September 3, 2013

Andrew Stamp, Hearings Officer
c/o Jill Rolfe, Coos County Planning Director
Coos County Courthouse
250 N. Baxter
Coquille, OR 97423

Re: South Dunes Power Plant Appeals Hearing; Appeal File Nos. AP-13-01 & AP-13-02;
Application File No. SP-12-02; Applicant's Rebuttal Summary

Dear Hearings Officer Stamp:

This letter is submitted on behalf of Jordan Cove Energy Project, L.P., the "Applicant", in the above-captioned case to transmit the Applicant's rebuttal during the first open record period. Please make the letter a part of the hearing record.

Enclosed for your consideration, please find the following:

- Applicant's rebuttal summary.
- Applicant's point-by-point rebuttal to the position paper submitted by Courtney Johnson of CRAG Law Center on August 20, 2013 on behalf of Oregon Shores Conservation Coalition ("Oregon Shores"), using a variation of Oregon Shores' letter as the rebuttal document.
- Applicant's point-by-point rebuttal to the position paper submitted by Jody McCaffree on August 20, 2013 on behalf of Citizens Against LNG Inc. ("Citizens Against LNG"), using a variation of Citizens Against LNG's letter as the rebuttal document.
- Applicant's point-by-point rebuttal to the position papers submitted by Sean Malone on August 20, 2013 on behalf of Oregon Coast Alliance ("ORCA"), using a variation of ORCA's letter as the rebuttal document.

Exhibit: 14
Date: 9/3/13

59892-0013.0001/LEGAL.27691033.3
- Applicant's point-by-point rebuttal to the position papers submitted by John Clarke, with exhibits, on July 25, 2013, using a variation of Mr. Clarke's letter as the rebuttal document.

- Applicant's revised site plans showing the removal of all project-related facilities and components from the 7-D zoning district to the south and southeast of the proposed site plan for the power plant and gas conditioning facility.

- Applicant's project elevations, floor plans and computerized images showing how the project will appear following construction and, further, showing the project's ultimate height to be under the maximum height limit of the North Bend Airport and, further, showing how the proposed structures are related harmoniously to the terrain and to existing structures in the vicinity.

- Additional copy of proposed site plan showing, in blue, the outer limits of the proposed site plan.

- Copy of May 7, 2013 Letter of Map Amendment ("LOMA") to Mr. Walter White of SHN Consulting from the Federal Energy Management Agency ("FEMA"). The LOMA amends the identified Special Flood Hazard Area on the Mill Site. The LOMA substantiates the interpretation of the zoning district boundaries previously issued in Case File No. ABI-12-01, dated March 22, 2012. The Director's Boundary Interpretation ("DBI") corrected the location of the northern boundary of the 7-D zoning district on the Mill Site.

- Copy of letter September 3, 2013, from Walter White to Mark Whitlow of Perkins Coie providing an explanation of the determination of the base flood elevation and the LOMA determination, with related map.

Thank you for the opportunity to provide rebuttal evidence.

Very truly yours,

Mark D. Whitlow

MDW

Enclosures

Cc: JCEP (w/encls.)
September 3, 2013

Andrew Stamp, Hearings Officer
c/o Jill Rolfe, Coos County Planning Director
Coos County Courthouse
250 N. Baxter
Coquille, OR 97423

Re: South Dunes Power Plant Appeals Hearing; Appeal File Nos. AP-13-01 & AP-13-02; Application File No. SP-12-02; Applicant's Rebuttal Summary

Dear Mr. Stamp:

This letter will constitute the applicant's rebuttal summary for the first open record period. Please make the letter part of the hearing record.

For the reasons stated at the hearing, many of the comments made and the issues raised by opponents are irrelevant to the application for a number of reasons. First, most of the areas of concern are outside the proposed site plan area for the power plant and gas conditioning facility and, accordingly, are not before the County for review. In addition, most of the issues raised by opponents have no applicability or relevance to the Design and Site Plan Review application for a number of reasons, including the following:

- regulations relating to Coos County and North Bend airport zoning districts which do not cover the site;
- special flood hazard area regulations which do not apply to the site based upon the Letter Of Map Amendment ("LOMA") which the applicant has obtained for the site from the Federal Emergency Management Agency ("FEMA"), which removed the site from the County's special flood hazard area; and
- tsunami inundation zone regulations contained in the Oregon building code statutes which only apply at the time of the issuance of building permits, but which do not apply to Design and Site Plan Review.
The reasons associated with the above are set forth specifically below.

**Areas Outside of Site Plan Are Not Relevant.** Various opponents raise issues of concern regarding areas outside of the areas of the proposed site plan. Many of those outlying areas are zoned 7-D. Accordingly, most of the issues raised regarding the areas that are "extra-territorial" to the site plan area have to do with 7-D zoning. The Coos County Zoning and Land Development Ordinance ("CCZLDO") provides for the consolidation of applications seeking more than one land use on the same property under section 5.0.400. Further, the section does not require consolidation of applications and is of questionable applicability for applications for different uses on different properties in different zoning districts, as with some of the prior decisions related to project components other than the proposed South Dunes Power Plan project. Because of that, most of the areas of 7-D zoning and the issues associated with it are irrelevant to this application, in that most of the areas of 7-D zoning referred to by opponents are not within the boundaries of the proposed site plan for the power plant and gas conditioning facility.

**Site Plan Facilities Removed from District 7-D.** The 7-D zoning district is also irrelevant based upon modifications to the site plan occurring before or during the hearing process from those initially submitted. The applicant has now submitted revised site plans removing all project facilities and components from the 7-D zoning district: 1) first by removing the proposed storm water facility from the 7-D zone into the IND zone in the southeast corner of the initial cap Mill Site; and 2) by further amending site plan pursuant to the change sheet submitted with the rebuttal documents to further remove project facilities and components from the area shown on the attached copy of the revised site plan. Accordingly, no project components or facilities remain within the 7-D zoning district, assertions that the application is deficient for not addressing CBEMP 7-D zone policies and special considerations listed in the Table 4.7c are incorrect and should be disregarded by the Hearings Officer. However, it should be noted that the 7-D zoning district areas were approved for fill in the Planning Director's decision, dated October 4, 2012 (fill and beach and dune areas and IND zone-Weyerhaeuser property) – ACU-12-16/ACU-12-17/ACU-12-18, which means that compliance with all criteria applicable to fill have been demonstrated, with no appeal, which is a greater review than would have been otherwise required for a power plant use in the same zoning district.¹

¹ As established by CCZLDO Section 4.5.286, the activity of fill in zoning district 7-D is allowed as an administrative conditional use ("ACU"), subject to a determination of consistency with special and general conditions (ACU, S-G). A power plant use would be characterized in the 7-D zoning district as an Industrial & Port Facilities use, a use which is permitted in the 7-D zone, subject only to a determination of consistency with general conditions (P-G). Accordingly, the prior approval of the activity of fill in the 7-D zoning district, as being consistent with the general and special conditions enumerated in district 7-D, satisfied the lesser review of consistency with only general conditions to allow the Industrial & Port Facilities use in the 7-D zoning district.
Airport/Aviation Issues Not Relevant. Numerous airport and aviation issues were raised by opponents which have no applicability to the design and site plan review application:

a. Coos County Airport Operations ("AO") zoning district. The site is not within any of Coos County's AO zoning districts and, accordingly, the AO zoning districts and related AO regulations within the CCZLDO are irrelevant to this application.

b. Coos County Airport Surfaces ("AS") overlay zoning district. The site is not within any of the Coos County AS overlay zoning district. Accordingly, the AS zoning district and the related AS regulations contained in the CCZLDO are irrelevant to this application.

c. North Bend Airport Surfaces ("AS") overlay zoning district. The site is outside of the jurisdictional boundaries of the city of North Bend, situated within Coos County. The site is not located within the North Bend AS zone, as shown on the North Bend Zoning Map attached. Accordingly, the city of North Bend Airport AS overlay zoning district has no applicability to this application.

