



Celebrating 10 years

Melissa Horiuchi
Land Records Associate
Chevron Pipeline Company
2875 Decker Lake Dr., Ste. 150
Salt Lake City, UT 84119
Sent Via Email melissahoriuchi@chevron.com

Re: Letter of August 6, 2009 to Karen McAlpin at 7207 Monroe Street

Dear Ms. Horiuchi:

I am writing on behalf of Ms. McAlpin to take you up on your agreement to give her thirty days to consult an attorney. She has done so and asked me to convey the following.

Ms. McAlpin does not consent to have the Locust Tree on her property removed as requested by your office. She agrees that a previous owner of her land granted an easement to Salt Lake Pipeline Company for the operation and maintenance of a petroleum pipeline on a narrow strip of her land. The Locust tree has co-existed near the pipeline for over fifty years without any report or allegation that its existence has ever unreasonably interfered with the operation or maintenance of the pipeline. To date, Ms. McAlpin has not received any credible evidence that the trees continued existence will pose any future interference with the operation or maintenance of the pipeline that can not be reasonably mitigated short of removing the tree.

The recorded easement does not provide an express right to remove vegetation, therefore the burden is on Chevron to prove that removing the tree is reasonably necessary for the operation or maintenance of the pipeline. The one arborist who has reviewed the case has given an opinion that the tree roots do not pose any threat to the pipeline. Nor does the tree appear to pose any unreasonable burden to on-site access or inspection. The most useful inspection for an underground pipeline would of course be a smart pig test, which is required in areas of dense population like this neighborhood by federal law. To date, there is no report that there are any anomalies or corrosion in this section of pipe that could be attributed to this tree.

As I understand the applicable law, Chevron may reach an agreement with the owners of the underlying land regarding the reasonableness of the proposed maintenance, get a court order determining the reasonableness of their proposal or act without approval and risk the imposition of civil trespass damages. In Washington, there are two statutes that provide treble damages for unauthorized damage to trees including one that also imposes attorney fees and litigation costs. See RCW 64.12.030 and 4.24.630. Ms. McAlpin prefers not to litigate this matter, but Chevron's threat of the imminent and irreversible act of killing her tree has moved her to bring these laws to your attention.

Regardless of whether or not Chevron has the right to remove the tree, the easement appears to provide compensation to the owners for damages related to the removal of this tree. Under Washington law, this includes the cost of restoration and emotional distress caused by the loss of a tree to which an owner has bonded. See *Sherrell v. Selfors*, 73 Wash.App. 596 (2994) and *Birchler v. Castello*, 133 Wash.2d 106 (1997). Chevron's current offer to replace a large tree with one small tree is inadequate to compensate the owners under the easement agreement. Obviously, it would be challenging to transplant a fifty-two year old tree, but replanting multiple trees are far more effective than a single tree and regularly relied upon in restoration efforts. The emotional cost of losing the tree is the main issue for the owners as they struggle with health issues. One simple accommodation short of paying money for these damages would be to delay the removal until after the owners have moved past their health issues.

The owners have no desire to be unreasonable and are supportive of Chevrons efforts to maintain a safe pipeline. The owners are willing to discuss the issue with any federal or state regulators that are pressuring Chevron to remove this particular tree so that Chevron is not caught in the middle. The owners are also willing to promptly review any scientific evidence that this particular tree poses an unreasonable interference or threat to the pipeline or its maintenance that can't be mitigated short of removal. To date, Chevron's explanations have been vague and actually deceptive which brings up a final issue.

Ms. McAlpin reports that Chevron representatives brought an actual tree root to her home with a small piece of exterior pipe insulation imbedded in it and told Ms. McAlpin that tree roots had caused the horrific Olympic Pipeline explosion in Bellingham. In my opinion, that would be false information. I am sure that you are well aware that the Bellingham pipeline companies and their employees agreed to pay tens of millions of dollars in civil and criminal fines, and some even went to prison arising out of repeated misconduct, especially since the pipeline company had actual prior knowledge from a smart pig test that there was an unrepaired anomaly at the location that eventually failed. To my knowledge, no credible person ever alleged that tree roots contributed to the explosion. The tactic of using this visual aid and connecting tree removal to three deaths and devastation of Bellingham's parks and neighborhoods would undoubtedly be offensive to all those who suffered through that tragedy and has the potential for violating Washington's Consumer Protection Act. See *Panag v. Farmers Insurance*, 166 Wash.2d 27 (2009). Aside from resolving this particular easement issue, I am hopeful that Chevron will acknowledge the inappropriateness of this particular tactic to get

landowners to waive their rights to insist on reasonable proof of necessity prior to vegetation removal on the easement, and promise never to use it in the future.

I realize that you have a challenging job but hope that you will continue to treat Ms. McAlpin and her land as individuals. I am happy to further discuss this matter with you at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. Beggs', written in a cursive style.

Breean L. Beggs
Attorney

Cc: Karen McAlpin