to lead in coordinating notification mailing	County personnel, Kathy Mitchell, CAPS volunteers, Finance Director	
Include preliminary landowner information survey with bulk mailing to save \$\$\$ (prepared by CAPS)	Sarah Spence, CAPS volunteers	
Hold evening information meeting to explain next steps	County personnel, CAPS volunteers	
Conduct Saturday workshop (or whatever day evening meeting consensus indicates)	County personnel, CAPS volunteers	
Finalize workplan and schedule	To be determined, County personnel, CAPS volunteers, Finance Director, All interested citizens	
Go to work	Everybody	
Process open to all interested citizens	Everybody	
Clear and concise schedule and budget	CAPS volunteers, County personnel	
Inclusive of citizen input, not dismissive	Everybody	
Implement Workplan		
Establish sub-committees for individual tasks	All interested citizens, CAPS volunteers, County personnel	
Establish sub-schedules for individual tasks	Work Plan Committees, CAPS volunteers, County personnel	
Go to work	Everybody	
2012 Grant Application	Work Plan Committees	
Establish CAPS sub committee to work on grant application	Work Plan Committees	
Draft scope of work to continue activities begun with remaining funds	2012 TAG Application Committee, Work Plan Committees, CAPS volunteers, All interested citizens	
Look Ahead Plan		
CAPS establishes grant sub committee to develop application	County personnel, CAPS volunteers, All interested citizens	
CAPS submits 2012 TAG as lead with Skagit County	2012 TAG Application Committee, CAPS volunteers, All interested citizens	

A Way Out

Task/Name	Assignments	Notes
Consideration of CAPS/Skagit County becoming signators on the federal rulemaking petition	Commissioners, CAPS volunteers, 2012 TAG Application Committee, County personnel	
Shift the paradigm from good ole' boy to responsible government procedures	Everybody	
Create a Citizens Alliance for Pipeline Safety qualified to apply for future PHMSA grants	CAPS volunteers, Commissioners, All interested citizens	

September 19, 2011

Skagit County Staff Adjustments
Recommendations and Reasons

Recommendation:

In order to truly have the "blank piece of paper" Sharon Dillon held up last Monday, all staff responsible for this costly fiasco must be given the chance to pursue other opportunities or be terminated for cause effective October 5, 2011.

Reasons for Termination:

Gary Christensen – In charge of staff who openly planned to divert funds and not comply with the grant work plan. Instead they attempted unconstitutional taking with no legal review required by statute, used character assassination and threats as defense, and exhibited a stunning lack of planning skills and ethics. Christensen's insistence on meeting with each planning commissioner individually without witnesses is unprecedented in my professional experience. Having only recently read his e-mail where he predicted not passing an ordinance was "unlikely", perhaps a third party investigation into his motive is appropriate.

Kirk Johnson – Openly and in writing planning to divert federal tax dollars intended for technical assistance grants to "plug a shortfall" in the budget, even if it wasn't in the grant work plan. Violation of federal laws against fraud, waste, and abuse. Violations to Ethics Code of AICP. Abusive use of power. Audibly muttering "This is bullshit" in a hearing where the public was asking for more input.

Carly Ruacho – As lead on the federal grant, failed to honor the promises made to obtain the funds, lied about the process at a public hearing, openly violated the Public Disclosure Act, and failed to provide planning services in the best interests of the citizens of Skagit County, preferring instead to make veiled threats to citizens.

Will Honea – General failure to manage conduct of county staff with respect to lawsuit generating behavior. Failure to require staff compliance with state statutes. Allowing an ordinance clearly a taking to proceed. Failure to require the analysis of any regulation to ensure it is not a taking, against direct order of the AG in support of RCW 36.70A.370.

Specific to ensuring the ordinance was not a taking, Honea did not:

1. Distribute the AG advisory memorandum, "Avoiding Unconstitutional Takings of Private Property".
2. He did not require the staff to use the "Warning Signs" listed in the

- memorandum to evaluate the proposed ordinance(s).
3. He has apparently not developed an internal process for assessing constitutional issues.
 4. He apparently has not incorporated Constitutional Assessment into the Planning Department's review process.

Honea's failure to take charge himself once the staff plan was exposed as a bad faith land taking was the proximate cause of costing the citizens of Skagit County hundreds of thousands of hours of time, legal fees, and expenses.

Honea's decision to put a very young, inexperienced lawyer in charge of an unprecedented and volatile situation exacerbated the situation due to the level of camaraderie between staff and legal counsel. Walters' contempt for citizens was palpable. This fueled the tendency of county staff to use character assassination as a first line of defense, lulling you, the elected County Commissioners, ^{into} a false sense of business as usual when it was anything but.

Ryan Walters – Generally poor, extremely inexperienced, performance overall. The second draft of the ordinance was indecipherable, draconian jibberish. His suggestion to Ruacho she wear a tee-shirt saying "I'm the One Who Stole the Grant" to a hearing was spurious and unprofessional. It fed the glee of character assassination. Ineffectual legal guidance, poor client management skills, poor writing skills, poor people skills.

The conduct of both attorneys should probably be reviewed by the Washington State Bar Association Disciplinary Committee. Professionally, it was shoddy, and the rumored ethics of their employment is also troubling, though I will reserve final judgment until I speak with Sharon Dillon to personally confirm the rumors.

During this fiasco, it was explained many times both Honea and Walters worked on Sharon Dillon's election campaign allegedly as campaign manager and finance manager. Apparently both then became employees of Skagit County after the election? Political patronage is not the way to hire competent legal counsel! Please confirm or refute this rumor, Sharon. I voted for you because you promised to change the way business was done by county government. That wasn't the sort of change I was looking for.