Flood Plain Issues not Relevant. The applicant has attached a Letter of Map Amendment ("LOMA") from the Federal Emergency Management Agency ("FEMA") dated May 7, 2013 which amended the special flood hazard areas boundary depicted on the County FIRM map with respect to the area commonly referred to as the Mill Site, which is the area now proposed as the site plan area for the south dunes power plant and integrated gas conditioning facility. Based upon the LOMA, the site has been removed from the County's designated special flood hazard area. Accordingly, the provisions of section 4.6.230 and section 4.6.235 are inapplicable to the this application. Please see the related letter contained in this packet from Walter White/SHN Consulting related to the LOMA. Based upon the LOMA referenced above, the proposed site area for the south dunes power plant and gas conditioning facility is no longer situated within the County's special flood hazard area of the flood plain as identified.

Tsunami Inundation Zone Issues not Relevant. Opponents have consistently raised the provisions of ORS Chapter 455 as being applicable to the application. However, the Board has previously ascertained that ORS Chapter 455 and, specifically, ORS 455.447, is only applicable prior to the issuance of a zoning verification letter in advance of obtaining a building permit. The statute relates to the issuance of building permits, not to the issuance of land use permits. Accordingly, references made to the statute and related tsunami administrative rules are irrelevant to this application.
As set forth in the applicant's pre-hearing submittal, the issues raised by the opponents are not relevant to the Hearings Officer's review. In some instances, their concerns are fully resolved by the proposed conditions of approval. For example, to the extent that opponents are concerned with airport, aviation or seismic inundation zone issues, the proposed conditions of approval anticipate those concerns. For example, Condition No. 2 requires compliance with FAA regulations and utilizes the proposed language received from the Oregon Department of Aviation ("ODA"). Further, Condition No. 2 also requires compliance with ORS Chapter 455 with respect to the tsunami inundation zone issues raised by opponents. While these issues are not precisely relevant at the time of the Design and Site Plan Review, they involve issues which the applicant intends to address in advance of obtaining building permits for the project and, accordingly, those conditions have a legitimate planning purpose. The application should be approved, as recommended by Planning Director in her staff report.

Very truly yours,

Mark D. Whitlow

MDW

Enclosure
August 20, 2013

Hearings Officer Andrew Stamp
C/O Jill Rolfe, Planning Director
Coos County Planning Department
250 N. Baxter, Coos County Courthouse
Coquille, Oregon 97423

Re: Jordan Cove Energy Project Site Plan Approval Appeal Hearing on files

Hearings Officer Stamp:

On behalf of Oregon Shores Conservation Coalition and its members living in Coos County (collectively "Oregon Shores"), I submit these comments in response to the Coos County Planning Director's Revised Staff Report for File No. SP-12-02 For Administrative Site Plan Review. Oregon Shores is a nonprofit organization whose mission is to conserve Oregon's public coastal resources, provide assistance and support to Oregonians in participating in land use and other public processes relating to the coast and their communities, and to protect public access to and along Oregon's coast. Oregon Shores uses legal oversight, field monitoring, and public education to help protect Oregon coastal communities from the impacts of pollution and development. Please include this letter and its attachments in the record and notify me of any decisions made regarding this matter.

The application under review was for design and site plan approval for an energy plant, to be located on Jordan Point, on the shore of Coos Bay. The project, the South Dunes Power Plant, will be used for the generation of energy to support the natural gas liquefaction plant and export terminal planned nearby. The site will also be used to process natural gas into a form useful for liquefaction at the neighboring site. Oregon Shores is concerned that, contrary to the claims of the applicant, and the findings of the county, the plans submitted to the county show that there will be development in what is currently recognized as the 7-D Shoreline Development district. The county did not apply the floodplain or Coos Bay Estuary Management Plan zoning because the county erroneously determined that all development will occur within the Industrial (IND) district. Additionally, plans submitted by the applicant to the Federal Energy Regulatory Commission, the Oregon Department of State Lands, and the Army Corps of Engineers reveal proposed development that has not been disclosed to the county, in the 7-D zone and in Beach and Dune Areas of Limited Development Suitability. Oregon Shores respectfully requests that the county evaluate the entire proposed development for compliance with all applicable zones.

Rebuttal: Most of Oregon Shores' arguments relate to areas outside of the proposed site plan for the power plant and gas conditioning facility. Accordingly, the majority of Oregon Shores' arguments are irrelevant to the application before the County for review. There is no requirement in the Coos County Zoning and Development Ordinance ("CCZDO") that would require the applicant to apply concurrently for all components of a multi-use project, where the various uses are separately described in various zoning districts, both within the Coos Bay
Estuary Management Plan (CBEMP) and within the Balance of County. To the contrary, Section 5.0.400 of the CCZLDO allows for, but does not require, consolidated applications.

Jordan Cove Energy Project's Application is Incomplete per CCZO Section 5.6.500.

CCZO section 5.6.500 describes the requirements for submitting a site plan review application. It requires, inter alia: a site plan, drawn to scale, showing the layout of all structures and improvements, including driveways, pedestrian walks, offstreet parking and loading areas, the location of each parking space and each loading berth and areas of turning and maneuvering vehicles, as well as railroad tracks. CCZO 5.6.500(1)(a).

Rebuttal: As referenced in the completeness notice from the County, the application provides all of the above site plan information, except for information regarding railroad tracks located outside of the proposed site plan area. Oregon Shores' reference to railroad tracks to be relocated relates to future plans not yet submitted for development approval to the west of the proposed site plan area.

The site plans submitted to the county by the applicant on August 9, 2013, and thereafter in replacement pages, are incomplete because they do not show all proposed improvements on the site as required by CCZO 5.6.500. The applicant has submitted detailed plans for its proposed development on the site to the Federal Energy Regulatory Commission (FERC) and through a joint permit application to the Army Corps of Engineers (USACE) and Oregon Department of State Lands (DSL). Those plans show that the applicant plans to run a utility corridor including a fuel pipeline south of the wetland to the west of the power plant on tax lot 100. EXHIBITS 1, 2, and 3; See EXHIBITS 14 and 17.1 In addition, JCEP plans to construct a heavy hauling road/accessway through the same area. Id.2 Plans submitted to DSL and FERC reveal that the applicant is also planning a rerouting of the railroad tracks that generally follow the Trans-Pacific Parkway to the north of the site.3 These tracks will be re-routed on the west side of the property through the north pond of the wetland, and south, along Jordan Cove Road, according to JCEP's removal/fit permit application figures. EXHIBITS 1, 4, and 5; see EXHIBITS 14 and 16. Finally, the plans sent to DSL and FERC show development west of the major wetland on tax lot 100, showing the planned location of the Southwest Oregon Regional Safety Center, which will

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1 The applicant's application to FERC describes this corridor: "The access corridor will include a two lane 24-foot-wide roadway, with 12-foot wide shoulder and bridge structures to minimize impacts to wetlands and to fly-over the access road and rail spur serving the Roseburg Forest Products Company terminal. Additionally the corridor will contain a double circuit overhead 115 kilovolt (k V) power transmission line and an underground pipeway corridor that includes the feed gas supply to the Project a fuel gas pipeline to the South Dunes Power Plant a backup pilot gas line, telecommunications lines and redundant control circuitry. EXHIBIT 15.

2 The application states: "The access corridor ... will be utilized initially for the movement of earthwork equipment ... and then for the movement of equipment and materials during construction, and finally during operations for control of access and security of the LNG terminal. Additionally, the corridor will contain a double circuit overhead 115 kV power transmission line and an underground pipeway corridor that includes the feed gas supply to the project a fuel gas pipeline to the South Dunes Power Plant a backup pilot gas line. telecommunications lines. and redundant control circuitry: EXHIBIT 14 at section 2.3.1.

3 The Joint Permit Application (to DSL and USACE) states: "An existing Roseburg Forest Products rail Spur will need to be relocated ... Relocating the rail spur requires the installation of a new rail bridge. The bridge will be a six-sand concrete structures spanning Wetland 2012-4. It will be nearly 269 feet long and nearly 21 feet wide and supported on steel pile: EXHIBIT 14 at section 2.5.2.
house the Jordan Cove Fire Department, Coos County Sheriff's Department operations, and classrooms for Southwest Oregon Community College. EXHIBITS 5 and 6; see EXHIBIT 14 section 2.4, and 16. This area remains undeveloped on the site plan submitted to the county.

Exhibit 7.

Rebuttal: All of the comments above relate to areas outside of and to the west of the proposed site plan area for the power plant and gas conditioning facility. Exhibits 1, 2, 3, 4, 5, 6, 7, 10, 11, 14, 15, 16 and 17 are irrelevant to the applicant's site plan review application for the power plant and gas conditioning facility.

The basic purpose of site plan review is to examine the layout and placement of structures on the subject property in relation to county standards. CCZO 5.6.300. The site plans submitted to the state and the plans that have been submitted to the county are inconsistent. The plans that have been submitted to the county omit mention of multiple structures that will be built on the property, according to plans submitted to DSL. Multiple structures have been disclosed in public documents which are planned for construction within the county's 7-D zone, as will be discussed below. Without an analysis of these proposed improvements for consistency with relevant CCZO provisions, the site plan application cannot be approved. Additionally, the applicant's proposal for a Southwest Oregon Regional Safety Center on tax lot 100 is not shown on site plans to the county, but according to county maps, would fall within a Beach and Dune Area of Limited Development Suitability. EXHIBITS 6 and 11. The applicant must demonstrate that these structures will comply with the relevant development code provisions.

Rebuttal: As above stated, Oregon Shores' comments relate to areas and structures outside of the proposed site plan for the South Dunes Power Plant and Gas Conditioning Facility. The applicant is not proposing development of the Southwest Oregon Regional Safety Center, so references to it and Exhibits 6 and 11 are irrelevant to this application for the power plant and gas conditioning facility. Finally, that area was previously proposed and approved for fill in Case File No. ACU-12-16/ACU-12-17/ACU-12-18, October 4, 2012.

The undisclosed structures and improvements are relevant to the county's site review process, and should be examined for compliance with county land use criteria. These sites are within the scope of the county's review because they are proposed for construction within tax lot 100, and are integral to the functioning of the South Dunes Power Plant. The underground corridor will provide feed gas to the liquefaction project, and fuel to the South Dunes Power plant. EXHIBIT 14 at section 2.3.1. The road above it will be used for access and security purposes. Id. The corridor will also contain the electricity transmission line between the power plant and the terminal. Id. Finally, the land upon which these structures are being proposed was within the scope of the applicant's proposal for fill to the county last year. Staff Report for Administrative Decision on File ACU-12-16/ACU-12-17/ACU-12-18, Oct 4, 2012. In sum, the county should have been informed about all structures proposed for tax lots 100 and 200, and have the opportunity to review them for compliance with the county zoning and land development ordinance. The applicant has provided insufficient evidence for the county to do so.

Rebuttal: The area referenced by Oregon Shores above is not included within the area of the proposed site plan for the power plant and gas conditioning facility. Contrary to appellant's statements, there is no regulatory prohibition on phased land use review of project

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components within a site under common ownership. Accordingly, the areas outside of the proposed site plan are not currently before the County for review.

The County Must Adequately Assess the Project's Compliance with CBEMP 7-D Zone Policies and Special Considerations Listed in Table 4.7c.

Maps of the site submitted to FERC, Oregon DSL and the Army Corps of Engineers show that a heavy equipment truck haul road and the hydraulic transport pipeline will cross over and through the 7-D zone at the south end of the preserved wetland, and that the applicant plans to relocate railroad tracks through the northern part of that 7-D wetland. EXHIBITS 1-5; see EXHIBITS 14, 16, and 17. JCEP's fill application to the county shows the same railroad re-route. EXHIBIT 10. Additionally, a portion of the "gas conditioning (processing)" facility falls within the 7-D zone. EXHIBIT 8. 7-D is a shoreline development zone within the Coos Bay Estuary Management Plan. Based on the inaccurate assumption that the project will be developed only on IND land, the county's decision erroneously concludes that the application satisfies the CBEMP policy-related criteria.

Rebuttal: As stated above, Oregon Shores' comments in this section relate to areas to the west of the area covered by the applicant's proposed site plan for the South Dunes Power Plant and Gas Conditioning Facility. Accordingly, those comments and related Exhibits 1-5 and 14, 16 and 17 are irrelevant to this application. Regarding Oregon Shores' additional comments with respect to a railroad reroute, the area of the proposed railroad reroute is also outside the area of the applicant's proposed site plan and, accordingly, those comments, plus the related reference to Exhibit 10, are irrelevant to this application.

Proposals for industrial and port facilities and/or utility facilities (as the county characterizes the plant) on 7-D land require a finding of compliance with CBEMP policies 14, 17, 18, 23, 27, 30, and provision of utilities and services subject to policies 49, 50, and 51. CCZO 4.5.286. CBEMP Policy 14 states that only limited types of development are allowed on 7-D lands: farm uses, propagation and harvesting of forest products, private and public water dependent recreation developments, aquaculture, and:

Water-dependent commercial and industrial uses, water-related uses, and other uses only upon a finding by the Board of Commissioners or its designee that such uses satisfy a need which cannot be accommodated on uplands or shorelands in urban and urbanizable areas or in rural areas built upon or irrevocably committed to non-resource use.

Rebuttal: As stated above, all of the proposed facilities or project components related to the power plant or gas conditioning facility have been removed from the 7-D zoning district. Pursuant to the revised site plans submitted before the hearing and with the applicant's transmittal during the first open record period, Oregon Shores' reference to the need for a finding of compliance with CBEMP policies is irrelevant to this application.

In the approval of the prior application for fill in the 7-D zone, the county determined that policy 14 did not at that time apply, because fill is considered an activity, rather than a use. Staff Report for Administrative Decision on ACU 12-16/ACU 12-171 ACU 12-18, Oct 4, 2012.
at 6. The proposed development on the site, however, is defined as an "industrial use." CCZO 2.1.200. Policy 14 indicates that if a use is commercial or industrial, it must also be water dependent, to be allowed in the 7-D area. Thus, in order for policy 14 to be satisfied, the applicant must show, and the county must find, that the proposed development (1) is a water-dependent industrial use, and (2) that it either satisfies a need that cannot be accommodated elsewhere, or that it is proposed to be built in a rural area irrevocably committed to non-resource use. The county has previously determined that the site is irrevocably committed to resource use in Final Order No. 07-12-309 Pl. Staff Report for Administrative Decision on File ACU-12-16/ACU-12-17/ACU-12-18. However, because the use has not yet been evaluated, there has been no finding that the power plant and combined gas processing area currently proposed are water-dependent industrial uses.

**Rebuttal:** As discussed above, none of the facilities or project components for the power plant and gas conditioning facility will remain within the 7-D zoning district. Accordingly, Policy #14 is inapplicable to this application. As also stated above, the Management Objective for zoning district 7-D requires it to be managed for industrial use and the continuation of and expansion of existing non-water-dependent/non-water-related industrial uses.