Sarah Spence

1922 Barrel Springs Road
Bellingham, Washington 98229
360/319-3085

730 West Ridge Drive
Omak, WA 98841
509/826-1723

e-mail: birdsongfarm@netzero.com

Primary Employers

Morrison-Knudsen Company, Inc.
MK Engineers
MK Environmental Services
Construction Consulting (owned by Spence)
Jack Woodman & Associates, Architects
Howard Anderson & Associates (Project Management)
Armstrong & Armstrong (father's company – youthful nepotism)

Positions Held:

Project Director
Project Manager
Regional Contracts Manager
Contracts Manager
Senior Construction Engineer
Owner's Representative
Cost Engineer
Drafter
Clerk of the Works
Laborer

Projects on which Sarah Spence has been involved at management level:

Morrison-Knudsen:

- Denver International Airport, Denver, CO – Contracts Manager
- Long Beach/Los Angeles Light Rail Main Yard & Ops Center, Long Beach, CA – Sr. Construction Engineer
- Intermodal Container Transfer Center, Long Beach, CA – Sr. Construction Engineer
- Kenai Peninsula Borough '85 School Projects, Soldotna, AK – Contract Administrator
- Providence Hospital Project 90's Expansion, Anchorage, AK – Sr. Construction Engineer
- Various Environmental Projects, Central US – Regional Contracts Manager

Construction Consulting:

- City Parkade Expansion, Bellingham, WA – Project Manager
- Bellingham City Hall Remodel – Project Manager
- Bellingham Aquatic Center – Project Manager
- Whatcom Transportation Authority Capital Projects Program – Construction Program Manager
- Lynnwood Convention Center – Project Director

Sarah Spence
Project List
Page 1 of 4

Client: South Snohomish County Public Facilities District
Title: Capital Projects Program Director
Project: Lynnwood Convention Center and Public Facilities Campus Master Plan
Value: \$32 Million
Duration: June 2001 – December 2002

Responsibilities: Responsible for defining, scoping and programming a conference/convention center. Tasks included developing the project, confirming its' feasibility, site selection, property acquisition, supervising preliminary schematic design, development of the cost estimate, completion of funding applications, selection and contract negotiation with design team, design management, developing three separate construction contracts, and managing environmental assessment/mitigation tasks. Other responsibilities include review of public/private proposals, site selection and acquisition due diligence, and limited participation in financing activities. Note: Project was just named "Best New Building in Western Washington" by KING TV's Evening program.

1998-2000 – Personal representative for parents' estate. Responsible for supervising probate; asset inventory, valuation, and distribution; federal and state estate tax returns.

Client: Whatcom Transportation Authority
Project: Capital Projects Program
Value: \$20M
Duration: 1995-1998

Responsibilities: Construction program manager for transit authority's long term capital projects planning, design, and construction. Proposed projects were three Park & Ride facilities and a maintenance/administration base. Duties included assisting with designers' selection, master scheduling, budgeting, monitoring grant procurement activities, coordination of site selection teams, environmental clean-up of a site previously purchased, construction management, and other tasks focused on helping a cumbersome agency complete a construction project.

Client: City of Bellingham
Project: Bellingham Aquatic Center
Value: \$4M
Duration: 1993-1995

Responsibilities: Retained by City when project design was over-budget. Coordinated re-design, implemented value engineering effort, administered bid process, supervised actual construction and project close-out. Project completed on time, within budget, and dispute free.

Sarah Spence

Project List

Page 2 of 4

Client: City of Bellingham
Project: City Hall Remodel.
Value: \$3M
Duration: 1993-1994

Responsibilities: Owner's construction manager for extensive renovation of City Hall while keeping it fully open and functional. Oversaw design process, value engineering, bid process, actual demolition and construction, and project close out. Project completed on time, within budget, and dispute free.

Client: City of Bellingham
Project: Parkade Expansion
Value: \$3M
Duration: 1992-1993

Responsibilities: Owner's construction manager for addition to existing downtown parking garage with main floor retail shops. Parking garage and retail shops remained open to the public throughout construction, which included post-tensioned concrete decks. Coordinated permitting process, managed construction contracts, coordinated tenant requirements, project closeout. Project completed on time, within budget, and dispute free.

Client: Jim Jannard
Project: various
Value: \$2M
Duration: 1991-1992

Responsibilities: Assist Jim Jannard, founder and CEO of Oakley, Inc. with design and construction issues relating to properties he had purchased in the San Juan Islands.

Morrison-Knudsen

Name: MK Environmental Services – Central Region
Title: Regional Contracts Manager
Value: NA
Duration: 1990
Owner: various

Responsibilities: Regional contracts manager for environmental services division.
Reason for leaving: Resigned to return to the Northwest (Bill Agee's tenure as CEO of Morrison-Knudsen was already showing its effects).

Sarah Spence
Project List
Page 3 of 4

Project: New Denver Airport (Denver International Airport) – Denver, Colorado
Title: Contracts Manager
Value: \$3.8 Billion
Duration: 1988 – 1990
Owner: City and County of Denver
Responsibilities: Manager of Contracts for design and construction. Structured selection process for 100+ design contracts, developed construction bid packages, and wrote general conditions for construction contracts.
Reason for leaving: Re-assigned to different MK subsidiary, promotion, salary increase.

Project: Los Angeles/Long Beach Light Rail Main Yard & Operations/Aerial Structures – Long Beach, CA
Title: Senior Construction Engineer
Value: \$25M
Duration: 1987-1988
Owner: Los Angeles County Transportation Commission
Responsibilities: Project buy-out; subcontract negotiation (30+ subcontractors), preparation and administration, permanent material procurement.
Reason for leaving: Assigned to new project, more responsibility, and salary increase

Project: Intermodal Container Transfer Facility – Long Beach, CA
Title: Senior Construction Engineer
Value: \$40M
Duration: mid 1986-1987
Owner: Joint venture of Southern Pacific Railroad/Ports of Los Angeles & Long Beach
Responsibilities: Original management team was totally replaced. Evaluation of existing job costs and changes, Owner change negotiations, management of 56 subcontractors, management of permanent material suppliers, assistance with claim preparation.
Reason for leaving: Project closed out.

Project: Kenai Peninsula Borough '85 Schools – Soldotna, AK
Title: Contract Administrator
Description: Construction of 4 new schools and 2 remodels.
Duration: 1986
Owner: Kenai Peninsula Borough
Value: \$85M
Responsibilities: Responsible for the preparation and bidding of 30 separate bid packages for construction.
Reason for leaving: Assigned to new project, more responsibility, and salary increase

Sarah Spence
Project List
Page 4 of 4

Project: Providence Hospital Project 90's, Anchorage, AK
Title: Senior Construction Engineer
Duration: early 1985- mid1986
Owner: Sisters of Providence
Value: Program was divided into several projects and phases. Total value: \$500M
Primary involvement was with Phase III - \$85M – Trauma Center, ICU/CCU, Radiology, and patient tower.
Responsibilities: Subcontract administration (40+ subcontractors) procurement of permanent materials, cost accounting, change orders, submittal review,
Reason for leaving: Assigned to new project, more responsibility, and salary increase

SCHEDULE OF FEES
CONSTRUCTION PROGRAM MANAGEMENT SERVICES

Construction Consulting rates are generally less than the usual construction program management fees, and our services usually save a client more than we cost. Fees are established using the Ellerbee ITP* Sliding Scale. Simply stated, we'd rather help keep a project out of trouble than help get one out of it. (Life is short.)