"Water-dependent" is defined as "a use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for water-borne transportation, recreation, energy production, or source of water." CCZO 2.1.200. The proposed power plant does not fall under the "energy production" allowance of this definition, because water dependence for energy production means "uses which need quantities of water to produce energy directly (e.g., hydroelectric facilities, ocean thermal energy conversion)." Id. As this power plant would use natural gas as a source of energy, it is not using water to produce energy directly, within the meaning of this definition. As it stands, the applicant has not alleged that its power plant facility, which is being analyzed separately from the export facility, is in any way a water-dependent industrial use. The documentation sent to the Energy Facility Siting Council states that "[t]he sole water source for construction and operation of the South Dunes Power Plant will be potable supply from the Coos Bay North Bend Water Board," and does not claim to rely on the adjacent water body as a water source. EXHIBIT 22. Because the power plant is not a water-dependent use, the site plan should not have been approved by the county.

**Rebuttal:** As discussed above, none of the facilities or project components for the power plant and gas conditioning facility will remain within the 7-D zoning district. Accordingly, further references to the CBEMP is irrelevant to this application. However, as also stated above, the 7-D zoning district is to be managed for industrial use and the continuation and expansion of existing non-water-dependent industrial uses. The references to CCZLDO 2.1.200 and Exhibit 22 are irrelevant to this application.

Even if it could be shown that the power plant is a water dependent industrial use, the applicant has not demonstrated compliance with other 7-D criteria. Under 7-D, CBEMP Policy 27 requires protection of floodplains within coastal shorelands. The policy recognizes the potential for property damage that could result from flooding of the estuary. In the fill application approval, the county found that the fill would have a minimal effect, as the base flood elevation increase would be less than 0.01 ft., and appended a condition of approval to require a flood plain elevation certificate prior to the filling of the southern portion of 7-D. Staff Report
for file ACU-12-16/ACU-12-17/ACU-12-18, Oct 4, 2012 at 7. The application must meet several requirements for finding compliance with development in the floodplain, as per CCZLDO 4.6.235. Additionally, under CBEMP Policy 27, the county must make a finding as to the proposal's impact on the floodplain. If a finding of minimal effect is made, the county should also require a flood plain elevation certificate prior to the development of the structures in the 7-D zone. Finally, the county must review the application for compliance with the remaining general policy goals required for 7-D development, pertaining to policies 17, 18, 23, and 49-51.

**Rebuttal:** As stated above, the application is for site plan review for the power plant and gas conditioning facility in the IND zone. As also discussed above, the site plans have been revised to remove all facilities and project components from the 7-D zoning district. Various references are made by Oregon Shores to areas in the 7-D zoning district that are outside the scope of the current application for site plan review in the IND zone. However, it should be noted that Oregon Shores' comments with respect to the need to comply with flood plain regulations part of this application are wrong because this application proposes no development within the flood plain, and the county's prior approval to allow fill was based upon a condition of approval requiring a flood plain elevation certificate prior to the filling of the southern portion of 7-D. Most of what Oregon Shores complains about in this section regarding fill in 7-D has already been accomplished by the prior fill approval, with related conditions.

The county administrative decision also lacks findings with regard to CBEMP special considerations. County staff provided findings with regard to the comprehensive plan special considerations listed in Table 4.7a only. Because the project will encroach into the 7-D zone, the special considerations in Table 4.7c must also be addressed. Some of these considerations are the same as those listed in 4.7a. Nevertheless, because of the expanded spatial extent of the project outside the IND zone, the county must make findings pertinent to the special considerations policies as expressed in the CBEMP appendix, as well as the Comprehensive Plan policy appendix.

**Rebuttal:** As discussed above, the site plans have been further revised to remove all facilities and project components from the 7-D zoning district. Accordingly, the special considerations in Table 4.7c are irrelevant to this application.

Specifically, the applicant is proposing development of a hydraulic pipeline, a heavy hauling route, and an accessory utility corridor to the south of the large wetland on the west side of the property, within a Beach and Dune Area of limited development suitability. EXHIBITS 1-3, and 11; See EXHIBITS 14 and 17. The county provided a clear image of inventoried Beach and Dune Areas of Limited Development Suitability on the west side of tax lot 100 when it produced an analysis of its approval of the JCEP's fill application. StaffRepm1 for Administrative Decision on ACU-12-16/ACU-12-17/ACU12-18, Oct. 4, 2012 at 4; EXHIBIT 11. This map shows that the structures extending through that area would be built within a Beach and Dune Limited Development Suitability area in the estuary (7-D) zone and the IND zone. Table 4.7c provides that CBEMP policy 30 applies to structures planned for these areas. Policy 30 requires that development shall be permitted in these areas only upon findings related to the adverse effects it might have on the site and adjacent areas, methods for protecting the surrounding areas, and hazards to life and public and private property which may be caused by the proposed use, among other considerations. CCZ0 Appx 3: CBEMP at 3-35. Policy 30 recognizes that it is
important to ensure that development that is proposed for beach and dunes areas is compatible with the fragile and hazardous conditions that occur in beach and dune areas. Id. at 3-36.

Rebuttal: As discussed above, the site plan has been revised to remove all facilities and project components from the 7-D zoning district. Accordingly, none of the CBEMP policies referenced above are applicable to this application. As also stated above, Oregon Shores' comments relate to areas outside of the proposed site plan for the power plant and gas conditioning facility and, accordingly, are not relevant to this application.

The county must review the applicant's proposal to site a hydraulic pipeline structure, utility corridor, and an accessway in a Beach and Dune Area of Limited Development Suitability for consistency with CBEMP Policy 30, (and where applicable, with Table 4.7a's requirements embodied in Appendix 1, Policy 5.10, Strategy 2, for limited development suitability areas in the IND zone).

Rebuttal: As discussed above, the site plan has been revised to remove all facilities and project components from the 7-D zoning district. Accordingly, none of the CBEMP policies referenced above are applicable to this application.

The County Must Assess the Project's Compliance with the Floodplain Overlay Zone.

Last year, the county reviewed and approved Jordan Cove Energy Project's application for revision of the 100-year flood plain, the Coastal Shorlands Boundary, and the 7-D zone at the property. The revision added detail to reflect the applicant's evidence of the current 1 00-year floodplain, distinguishing it from that shown on FEMA's Flood Insurance Rate Map, and significantly reducing the amount of shoreline zone on the property. The line was also adjusted to accommodate the marsh to the west of the cove within the 7-D zone. Notice of Planning Director's Decision, File ABI-12-01, March 22, 2012.

Rebuttal: The applicant has submitted revised site plans to remove project facilities and components from the area zoned 7-D. However, it should be noted that those 7-D areas were previously approved for fill by the county in Case file No. ACU-12-16/ACU-12-17/ACU-12-18, October 4, 2012, subject to a condition of approval requiring a flood plain elevation certificate prior to the filling.

The northern (landward) boundary of the 7-D zone is defined as the inland limits of the 100-year floodplain, including the freshwater wetlands associated with it. CCZO Article 4.5 at IV-174. On the property, the 7-D delineation is synonymous with the 1 00-year floodplain zone, except that the 7-D zone also includes the freshwater wetland and wet interdune area in the northwest portion of the property (on the west side of tax lot 100). StaffRepnl for Administrative Decision on File ABI-12-01, March 2012. The 100 year floodplain demarcates the Floodplain Overlay Zone.4 Overlaying a map of the 7-D zone with the site plan shows that a

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4 According to CCZO section 2.1.200 the floodplain is: "The area adjoining a stream, tidal estuary or coast that is subject to regional flooding. The definition given for "regional flood" is "Flood, Regional (100 year): A standard statistical calculation used by engineers to determine the probability of severe flooding. It represents the largest flood which has a one percent chance of occurring in any one year in an area as a result of periods of higher-than
large portion of the southeastern lobe is in the 7-D zone and Floodplain Overlay Zone, as are some areas in the northeastern million of the cove. EXHIBIT 8. The county has not assessed the site plan for compliance with the requirements of the Floodplain Overlay Zone.