Involvement:

Pre-Design	\$110.00/hour
After A/E Under Contract	\$115.00/hour
After Bids are Opened	\$120.00/hour
Partnering Facilitation	\$110.00/hour
After First Dispute	\$140.00/hour
After Attorneys are Involved	\$165.00/hour
Expert Testimony	\$175.00/hour
Project Reconstruction	\$250.00/hour

Pre-approved reimbursable expenses and sub-consultant invoices are billed at cost +5% administrative mark-up.

For budgeting purposes, fees tend to range between 2.5%-4% of project costs. Often our services replace those otherwise necessary, such as force accounting, estimating, and our client's own internal administration of the project.

*Indignity to Person

BELLINGHAM:
1922 BARREL SPRINGS ROAD
BELLINGHAM, WA 98226
360.724-0580
E-MAIL: birdsongfarm@netzero.com

OMAK:
730 WEST RIDGE DRIVE
OMAK, WA 98841
509.826-1723

209 prospect street
bellingham, washington 98225
:: 360/734.4744
:: 360/733.2696
www.zervasgroup.com



May 8, 2003

Sarah Spence Recommendation Letter

To Whom It May Concern:

It has been my pleasure to work with Sarah Spence on three separate projects over the last 10 years; the Bellingham Swimming Pool (Ame Hanna Aquatic Center), the Whatcom Transportation Authority (WTA) Maintenance Operations & Administration Base and most recently, the Lynnwood Convention Center.

In each case, Sarah acted as the Owner's Project/ Construction Manager. To say that, I feel, minimizes the role she played however. Based on my experience, her involvement went well beyond what would normally be expected of the job title. On the Lynnwood project for example, she handled a wide variety of tasks including: Grant writing, Pro-forma, budget, schedule, contracts, board liaison, coordination with regulatory agencies, design team members and legal counsel, property acquisition and more.

Sarah has developed a reputation for maintaining budgets and schedules. She always has the best interests of the Owner as the number one priority with an attitude of "what's best for the project".

Her extensive construction phase experience enabled her to adapt to the varying situations of these projects. She establishes an excellent rapport with the contractor, engineers and Owners. The result is a more successful and enjoyable project.

As an example; her foresight in preparing the General Conditions and her management of the construction phase resulted in virtually no change orders on the very challenging Aquatic Center project which allowed the Owner to purchase much needed equipment.

Most of her expertise relates to public projects with a particular emphasis on dirt work and utilities. On the WTA project, she discovered severely contaminated soils prior to construction and devised a strategy that met with regulatory approval, allowed the contractor to cover or encapsulate the material and thus save the Transit agency tens of thousands of dollars and considerable time.

In my 22 years of experience, Sarah is the most accomplished project manager I have worked with. I recommend her highly. Please feel free to contact me directly for further information.

Sincerely



Terry Brown, AIA
Principal
Zervas Group Architects
734-4744





George Robertson Associates Inc. PS

Public Assembly
Architecture
Planning
Management

Monday, May 05, 2003

Sarah Spence
730 W. Ridge Drive
Omak, WA 98841

Lynnwood Convention Center


Dear Sarah

I just wanted to write and thank you for the terrific job you did with the Lynnwood project. We started with the City several years before your hiring and we went through a long site evaluation and selection process that might have been shortened considerably had they retained your services earlier. Your experience and straight forward approach to getting the site assembled and all the due diligence and environmental issues cleared made it look easy.

It is unfortunate that the board chose to try to offer less than appraised values in the takings of some of the parcels because it seems to have slowed progress considerably on the final property acquisitions. I think, that barring the litigation over the takings that resulted from the low offers, the design and preconstruction work could have completed in time to avoid earthwork construction in the winter as you planned. It looks like we will find ourselves in the mud given the legal delays.

I particularly want to let you know just how important your farsighted project cost planning was in setting up the project up for success. When we first estimated the construction cost and you were assembling and "guesstimating" the probable costs of all the development cost, environmental and property acquisition costs, I wondered how we could ever need the contingencies that you set out. It has turned out that your savy cost planning accomodated the unpredictable costs that are normal to a large complex project and that made them, in this project, anything but unforeseen. Those farsighted projections were crucial to the project success. We will get this built and no matter who finishes it they are building on the foundation you laid and working with the resources you gave them. I enjoyed working with you and I hope we get another opportunity to work together.

Sincerely,



George Robertson AIA

3416 19th Avenue South Seattle, WA 98144-6706 TEL 206.723.4200 FAX 206.721.1986

E-mail: george.robertson@consultgra.com internet: <http://www.georgerobertson.com>



CITY OF BELLINGHAM
OFFICE OF THE MAYOR
TIM DOUGLAS

June 21, 1995

TO WHOM IT MAY CONCERN:

Sarah Spence has done an exceptional job managing two major construction projects for the City of Bellingham. Her ability to establish solid working relationships with others, to create incentives for good performance and to dependably carry out her responsibilities are Sarah's trademarks. I can recommend her to you without the slightest reservation.

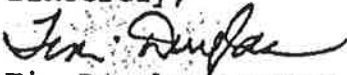
Sarah's first project was a \$3 million renovation of City Hall. Offices had to remain open for business with minimal interruption, while significant structural work had to be done. Sarah ran interference both for the contractor and for affected City departments. The project was completed on time and went very smoothly.

Our second project has been the construction of a municipal swimming pool. We are within budget and on time. Sarah has introduced a program of sharing the savings from cost saving opportunities identified by the contractor. She has kept in close liaison with an adjacent elementary school. She has steered us to fiscally prudent change orders and an exceptional working relationship with the contractor and neighbors as each stage of the project has progressed.

Sarah Spence has a wonderful sense of humor. At the same time she is a business-like, no-nonsense problem solver. She is always on top of any question which comes up. Sarah has an uncanny ability to understand the needs of both the contractor and the project owner and to find win-win solutions.

While the City of Bellingham has many highly motivated and productive employees, Sarah Spence has been outstanding in setting a performance standard. Again, I enthusiastically recommend her to you. Should you have any questions at all, please do not hesitate to contact me.

Sincerely,


Tim Douglas, Mayor
City of Bellingham

JONES
ENGINEERS, INCORPORATED

CONSULTING
ENGINEERS

29 August 1995

Sarah Spence
Construction Consulting
198 Barrel Springs Road
Bellingham, WA 98226

Dear Sarah,

As a member of the City of Bellingham Parks and Recreation Advisory Board, and as that board's representative on the Bellingham Aquatic Center design committee and construction liaison, I want to personally thank you and congratulate you for a job well done.