**Rebuttal:** Specifically, the applicant obtained a Letter of Map Amendment (LOMA) from the Federal Emergency Management Agency (FEMA) dated May 7, 2013. The LOMA corrected the location of the County’s Special Flood Hazard Area, which is the regulated component of the Flood Plain Overlay Zone, and determined that the Mill Site is not within it. Accordingly, Oregon Shores’ comments regarding the site being within the Flood Plain Overlay Zone is incorrect and the Flood Plain Overlay Zone is inapplicable to this application.

Coos County Zoning and Land Development Ordinance section 4.6.200 states that the purpose of the flood plain overlay zone is to protect human health, minimize expenditure of public money and costly flood control projects, minimize prolonged business interruptions, and ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. CCZO section 4.6.235 provides criteria for sites located within Special Flood Hazard Areas. Specifically, all new construction of industrial structures shall have the lowest floor elevated one foot higher than the base flood elevation, or be floodproofed, have structural components capable of resisting hydrostatic and hydro-dynamic loads and buoyancy, have engineer certification that the requirements of 4.6.235 are met, and site service facilities to prevent water from entering their components during flooding. CCZO 4.6.235(3).

**Rebuttal:** As stated above, the proposed site area for the power plant and gas conditioning facility is outside of the Special Flood Hazard Area, which is the regulated area within the Flood Plain Overlay Zone. As also stated elsewhere above, the applicant has revised the proposed site plan to remove any facilities or project component from land currently zoned 7-D which has previously been approved by the County to be filled.

Additionally, CCZO section 4.6.230 presents Procedural Requirements for Development within Special Floodplain Areas. This section requires that an applicant submit to the county, at the time of its application for development, an "Application for Development in Special Flood Hazard Areas." Such an application must include a plan drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing and proposed structures, fill, storage of materials, drainage facilities, and must include:

- a. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- b. Elevation in relation to mean sea level of floodproofing in any structure;
- c. Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria;
- d. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

normal rainfall or streamflows, extremely high tides, high winds, rapid snowmelt natural stream blockages, tsunamis or combination thereof.

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**Rebuttal:** As stated above, the applicant is not proposing development within the Special Flood Hazard Area. Accordingly, the above-referenced section is irrelevant to this application. Therefore, the proposed site plan area is not within the regulated Special Flood Hazard Area of the Flood Plain Overlay Zone.

In its supplemental narrative, the applicant asserts that "this site is out of the floodplain." August 2013 Supplemental Narrative at 40. The county finds that parts of the property do fall within the floodplain, but maintains that the development for which the site plan review has been prepared is within the IND zone. Revised Staff Report for Appeal of Decision file SP 12-02 at 6. Therefore, the county has not made findings with regard to the FP zone criteria or its procedural requirements, nor has the applicant submitted an Application for Development in Special Floodplain Areas. To the contrary, maps supplied by the applicant to the county, FERC, and DSL show development within mapped floodplain areas.

**Rebuttal:** While the official FEMA maps have not yet been changed, the applicant has received a LOMA from FEMA. The LOMA serves as official FEMA confirmation that the IND zone lies outside of the Special Flood Hazard Area of the Flood Plain Overlay Zone. Further, the only area subject to this application is the area shown within the proposed site plan area for the power plant and gas conditioning facility. As discussed above, the site plan area proposed for development is entirely within the existing IND zone.

The August 2013 site plan replacement sheets that JCEP submitted to the county, when layered with the 7-D zoning map and DOGAMI flood hazard map, show portions of what is labeled as the "Gas Conditioning (Processing) Facility" in the northeastern portion of the cove overlapping into the Special Flood Hazard Zone and 7-D zone. EXHIBITS 8 and 9. Plans submitted to FERC show a stormwater pond overlapping the Special Flood Hazard Zone and 7-D zone in the southern lobe of Jordan Point. This stormwater pond has been relocated and realigned in the most recent amended site plan. EXHIBIT 5; see EXHIBIT 16. Additionally, JCEP has submitted site plans to USACE and DSL which show plans for the development of a hydraulic pipeline and access routes through the 7-D/ floodplain overlay zone. EXHIBITS 1 and 2; see EXHIBIT 14. Before this application can be approved, it must be evaluated for compliance with the relevant floodplain overlay zone requirements.

**Rebuttal:** As stated above, the applicant has revised the proposed site plans to remove all facilities and project components from the small area shown to be within the existing 7-D zone, so no development is being proposed within the Special Flood Hazard Area of the Flood Plain Overlay Zone. Oregon Shores' comments regarding other areas of 7-D that are not included within the proposed site plan application are irrelevant.

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5 The County's adopted 7-D map is consistent with DOGAMI's map of the area of special flood hazard. The DOGAMI map shows the boundary with higher contrast and slightly more detail, and excludes the associated wetland on the west side of the property.

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Coos County Should Recognize Tsunami Hazard in Assessing the Project's Compatibility with the Public Health and Safety Directives of the County Planning Ordinance.

The proposed site is located within the Department of Geology and Mineral Industries' (DOGAMI) tsunami hazard boundary line. EXHIBIT 20. The South Dunes plant would be considered a "hazardous facility" under ORS 455.447(1)(b), which defines the term as encompassing "structures housing, supporting or containing sufficient quantities of toxic or explosive substances to be of danger to the safety of the public if released." Because the applicant is proposing a hazardous facility in a tsunami zone, the applicant will be required to consult with DOGAMI for assistance in determining the impact of possible tsunamis on the proposed development and for assistance in preparing methods to mitigate risk at the site of a potential tsunami. ORS 455.447(4).

Rebuttal: As stated at the hearing, ORS Chapter 455 relates to the issuance of building permits and is inapplicable to land use permit applications. However, it should be noted that, even in the event that the proposed power plant and/or gas conditioning facility is deemed to be a "hazardous facility" under ORS 455.447(4), Oregon Shores admits that the applicant needs to do nothing more than confer with DOGAMI prior to the issuance of a building permit. The tsunami issue is not relevant to the site plan application for the power plant and gas conditioning facility for the reasons discussed above.

Coos County currently has no provision limiting development in tsunami hazard areas, despite the statewide planning goal directing counties to do so. Statewide Planning Goal 7. As of 2002, Goal 7 requires that local governments adopt plans to reduce risk to people and property from natural hazards, including tsunamis. County plans are to be amended as necessary upon notice by DLCD, to prohibit the siting of essential facilities, major structures, hazardous facilities and special occupancy structures, as defined in the state building code (ORS 455.447(1)(a)(b)(c) and (e)), in identified hazard areas, where the risk to public safety cannot be mitigated." (Emphasis added).

Rebuttal: Oregon Shores identifies portions of Goal 7 that constitute legislative directives to local governments to adopt as necessary under the state building code statute. Goal 7 does not apply to this application because it is a discretionary review and not a post-acknowledgement plan amendment.

DOGAMI released maps of tsunami inundation hazard for Coos Bay/North Bend "TIM-Coos-005" on July 15, 2012, which show the project site within the expected inundation zone for 8.7 magnitude to 9.1 magnitude local source (Cascadia subduction zone) tsunamis, and a hypothetical maximum event for a large distant-source (Alaska/Aleutian island) tsunami. EXHIBITS 12 and 13; see EXHIBITS 18 and 19. The Oregon Resilience Plan written by the Oregon Seismic Safety Policy Advisory Commission recommends that coastal communities adopt the latest version of tsunami maps and analysis and include them within local comprehensive plans. EXHIBIT 21.