You came on board as a volunteer on the design committee at a time when the municipal pool project was over budget and behind schedule. Your volunteer efforts were instrumental in paring the project down to meet its fiscal restraints. Your insight to requirements for project plans and specifications steered the architect so that we would have a very nearly air tight set of plans and specs.

By the time the project went to bid, you had been hired as the City's project manager. Due in no small part to your early involvement, and then as manager during the bid process, we had a viable project. You will recall that only one bidder was low enough to meet the budget. Had we not successfully removed the extras from the bid documents, the project would have been dead in the water at the bid opening.

We went to construction with less than a 5% contingency. This was with a project where between 1/3 and 1/2 of the dollars were to be spent on underground improvements. When we were done early this month, we were not only on time, and under budget, but able to add several amenities back in to the project which had initially been deleted. These things were in no small part due to your efforts:

1. Your initial involvement with the checking of the plans and specifications was instrumental in removing conflicts in the plans.
2. Your addition of a value engineering clause to the contract allowed the contractor to make suggestions to save money for both himself and the city. The City had never done this before. Your leadership was crucial for them to try this.
3. As project manager you set the tone for the City, architect, design team subcontractors, prime contractor, and subcontractors to work together as a team so that every one was working on the same side and for the good of the project.

I have been involved in many construction projects as a design engineer, and project manager. Never have I seen a project go so smoothly. Yes, we had everybody's dream of a good prime contractor. You, however, as the owner's representative, set the tone, and things followed from there.

Please feel free to use my name and this letter as a reference. Any potential clients are welcome to call me. Thanks again for all your efforts in making the new Bellingham Aquatic Center a success.

Sincerely


David New

851 Coho Way Suite 307
Bellingham, Washington 98225

(206) 733-8888 • FAX (206) 733-7533

CIVIL ENGINEERING / LAND SURVEYING



IMPERO

CONSTRUCTION COMPANY

February 8, 1995

Re: Sarah Spence

To Whom It May Concern:

We have worked very closely with Sarah Spence on the Fifth Floor Addition for the City of Bellingham Parkade. Impero Construction Co. was the general contractor on the project and Sarah was hired directly by the City of Bellingham to be administrator and inspector for the city. We had an excellent relationship on this project with the City of Bellingham, which was totally attributable to Sarah. Sarah was fair both to the City and to represent our position on issues.

We have also been involved with Sarah on other engineering projects and our relationship was the same.

Please call if you need further information.

Sincerely,

IMPERO CONSTRUCTION CO.

Michael Impero



2041 EAST BAKERVIEW ROAD • BELLINGHAM, WASHINGTON 98226-9175
PHONE (360) 733-7052 • IM-PE-RC-12360R • FAX (360) 733-7141



In Bellingham, the study found.

- About 270 smokers quit because of COMMIT.
- About \$750,000 was spent on the program here.
- 34 percent of employers banned smoking in the workplace.
- 52 percent of employers set up design-

nated smoking areas.

- 27 percent of employers offered help or encouragement for employees to stop smoking.
- Many restaurants and all doctors' offices banned smoking.
- More ninth-graders were smoking at

the end of the study than at the start.

■ Youths in Bellingham found it easier than youths in Kelso-Longview, Bellingham's comparison city, to buy cigarettes.

"We know now that communities can organize to help smokers quit," said Bei

See COMMIT, Page B3, Col. 1

possibly gang-related, Watling said.

Investigators later determined the older boy was involved, after questioning him and two other boys who also were at the house, he said. The 17-year-old was released pending review by prosecutors. None of the boys are believed to be gang members, Watling said.

Construction of public pool going swimmingly

COMMUNITY: City's \$3 million facility on Lakeway Drive to open on schedule Aug. 1.

BY KATHY SHEEHAN
THE BELLINGHAM HERALD

Despite the nippy weather — or maybe because of it — Pat O'Brien didn't have any trouble envionsting her grandchildren frolicking in a new city swimming pool next summer.

Touring the construction site for Bellingham's first public aquatic facility Monday with members of the City Council, O'Brien had only warm thoughts for the expected opening of the pool in August.

"We're part of the small people that have been fighting for this for so long," said O'Brien, a former swimming instructor at Bloedel-Donovan Park and at Western Washington University. "We've worked long years on this thing. It's nice to be seeing something come to fruition."

Indeed, the effort has taken nearly 50 years, eight ballot measures and a whopping \$1.4 million in private donations from local businesses and individuals like O'Brien.

O'Brien said she doesn't swim much any more, but is "eager" to have her grandchildren begin swimming lessons at the pool, on the site of the former Downer Field on Lakeway Drive.

The \$3 million facility is expected to open on schedule Aug. 1, exactly 12 months after ground-breaking ceremonies were held, according to Parks and Recreation Director Byron Elmendorf.

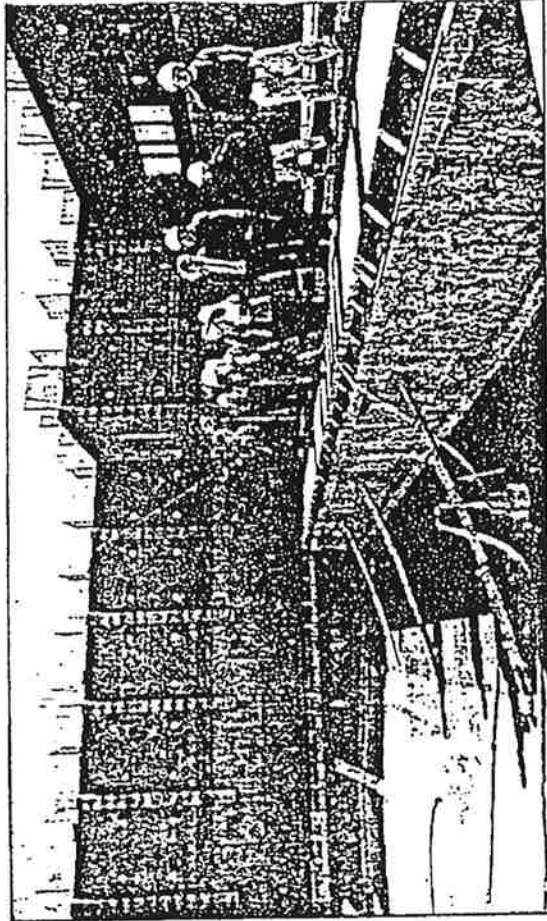
Sarah Spence, the city's construction consultant for the project, promised council members and Mayor Tim Douglas there will be no cost overruns by Sirengholt Construction, the general contractor.