Rebuttal: For the reasons discussed above, the information presented in the above paragraph is irrelevant to this application.
Coos County is well aware of tsunami inundation hazard, and has been cooperating with DOGAMI to become "TsunamiReady" through K-12 outreach and community-wide evacuation drills. DOGAMI Oregon Tsunami Clearinghouse: Community Programs webpage: http://www. oregongeology.org/tsuclearinghouse/communities.htm. Though Coos County has not received official notice from DLCD of tsunami inundation hazard under Goal 7 §C, the county still has a duty to consider the effects of tsunami inundation in the context of this project, through its public safety and welfare criteria.

Rebuttal: For the reasons discussed above, the information presented in the above paragraph is irrelevant to this application.

At the very least, statewide Goal 7 presents guidelines regarding tsunami hazard that the county should have addressed in its site plan assessment decision. Specifically, when reviewing development requests in high hazard areas, local governments "should require site-specific reports, appropriate for the level and type of hazard (e.g., hydrologic reports, geotechnical reports or other scientific or engineering reports) prepared by a licensed professional." Goal 7 Guidelines § B. Such reports should evaluate the risk to the site as well as the risk the proposed development may pose to other properties. Id.

Rebuttal: For the reasons set forth above, the information contained in the above paragraph is irrelevant to this application.

Coos County Comprehensive Plan policy 5.11 discusses the County's responsibility to provide appropriate safeguards from natural hazards through land use planning. Specifically, the county includes "ocean flooding" and earthquakes as natural disasters or hazards within the scope of CCCP 5.11. The policy states, "Coos County shall regulate development in known areas potentially subject to natural disasters and hazards so as to minimize risks to life and property." The county's decision on the site review neglects to analyze the project under this policy. In particular, the county should review the application to determine whether it is appropriate to site such a volatile facility in a tsunami zone. Certainly a tsunami is a type of earthquake hazard that creates "ocean flooding," for which the county must plan.

Rebuttal: For similar reasons as discussed above regarding statewide planning Goal 7, the Coos County Comprehensive Plan policies are not applicable review criteria to this application (unless made so through reference in special zoning district tables or matrices). CCCP 5.11 is not an applicable review criterion.

CCZO 1.1.200(12) states that it is the purpose of the zoning ordinance to promote and protect "the public health, safety, convenience, and general welfare." Article 5.6 states that an objective of the site plan procedure is to "sustain the comfort, health tranquility and contentment of residents and attract new residents by reason of the County's favorable environment." CCZO 5.6.100(7).

Rebuttal: As a similar comment to the inapplicability of statewide planning goals or county comprehensive plan policies as applicable review criteria, neither are the purpose statements of the various sections of the CCZLDO applicable review criteria for land use applications, including this application for site plan review of the proposed power plant and gas

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conditioning facility. The purpose statement contained in section 5.6.100 is not an applicable review criteria.

In its decision, the county discussed only the first purpose of §5.6.100, finding that the proposed project met the purpose of encouraging originality, flexibility and innovation in site planning. Revised Staff Report at 19. More importantly, the county should assess whether it is consistent with the purpose of protecting public health for a hazardous facility to be sited in this low-lying area, given the state’s recognition that even a remote ocean earthquake could inundate nearly the entire site. EXHIBIT 13; See EXHIBIT 19.

Rebuttal: The same response applies here as in the above response. In addition, the purpose of the design and site plan review article is to regulate how use and development elements of a project are situated on a site, but not to regulate the type of uses subject to site plan review that are otherwise allowed in the IND and AO zoning districts.

The county decision includes no discussion of any such site-specific reports on potential tsunami related hazards the proposed use presents to the site or other local properties (which, given the potential for spillage or release of natural gas during a disaster, could be expensive). In the interest of public health, the county should have sought information on these hazards before approving the site plan.

Rebuttal: Site plan review criteria do not purport to regulate the issues otherwise applicable at the time of the issuance of building permits, such as tsunami related hazards.

The County’s Access Management Assessment Relies on Incomplete Information Supplied by the Applicant.

CCZO section 7.1.550 contains the county’s criteria for evaluating traffic access to the site. Sub-section 13 applies particularly to site plan review procedures for access management. The site plan for review is required to show: the location of existing and proposed access points, all planned transportation features, and parking and internal circulation plans. Additionally CCZO section 7.1.700 contains bridge standards for roads. This section provides several requirements pertaining to the travel surface width of the deck, load bearing requirements, at1d professional engineer certification.

Rebuttal: The applicant has complied with all applicable provisions of CCZLDO section 7.1.550, as determined by the county road master under section 7.1.1000. The areas described by Oregon Shores for the proposed roads and bridges are outside of the area submitted by the applicant for review in its application for design and site plan review for the proposed power plant and gas conditioning facility.

The county has determined that section 7.1.550(13) has been met, and concluded that section 7.1.700 does not apply because there is no bridge proposed for the site. The applicant has not supplied complete information about its plans for work on tax lot 100 for the county to render a decision on the site plan’s compliance with these criteria. In particular, JCEP has supplied plans to DSL and FERC showing a planned utility corridor bridge and an access road at the south edge of the large wetland to the west of the plant. EXHIBIT 2 and 3; see EXHIBITS 14 and 17. Additionally, in its plans submitted to DSL and FERC, the applicant has provided plans.
for the Southwest Oregon Regional Safety Center on the very western side of tax lot 100, west of the wetland. EXHIBITS 5 and 6; see EXHIBITS 14 and 16. These features have not been assessed for compliance with the above-mentioned access criteria. Therefore, the county should reconsider its decision to grant site plan approval for compliance with road and bridge design standards.

**Rebuttal:** As stated above, the area for the proposed utility corridor bridge and access road is not within the area proposed for review by the application for design and site plan review for the proposed power plant and gas conditioning facility. Oregon Shores' comments regarding areas to the west of the power plant site plan relative to the future Southwest Oregon Regional Safety Center are not subject to review under this application. Compliance with road and bridge design standards on areas outside of the site plan are irrelevant to this application.

**The County Decision Inadequately Assesses the Project's Visual Impact.**

CCZO §5.6.400 provides site development criteria and standards. It states, "the landscape shall be such as to minimize erosion and lessen the visual impact," and that "any grade changes shall be in keeping with the general appearance of neighboring developed areas." With regard to structures, it requires that, "proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity that have a visual relationship to the proposed buildings."

**Rebuttal:** As discussed at the public hearing, the director has not required the applicant to produce the information described in CCZLDO section 5.6.500(c) or (d), exercising the Director's discretion under the threshold standard of CCZLDO section 5.6.500(b). In spite of that, the applicant hereby submits elevations and floor plans for the proposed structures and other improvements as they will appear on completion of construction, indicating the maximum height of the tallest of the proposed structures to be a height less than the maximum height allowed by the North Bend Airport (167.2 feet). As depicted in the project simulation exhibit, the height of the proposed structures is less than the tallest structure currently existing on the Roseburg Lumber site to the west, and is well below the height of the surrounding dune formations to the north. Accordingly, the proposed structures are related harmoniously to the terrain and to existing buildings in the vicinity as required by CCZLDO section 5.6.400. In addition to the above, it should be noted that fill is being placed on the site to elevate the site out of a tsunami inundation zone, which should be deemed to be outside of the scope of any related design or site plan review criteria related to changing the elevation of a site.