In fact, she said, there will be at least a \$20,655 savings for the city, due to a contract clause that allows the contractor to suggest cost-cutting changes to the city's original design. Under the "value engineering" concept, the contractor keeps 30 percent to 55 percent of the cost-savings if the city agrees to the change orders. (The city's share is almost \$21,000.)

"The idea is to encourage the contractor to think of ideas that save money," Douglas said, in the manner of the "reinventing government" approach made popular by Democrats in Washington, D.C.

The city will also be able to use between \$60,000 and \$90,000 in interest earnings to pay for lockers, furniture and other items not included in the \$3 million construction contract. The interest is from money held aside for the project but not yet paid out to the contractor.

Wearing hardhats and carefully stepping around construction equipment, the group viewed the four concrete pools (one each



PHILIP A. DWYER HERALD PHOTO

MOVING AHEAD: Members of the Bellingham City Council tour the construction site for the new public pool Monday at the former site of Downer Field off Lakeway Drive.

for lessons, diving, lap swimming and hydrotherapy), storage areas and pump room.

At a meeting later in the day, council members did not press Elmendorf on an earlier request to consider hiring an outside contractor to operate the pool once it's opened.

Elmendorf said plans are already in the works for hiring up to five full-time staff members and about 40 part-timers who will serve as lifeguards and instructors.

The consensus on the council, said Councilman Bruce Ayers, is to allow city workers to run the pool for the first year and then evaluate how to proceed from there.



WILD RIDE: Workers install the 135-foot-long water slide Wednesday at the Bellingham Aquatic Center off Lakeway Drive. Bellingham City Council members have been kidding Councilman Arne Hanna, a longtime pool supporter, about being the first to try out the ride.

Pool to open on time, under budget

COMMUNITY: \$3 million Aquatic Center begins operation in August.

BY KATHY SHEEHAN
THE BELLINGHAM HERALD

Who will be the first down the water slide when the Bellingham Aquatic Center opens Aug. 13?

Bellingham City Council members and City Hall types have teased Councilman Arne Hanna for months about taking the inaugural 15-second joy ride as one of the pool's early and most ardent supporters.

Well, the 53-inch-wide slide tube bolted into place this week appears big enough for Hanna — and his harassers. And maybe Hanna's great-grandchild and eight grandchildren, too.

The slide is 135 feet long and wraps

around an outside corner of the \$3 million center in a figure-eight loop before emptying into a shallow, indoor pool.

No one really knows who will be the first one down, but that person must take the plunge feet-first and on his/her back to prevent injuries, said Sarah Spence, the city's project consultant.

Riders will drop 16 feet before splashing down.

The city's first public pool and fun slide are "on schedule, on budget and dispute free," Spence said Wednesday.

Community leaders spent nearly 50 years lobbying Bellingham officials to build a pool. After eight ballot measures failed, civic activists began raising money in 1991 when City Council members agreed to build it if private interests picked up half the tab.

The drive netted \$1.4 million. The council kept its part of the bargain last summer

with the city's \$1.4 million contribution, and then threw in another \$200,000 for the water slide to ensure a steady supply of visitors.

The pool center on Potter Street, between Civic Field and Lakeway Drive, also has an eight-lane lap pool, a diving tank, a whirlpool, showers and changing rooms.

Each of the pools will be named for major donors. Donor names also will be inscribed on the edge of the lap pool, one name for each lane, and on an outdoor patio, Spence said.

Hours and rates are yet to be worked out, but the city's new aquatics supervisor, Lori Jacobson, said the city is accepting applications at the Human Resources Office in City Hall for about 25 part-time lifeguard and swimming instructor jobs.

DON ANDERSON HERALD PHOTO

routine maintenance found the decomposed body of a Western Washington University student floating in the company's waste-water treatment lagoon.

Roommates reported Blair C.F. Grandstrom, 20, missing the day before. They had begun to post notices about his disappearance around Bellingham.

The cause of death remains undetermined, said Dr. Gary Goldfogel, Whatcom County's medical examiner.

Grandstrom had no significant injuries, no broken bones, strangulation marks or significant bruising, and no pre-existing medical conditions that would account for his death, Goldfogel said this morning.

He hasn't ruled out drowning and suffocation. Toxicology tests will take about two weeks.

Grandstrom was last seen by a friend at his house about 3 a.m. Saturday after a party at another home in Bellingham, said Eric Titus, one of his three roommates.

The treatment lagoon is accessible from the water or from land by climbing two locked fence gates on the plant property, Sucee said.

"I don't know why anybody would go in the lagoon," he said. "It's pretty ugly. You couldn't mistake it for a swimming hole. The smell would get you."

The mystery is equally baffling to mill officials.

"We are dumbfounded," said spokesman Orman Darby. "We have double fencing, an exterior and interior high fence."

"This is really a rather repelling facility, not one that looks accommodating or See BODY, Page A2, Col. 3

Clinton's logging-plan veto draws praise and criticism

BY ERIN KELLY
HERALD WASHINGTON BUREAU

later this year.

"This isn't the end," pledged Rep. Jim Rynn, R-Ore., who

Smith's Bellingham store to close

BUSINESS: Employees offered transfers, counseling and severance packages.

victim of the weak Canadian dollar in Whatcom County.

"After opening in April of 1991, the store flourished, with a large portion of the business com-

Smith's officials didn't release sales figures, but said the drop was at least 50 percent.

"It was quite a substantial fall off," said company spokesman



Sept 19, 2011

Dear Sharon Dillon, Ken Dahlstedt and Ron Wesen,

At our September 12, 2011 Public Hearing, I submitted to you the attached recommendation for Skagit County Pipeline Safety - something which I believe should have occurred from the onset of the Technical Assistant Grant.

I would like to be a part of and offer my services to this matter.

I can help organize a Community Pipeline Safety Workshop that will introduce fellow community members to relevant issues and allow them to add to the list.

We can draw from that workshop a Community Pipeline Safety Work Committee who would act as a liaison to the community, would delve deeper into the workings of specific issues and who would report back to you.

I am in contact with community members who have vested interests in their field and who are also interested in participating.....ie Bill Wallace - B-E School Board; Allan Rozema - Skagitians to Preserve Farmland; active Emergency Management members; a Forest Advisory Board representative; and engineers who have hands on earth work experience.....to name a few.