The county has found that these site development criteria will be met, though the landscaping will only be located "around the perimeter of the private access road to provide at-grade visual buffering ..." Revised Staff Report at 19. With regard to grade changes, the decision states that because neighboring areas are covered with undulating dunes, the grade changes on the site are in keeping with the general appearance of the neighboring areas. Revised Staff Report at 20. Additionally, the applicant's plan only provides for the implementation of landscaping vegetation on the northern boundary of the site, and does not include landscaping to reduce visual impacts to the south. The decision merely maintains that where the subject property abuts the 7-D zone, it would be impractical to add screening vegetation because of the grade changes, and maintains that adding screening vegetation on this side of the property would not be consistent with the purpose of the site planning criteria. Id. The decision also finds that the
applicant's use of native plantings will help the building blend in with the existing terrain, and because the new development would be a "visual improvement" from the last structure on the site, the criterion has been met. Revised Staff Report at 20.

Rebuttal: As described above, the site will be elevated through the addition of more than 30 feet of fill, which elevated site will still be well below the elevation of surrounding dunes, and in keeping with the general appearance of the neighboring areas. Regarding the placement of vegetation on the site, Oregon Shores previously agreed that it was impracticable to attempt to provide vegetative screening or buffering on the southern side of the site due to the proposed elevation of approximately 46 feet on the south end. It should also be noted that the design and site plan review ordinance does not purport to create visual or aesthetic resources requiring protection, merely a harmonious arrangement of facilities on a site to properly relate to each other and the surrounding neighborhood. The current site plan appropriately meets the relevant design and site plan review criteria regarding those considerations.

Oregon Shores is concerned that the site is highly visible to residents of North Bend across Coos Bay. Additionally, the grade level proposed will raise the structure much higher than the existing landscape, making it unlikely that it will "blend" in with the existing dunes. The expected grade level, according to the application submitted to DSL and USACE is 40 feet, on the south end of the site. EXHIBIT 14. Oregon Shores urges the county to consider requiring buffer vegetation along the shoreline-adjacent portions of the property, for reduction of visual impacts and erosion risk.

Rebuttal: As stated above, Oregon Shores previously agreed with the applicant that requiring buffer vegetation along the shoreline, adjacent to the south end of the site are impracticable to achieve and not required by the ordinance. Please see the applicant's computerized simulation showing the profile of the south dunes power plant and gas conditioning facility as they will appear on completion of construction, and as to be seen by the residences of North Bend from across the Bay. The visual simulation provides substantial evidence that the proposed south dunes power plant and interrelated gas conditioning facility will in keeping with the general appearance of the neighboring developed areas, especially considering the profile of the previous liner board mill on the site.

Conclusion

The site plans submitted for review to the county are incomplete. They omit the utility corridor, hydraulic pipeline, heavy hauling road/accessway, railroad track re-route, and the Southwest Oregon Regional Safety Center located on the site. On the plan that has been submitted to the county, the applicant has proposed development of parts of its gas processing facility within the 7-D zone and existing 100-year floodplain hazard zone. The applicant has submitted site plans publicly to other agencies that show multiple structures sited within the 7-D zone and areas of limited development suitability. Thus far, the county has not assessed these structures for compliance with floodplain and CBEMP criteria, and should reconsider its decision to approve the site plan. The proposed plant is an industrial use, but is not water-dependent, and thus, should not be approved for siting within the 7-D zone.
**Rebuttal:** As set forth above, the majority of comments from Oregon Shores are irrelevant because they relate to areas outside of the area of the proposed site plan for the south dunes power plant and interrelated gas conditioning facility. Nothing in the code requires concurrent review of all proposed components of the use and development in one application, where the total development will cover different use categories in different zoning districts with different review criteria.

With regard to the health and safety of Coos County residents, the county has neglected any assessment of the vulnerability of this project to tsunami hazard and the project's potentially explosive impacts in the case of a tsunami inundation incident. Given the directives of Goal 7 and the volatility of the proposed development, Coos County should be more proactive in considering this issue.

**Rebuttal:** As stated above, statewide planning goals do not apply directly to this application, nor does the interrelated state building codes statute regarding development in tsunami inundation zones. The issues raised by Oregon Shores are irrelevant to this application.

Finally, the site plan approval relies on incomplete information in its access management assessment, and has neglected to address the visual impact of this large project to the south of the project site. For these reasons, the application should not have been approved. Thank you for the opportunity to submit these comments.

**Rebuttal:** As stated above, the applicant was not required to submit what would otherwise constitute the design review components of the application materials by Director, exercising her discretion under CCZLDO section 5.6.503. In spite of that, the applicant hereby submits scaled drawings, elevations and floor plan evidencing the fact that the proposed structures and other improvements, as they will appear on completion of construction, blend with the general appearance of neighboring developed areas and are related harmoniously to the terrain and to existing buildings in the vicinity.

Sincerely,

Courtney Johnson

On behalf of Oregon Shores Conservation Coalition
Jody McCaffree,
Individual / Executive Director
Citizens Against LNG Inc
PO Box 1113
North Bend, OR 97459

August 20, 2013

Andrew Stamp, Hearings Officer
Coos County Planning Department
225 N. Adams St.
Coquille OR 97423

Re: Comments on South Dunes Power Plant and Gas Liquefaction Facility Site Plan Land Use Permit. (SP-12-02)

Dear Hearings Officer Stamp:

Please accept the following comments on behalf of myself an individual and on behalf of the Citizens Against LNG Inc., of which I am a Board Member and Executive Director.

Prior Permit Approvals

There have been a minimum of 12 previous Land Use decisions and permit processes that have been processed already in order for this single proposed Jordan Cove LNG Export Project to be able to proceed. CALNG and the citizens who actively participate in our stated goals as an organization have participated in these previous application processes. These have included but are not limited to:

1. (HBCU-07-04) Coos County Land Use Approval for the Upland Facilities of the LNG Terminal.
2. (HBCU-07-03) Coos County Land Use Approval for the Marine Facilities of the LNG Terminal
3. (ZON2007-00034) Mitigation Site Approval by the City of Coos Bay.
4. (ACU-08-10/CL-08-01) Coos County Land Use Approval for stockpiling and sorting of sand.
5. (AM-09-03/RZ-09-02/HBCU-09-01) Coos County Rezoning for mitigation site.
6. (HBCU-1 0-01) Coos County Land Use Approval for Pacific Connector Gas Pipeline.
7. (09445) Douglas County Land Use Approval for Pacific Connector Gas Pipeline.
8. (ABI-12-01) Coos County Boundary Interpretation for the Coos Bay Estuary Management Plan for SHN Engineering/Weyerhaeuser NR Company.
9. (ACU-12-12/AB1-12-02) Coos County Boundary Interpretation for the Coos Bay Estuary Management Plan for Jordan Cove Energy Project, L.P./Fort Chicago Holdings II U.S. LLC.
10. (ACU-12-16/ACU-12-17/ACU-12-18) Coos County Permit for fill in Beach and Dune Areas for Steve Donovan, SHN Consulting Engineers /Weyerhaeuser NR Company.
11. (ACU-13-08) Coos County Planning Director Interpretation for Pacific Connector Gas Pipeline. [Note from Planning Director on August 8, 2013, stated the applicant had official withdrawn the request for the Administrative Planning Director's Interpretation and our appeal fee would be refunded.]
12. (DSL Application 37712) Dept. of State Lands removal/fill permit for construction of

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marine facilities of the LNG terminal.

ALL of these permit approvals listed above have been processed prior to the Federal Energy Regulatory Commission (FERC) National Environmental Protection Act (NEPA) Environmental Impact Statement (EIS) process and review has been completed. No attempt has been made by local, state or federal regulatory agencies to prevent this clear violation of the NEPA. All these permits required public processes and have Conditions of Approval that must be met in order for the Jordan Cove LNG Project as a whole to move forward. Compliance with these permits and their Conditions of Approval should be added as a Condition of Approval for this permit. (See Exhibits A-1 to A-10)

Rebuttal: The applicant disagrees with CALNG. Prior conditions of approval related to prior approvals need not be added as conditions of approval to the decision in this application. If the other approvals remain valid, their conditions of approval remain effective. Here, however, some approvals may no longer be valid or considered applicable to the overall development. In such case, adding those conditions to the approval of this application would be inappropriate. Further, the applicant also disagrees with CALNG's characterization of the NEPA process as a bar to land use permitting prior to completion of NEPA's environmental impact statement (EIS) process having been completed. To the contrary, the NEPA process is to get all permits and approvals in place prior to finalizing the EIS.