I hope you will read and consider my recommendation and in doing so, draw upon the interest and energy of our fellow citizens for the benefit of our community and pipeline safety.

Thank you.

Sincerely,

Maggie Sullivan

Maggie Sullivan

740 Shaw Rd - Alger - 330 feet of pipeline access

360-724-3158

Recommendation (revised):

Have a Community wide Pipeline Safety Workshop.

Out of that Workshop, develop a Community Pipeline Safety Work Committee which would act as a liaison to the community to address pipeline safety concerns and report to the County Commissioners.

The following people should be involved in both:

Landowners with a pipeline easement
Farmers and Foresters
Schools and Utility Districts
Interested members of the public
Developers and Business Owners
First Responders and Emergency Management
Pipeline Company local reps

pipeline safety issues:

- Landowner Awareness
 - Liability
 - Copies of easement agreements
 - Indemnification (legal exemption from liability for damages)
 - Width of easements
 - Leak detection systems
- Earthwork Criteria
 - Depth of cover verification
 - Location of pipelines
 - Restoration work
- Emergency Awareness
 - Emergency management procedures
 - Emergency contact numbers
 - Emergency preparedness & training
 - Block valve locations
 - Livestock, fence, etc. issues
 - Begin development of a plan for a seismic event
- Outreach to school districts & other High Consequence Areas (HCA)
 - Include safety alternatives for existing schools
- Reasonable "consultation" zone

LAW OFFICE OF PAUL W. TAYLOR INC. P.S.

20988 ERIC STREET
MOUNT VERNON, WASHINGTON 98274
(360) 416-6900
FAX (360) 428-0990
ptlaw@cnw.com



September 19, 2011

Skagit County Board of Commissioners
1800 Continental Place
Mount Vernon, WA 98273

Re: Comments on Proposed Transmission Pipeline Safety Regulations

Dear Honorable Commissioners:

I have reviewed the proposed Transmission Pipeline Safety Regulations ("Proposed Regulations") and for the reasons set forth herein, I strongly recommend that you reject both versions of said regulation offered by the Planning Department. In summary, the Proposed Regulations are unnecessary, unduly oppressive and restrictive on adjacent landowners, and constitute a an unconstitutional "taking" under both the Washington State and Federal Constitutions.

1. Proposed Regulations are Unnecessary

a. Pipelines are significantly regulated under Federal and State laws.

The first statute regulating pipeline safety was the Natural Gas Pipeline Safety Act of 1968, which Congress amended in 1976. Congress added liquid pipelines to the statute in the Pipeline Safety Act of 1979. Subsequent bills included the Pipeline Safety Reauthorization Act of 1988, the Pipeline Safety Act of 1992, the Accountable Pipeline Safety and Partnership Act of 1996, and now the Pipeline Safety Improvement Act of 2002.

In addition to information on pipeline safety standards and the agency's rulemakings, you can also find information on special permits, advisory bulletins, state waivers, notices and interpretations of the pipeline safety regulations listed in the Code of Federal Regulations (CFR), Title 49 Parts 190 to 199.

Current Enforcement Responsibilities

1. Design and construction standards for new intrastate natural gas & crude oil/petroleum product **transmission** lines > 15 miles: Energy Facility Site Evaluation Council (EFSEC)
2. Design and construction standards for new intrastate natural gas crude oil/petroleum product **retail** lines and **transmission** lines < 15 miles: Utilities & Transportation Commission (UTC)

3. Design and construction standards for interstate natural gas lines: Federal Energy Regulatory Commission
4. Design and construction standards for interstate natural gas & crude oil/ petroleum product lines: U.S. DOT Office of Pipeline Safety (OPS) - UTC = (inspection only)
5. Safe operations & maintenance of existing intrastate pipelines: UTC
6. Safe operations & maintenance of existing interstate pipelines: OPS & UTC
7. Environmental Damages: Department of Ecology & Environmental Protection Agency/EFSEC for future lines sited under EFSEC jurisdiction
8. Violations of one-call notification & prevention requirements: No state agency is clearly authorized to enforce - Defaults to Attorney General's Office
9. Placement of Interstate Line Markers Placement of Intrastate Line Markers Damage/Removal of Line Markers: OPS, UTC, Pipeline operators & courts
10. Land use, zoning & easement maintenance of easements: Pipeline operators and local governments

Chapter 81.88 RCW Gas and hazardous liquid pipelines provides for state regulation of pipelines.

Since pipelines are well regulated under federal and state law, what is the need for the County to apply draconian restrictions on certain property owners when the real issues is enforcement of existing regulations and statutes? The answer is: there is no reasonable rationale to support further restriction. If lack of enforcement is an issue then it should be addressed through our state and federal elected officials not by a local ordinance.

b. No financial risk to Skagit County taxpayers.

There is no potential risk of financial liability to Skagit County and the taxpayers of Skagit County. I know of no legal theory that would support an action against Skagit County involving failure of the pipelines. It is strict liability for the pipeline operators. The alleged financial exposure is a "red herring".

c. No study or statistics to support that nature of the restrictions.

Where is the data and statistics that support that a real danger or hazard exists to support the proposed restrictions? To argue that these restrictions are beneficial to the public in general as a reasonable restriction related to the general welfare and safety of the public is disingenuous and unsupported by any study, report or other documentation

d. Disclosure / Notice to Landowners is all that is required.

All Skagit County really needs to do is pass an ordinance that requires a written disclosure/notice to potential purchasers that a portion of the property involved is within 500' of a gas pipeline. The wording in the disclosure could be very similar to the wording of the Right to Farm disclosure language. Notice to existing owners of the location of the pipeline with respect to their individual property lines would be appropriate. Notice should be required by pipeline companies to adjacent property owners if any or is being done on a pipeline near the owner's property.

e. Notice to Appropriate County Departments and Contingency Plans

The two county departments that should be notified and have contingency plans of any work being done on the pipelines or in the close vicinity of the pipelines are Public Works and Emergency Management. Each of these department need to be notified of all work being done on the pipelines by the pipeline companies. Each should have a protocol for notifying property owners of any work on lines near their property by the county of pipeline companies. The county should have a emergency contingency pans in the case of a gas line incident

f. Pipeline Company Requirement to Mark All Lines Accurately

All pipeline companies should be required to accurately mark all their lines, inspect them regularly, and provide status reports to the county.

2. Proposed Regulations are Unduly Oppressive and Restrictive on Adjacent Landowners.

a. Affects only a certain number of property owners.

Only a limited number of property owners are affected by this ordinance. Why should these taxpayers absorb the burden and endure the restrictions because they were unfortunate to own property near a gas pipeline. This is neither fair nor reasonable.

b. Restrictions are not commensurate with risk.

If there is a health or risk to the general public or to the property owners for that matter, why can't the individual property evaluate the risk and make decisions according, provided that notice/disclosure is given of the property's proximity to a pipeline? After all, property owners can choose to build in a floodplain and assume the risk of property damage and potential loss of life in a flood event. How is this different?

c. Places shifts economic burdens on landowner away from the pipeline operators.

The pipeline company is subject to a plethora of federal and state regulations all of which involve public safety and environmental protection. Given the potential for financial liability due to a failure of their pipelines, the pipeline operators must carry vast amounts of insurance to cover potential claims to compensate those harmed by failures of the pipelines. Placing additional land use restrictions as proposed, basically shifts a portion of that financial risk to the adjacent property owners. What is the public benefit in shifting this financial burden?

3. Proposed Ordinances Restrictions/Exactions on Land Use Constitute an Unconstitutional Taking.

Challenges to the constitutional validity of land use regulations or decision are most often based upon violation of the property clauses of the United States and Washington Constitutions: due process (5th

Amendment, U.S. Constitution; Art. I, § 3, Washington Constitution); and takings (5th Amendment, U.S. Constitution; Art. I, § 16, Washington Constitution).

a. Federal Constitution.

The Fifth Amendment to the United States Constitution provides: "No person shall be . . . deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation."

The Fourteenth Amendment makes that provision binding on the states.

b. Federal Case Law.

In Lingle v. Chevron U.S.A. Inc., decided May 23, 2005, the United States Supreme Court refocused attention on the ad hoc, factual inquiry of whether the regulation unfairly shifts public burdens onto private owners. Penn Central Transportation Company v. City of New York, 438 U.S. 104, 123-24 (1978). A taking based on an ad hoc, factual analysis is the legacy of the concept of a regulation going "too far." It applies when a regulation has an onerous effect on the landowner, but does not amount to a categorical taking. Lucas, 112 S. Ct. at 2895 n. 8. Types of factors considered in this analysis include the extent of diminution in value, the character of the government action, whether there was interference with reasonable investment backed expectations, and any other facts which tend to show in fairness and justice who should bear the burden of the regulation. Tahoe-Sierra, 525 U.S. at 334 ("Penn Central inquiry into all of the relevant circumstances in particular cases").

The Lingle Court emphasized that this inquiry focuses on the "severity of the burden that government imposes on private property rights." Lingle, 544 U.S. at 539 (emphasis added). The litigant should demonstrate the "magnitude or character of the burden a particular regulation imposes upon private property rights." *Id.* at 542 (emphasis added). When that burden reaches the point where regulation has the practical effect, or is "functionally comparable" to a government appropriation is a taking.

In Pennsylvania Coal Co. v. Mahon, 260 U.S. 393, 415 (1922): "[W]hile property may be regulated to a certain extent, if regulation goes too far it will be recognized as a taking." The foundation for a formula or test to determine when a regulation "goes too far" was laid in Penn Central Transportation Co. v. City of New York, 438 U.S. 104, 123-124 (1978), where the Supreme Court held that such determinations were "essentially ad hoc, factual inquiries" that involve the balancing of the "character of the governmental action" against the "economic impact of the regulation on the claimant and, particularly, the extent to which the regulation has interfered with distinct investment-backed expectations."

This category of regulatory taking arguably fits the proposed ordinance and although it does not fit within other types of takings, it can still constitute a regulatory taking because it applies when the government regulation has deprived the landowner of less than all use of his or her property.

c. State Constitution

Article 1, § 3 of the Washington Constitution provides: PERSONAL RIGHTS. No person shall be deprived of life, liberty, or property, without due process of law.

Article 1, § 16 of the Washington Constitution provides: EMINENT DOMAIN... No private property shall be taken or damaged for public or private use without just compensation having been first made, or paid into court for the owner

Article 1, § 12 of the Washington Constitution provides: SPECIAL PRIVILEGES AND IMMUNITIES PROHIBITED. No law shall be passed granting to any citizen, class of citizens, or corporation other than municipal, privileges or immunities which upon the same terms shall not equally belong to all citizens, or corporations.

c. State Case Law

For purposes of a due process or takings claim, the challenged action must implicate a constitutionally-protected "property right." If it does, then the inquiry is whether the challenged action results in a taking of such property or property right without just compensation or in a deprivation of such property or property right without due process. Less frequent but still common challenges to zoning and land use actions include violation of equal protection.

Washington courts generally apply federal law in regulatory takings cases, whether the takings clause under the Fifth Amendment to the U.S. Constitution or under Article 1, § 16 of the Washington State Constitution is invoked. Although the takings clause in Article 1, § 16 contains slightly different language than the takings clause in the Fifth Amendment, in only one case has a Washington court held that the state constitution provides greater protection than the federal constitution for regulatory takings. See Manufactured Housing Communities of Washington v. State, 142 Wash.2d 347, 13 P.3d 183 (2000) (Washington Supreme Court held that the Washington State provisions relating to takings for a private purpose were more restrictive than their federal constitutional counterparts).

The Washington Supreme Court's analysis of regulatory takings law has gone through several iterations in recent years, beginning with the landmark case of Orion Corporation v. State, 109 Wn.2d 621, 747 P.2d 1062 (1987), cert. denied, 108 S. Ct. 1996 (1988) and culminating in Guimont v. Clarke, 121 Wn.2d 586, 604, 854 P.2d 1 (1991).

The Guimont takings analysis purports to cover all categories of regulatory takings except exactions, which have been separately analyzed in a series of cases culminating in Manufactured Housing Communities of Washington v. State, 142 Wash.2d 347, 13 P.3d 183 (2000). One threshold inquiry in Guimont examined application of the Penn Central balancing test, for it is unique and, at least on its face, different than federal courts' takings analysis. In light of the holding in Lingle, The Washington Supreme will likely in appropriate cases, the essentially ad hoc, factual inquiry as set forth in Penn Central.

4. Other Issues.

a. Other statutory violations.

The proposed regulation may well constitute a violation of RCW 82.02.020 wherein the County is prohibited from requiring landowners from setting aside land as a condition of development unless the dedication is reasonably necessary as a "direct result of the impacts specifically caused by the proposed development." See Isla Verde International Holdings, Inc. v. City of Camas, 146 Wn. 2d 740 (2002) and Citizens' Alliance for Property Rights v. Sims, 145 Wn. App. 649 (2008).

b. RCW 36.70A.370 requires each local government to have a plan for attorney review of all actions to evaluate that administrative or regulatory actions do not result in an unconstitutional taking. It appears that this requirement was not followed during this process.

b. Real purpose is control of land not safety or public welfare.

So why was this ordinance drafted? It certainly was not drafted to protect the public for health and safety concerns. There was no "needs" analysis or "economic" analysis made by the planning staff. There certainly is no specific event or catastrophe or other supporting analysis which would give impetus to the drafting of such a restrictive and unnecessary proposal. So there must be another reason. I am aware that an activist group in Whatcom County spearheaded a new regulation involving pipelines in Whatcom County.

From my review of document obtained from Skagit County through public disclosure and other sources, I have been able to prepare a brief chronology of events which follows below:

December 10, 2008. PHMSA Technical (TAG) Authorization Approved: "to make grants to local communities and organizations for pipeline safety technical assistance".... "to gain funding for technical support in the form of engineering and other scientific analysis of pipeline safety issues and to promote public participation in official proceedings".

January 22, 2010. Skagit County submits TAG Application for \$49,667.00: "Skagit County Planning and Development services staff would manage the project and would include stakeholders and interested citizens in all phases of the regulation development and processing"

October 13, 2010. Press Release by Planning and Development Services after TAG approved by DOT: "The DOT offered the grant to local communities to strengthen the depth and quality of public participation with respect to pipeline safety.".... "The grant will enable Skagit County to acquire technical assistance in the form of engineering or other scientific analysis relating to pipeline safety issues while promoting public participation in official proceedings".

January 18, 2011. From interdepartmental email from Gary Christensen (Gary 140): "Assuming we are going to use \$40,000 from the \$49,000 pipeline grant to cover PDS time (Carly's and Michele's) per the PDS budget needs if not the grant proposal work plan, could you please calculate how much Carly's and Michele's time

that would pay for if the funds need to be expended (and project completed) by August 30th".

" It kind of depends on whether that is dictated by a specific gap in Michele's funding that needs to be filled; or if the grant funds can be used, at our discretion, to cover Carly's and Michele's timer, as long as the help plug a \$40,000 hole in the department budget overall."

January 19 -20, 2011. From Interdepartmental and other emails from the Planning and Development Services Department: "All the work needs to be accomplished by July 30th not August 30th". ; "\$40,000 will pay for 1000 hours of staff time"; "We need to know how many hours of Michele's time will be spent on it so that I know how many hours I need to spend on it to hit the 1000 hours."; "agreed - it would be helpful to know what goal we're needing to hit to cover Michele's time, how that converts into hours/dollars, and what the resulting amount dollar/hours is that Carly will need to work on the project to exhaust grant funds by the grant end date."
Comment: Do I really need to explain to you how bad this appears? If this does not give you pause for real concern, then we have a much larger problem.

February through March 2011. From Interdepartmental and other emails from the Planning and Development Services Department: County personnel contacted *Whatcom County officials and obtained a copy of its ordinance with respect to pipelines.*

April 2011. Draft Skagit County ordinance prepared by Planning and Development Services Department. **Note:** No disclosure of any document reflecting requesting of technical assistance request or any public participation.

Late April or early May 2011. Postcard announcing informational meeting on May 9, 2011: "Don't miss your opportunity to weigh in on this issue." **Note:** Allegedly sent out to 3200 Skagit County residents, but this allegation is disputed by many.

May 9, 2011. Public meeting held by Planning and Development Services Department: Setbacks mentioned, but staff stated that no ordinance had not yet been drafted and details would be available at later date. **Note:** Review of staff emails indicates that new ordinance was drafted (read only) on May 9, 2011.

May 19, 2011. Legal Notice of June 7, 2011 planning Commission meeting on new pipeline ordinance published. **Note:** This proposed ordinance affects and prohibits development on over 15,000 acres of private property.

June 7, 2011. Planning Commission Public Hearing held. Public comments limited to three minutes per person. Deadline for public comments extended to June 24, 2011. **Note:** Of the public comments submitted only one was in favor of the proposed ordinance; that response was solicited by county planning staff from a county official. All other responses were against the proposed ordinance.

July 7, 2011. From Interdepartmental and other emails from the Planning and Development Services Department regarding proposed revised ordinance: "Because the revised proposal falls entirely within the range of options that the public has already commented on - in that some requirements from the original proposal have been removed, and no new requirement have been proposed - a new public comment period is not required."

July 14, 2011. Revised Pipeline Ordinance issued. Revised ordinance still applies natural gas regulations to hazardous liquid pipelines and designates every foot of every pipeline and 500' feet on either side as a Sensitive Utility Corridor.

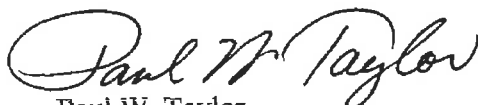
I submit that the entire process was flawed, the grant money was not used for its intended purpose, that substantive and procedural due process were not followed, and those responsible should be held accountable. What is clear is that this proposed ordinance was created without technical assistance and without public participation to cover a budget shortfall and to exercise control of privately owned land not already under restriction, to limit growth and development, both industrial and residential, and to perhaps, establish through indirect and illegal means, wildlife and habitat corridors without having to pay for them. None of these purposes are legal and there should be, and likely will be, consequences for attempting to foist upon certain property owners unnecessary and unreasonable additional restrictions to their property.

Reject this proposed ordinance and its revised version in their entirety and hold accountable those responsible for this embarrassing misuse of public funds. I also recommend you return the grant money to the DOT immediately if that has not already been done.

One final comment. It has been reported that the State Auditor's Office has investigated this matter and found no wrongdoing. I do not believe that the State Auditor has any jurisdiction to investigate misuse of federal grant funds, so I wonder what it investigated. The DOT has its own Inspector General and has jurisdiction over these funds. The toll-free hotline number is (800) 424-9071 per paragraph 23 of the Grant Agreement. Such a call can be made anonymously and confidential. You should be aware of this as you make your decision on the matter.

Based upon my seventeen years as a federal government attorney, the Government Accounting Office (GAO) also has jurisdiction to investigate misuse of funds along with a number of other federal agencies in addition to congressional authority to investigate this matter. This is an important decision, so weigh your alternatives carefully.

Respectfully submitted,


Paul W. Taylor