1. Application in Violation of 100 Year Flood Plain ZLDO Requirements.

ZLDO 2.1.200 states:

FLOOD HAZARD BOUNDARY MAP: An official map for the County furnished by the Federal Insurance Administration, labeled "A Flood Hazard Boundary Map" and delineating the boundaries of special flood hazard areas. (Emphasis added)

TIMELINE OF EVENTS- (These are in addition to the timeline of events provided in CALNG’s June 7, 2013, Brief on Standing.)

March 22, 2012: Patty Everdend, Coos County Planning Director, mails out a two-page notice of a boundary interpretation for Weyerhaeuser, County File No. ABI-12-01. Page 2 of the mailing includes a map of the IND and 7D zoning districts for the Weyerhaeuser property on Jordan Point on the North Spit. (See Exhibit B) It appears from the map that Ms. Everdend sent out that the floodplain boundary had not changed very much, if at all.

January 9, 2013: Due to my request on January 8 2013, Planning Director Jill Rolfe e-mailed me the Weyerhaeuser Application and the Staff Report for the Administrative Decision on County File No. ABI-12-01. She stated that because the decision had not been appealed, it was a final decision. (See Exhibit A-8) There had been a problem with the County's web link for this particular application and this was the first time I had actually seen the complete Application, Staff Report and Planning Director's Decision. Under the Planning Director's Condition of Approval for County File No. ABI-12-01 (found on page 5 of the Staff Report incorporated by reference). it was not clear how or when the new approved county zoning maps showing the boundaries of the IND and 70 zones would actually be completed and would become effective, as everything was apparently at the discretion of the Applicant.

ABI -12-01 Condition of Approval states:

"The applicant will provide a revised map and in hardcopy as well as a shapefile and map data that meets the boundaries of the 7-D zone. The amended 7-D will include the freshwater
March 5, 2013: An e-mail sent to Planning Director Jill Rolfe from Jody McCaffree, CALNG's Representative, showed that the Federal Emergency Management Agency (FEMA) had not yet approved the new Flood Insurance Rate Maps (FIRMs) based on new Lidar technology so the old Flood Plain maps were still in effect. This means the proposed Jordan Cove South Dunes Power Plant "Project" application would be governed by the older FEMA-approved 100 year flood plain maps. A later e-mail from Jed Roberts, Flood Mapping Coordinator at the Oregon Department of Geology & Mineral Industries confirmed that the appeal period for the new FEMA FIRM Lidar maps would not end until June 4, 2013. (See Exhibit C)

March 28, 2013: Jill Rolfe sends out a March 26, 2013, City of Coos Bay press release about the Federal Emergency Management Agency (FEMA) public meeting on the FIRM maps to be held on April 8, 2013, at Coos County's Owen Building meeting room, 201 N. Adams, Coquille, Oregon from 6-8 p.m. (See Exhibit D) The FEMA appeal period on the new FIRM maps ends on June 4, 2013, as noted above. This means the old FIRM maps are currently still in effect and if there are appeals on these new FEMA FIRM maps, the new proposed maps could potentially change or be delayed in being approved and implemented. The current older FIRM maps would still be in effect until the FEMA process on the new FIRM maps has been completed and the appeals process has been exhausted, which could take some time.

July 15, 2013: E-mail from Jed Robelis, Flood Mapping Coordinator at the Oregon Department of Geology & Mineral Industries indicates the lidar FEMA Flood plain maps are still not in effect. The older FIRM maps still apply at this point. (See Exhibit E)

The SP-12-02 Application is therefore not in line with the ZLDO Article 4.6 Floodplain Overlay Zone. The proposed project must meet the requirements spelled out in ZLDO 4.6.205; 4.6.225; 4.6.230; and all the requirements spelled out in 4.6.235 (Sites within Special Flood Hazard Areas).

**ZLDO 4.6.205. Designation of Flood Areas.**

a. The area of Coos County that is within a special flood hazard area identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Coos County, Oregon and Incorporated Areas", dated September 25, 2009, with accompanying Flood Insurance Map (FIRM) is hereby adopted by reference and declared to be part of this ordinance. The Flood Insurance Study and the FIRM are on file at the Coos County Planning Department ...

(Emphasis added)

**SECTION 4.6.225. Flood Elevation Data.**

1(a). ... The Base Floodplain Elevation (BFE) determination must be based on information from the FIS study and the FEMA maps; (Emphasis added)

**SECTION 4.6.230. Procedural Requirements (for Development within Special Flood Hazard Areas.** The following procedure and application requirements shall pertain to the following types of development:

1. Structures. Prior to issuance of a zoning clearance letter (verification letter) pursuant to Section 3.1.200, a proposal for construction of a new structure or substantial improvement
of an existing structure within a Special Flood Hazard Area shall be submitted with an
"APPLICATION FOR DEVELOPMENT IN SPECIAL FLOOD HAZARD AREAS."

As provided in this section, an applicant must submit with the development proposal an
"Application for Development in Special Flood Hazard Areas." This application must
provide a plan drawn to scale showing the nature, location, dimensions, and elevations of
the area in question; existing and proposed structures, fill, storage of materials, drainage
facilities, and the location of the foregoing. Specifically, the following information is
required:

a. Elevation in relation to mean sea level, of the lowest floor (including basement) of all
structures;
b. Elevation in relation to mean sea level of floodproofing in any structure;
c. Certification by a registered professional engineer or architect that the floodproofing
methods for any non residential structure meet the floodproofing criteria.
d. Description of the extent to which a watercourse will be altered or relocated as a result
of proposed development ...

4. Other Development. "Other development" includes mining, dredging, filling, grading,
paving, excavation or drilling operations located within the area of a special flood hazard, ...
... Review and authorization of a floodplain application must be obtained from the Coos
County Planning Department before "other development" may occur ...

5. Critical Facility. Construction of new critical facilities shall be, to the extent possible,
located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplain).
Construction of new critical facilities shall be permissible within the SFHA of no feasible
alternative site is available. Critical facilities constructed within the SFHA shall have the
lowest floor elevated three feet above BFE or to the height (if the 500-year flood, whichever
is higher. Access to and from the critical facility should also be protected to the height
utilized above. Floodproofing and sealing measures must be taken to ensure that toxic
substances will not be displaced by or released into floodwaters. Access routes elevated to
or above the level of the base flood elevation shall be provided to all critical facilities to the
extent possible.

ZLDO 2.1200 defines "critical facility" as:

CRITICAL FACILITY: means a facility for which even a slight change of flooding might be
too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals,
police, fire and emergency response installations, installations which produce, use or store
hazardous materials or hazardous waste. (Emphasis added)1

The facility is within the current FEMA-approved FIRM flood plain boundary (See Exhibit F) and the
applicant has failed to provide the data noted above as required. The County’s underhanded way of
changing the shoreline 7-D and IND zone boundaries using maps provided by the applicant after-the-fact,
without a full public hearing and notice process did not change the fact that the Base Floodplain
Elevation (BFE) determination must be based on information from the FIS study and the FEMA maps

1 The State Fire Marshal's office and the Building Codes Division of the Oregon Department of Consumer &
Business Services both consider LNG hazardous. According to Oregon Revised Statute (ORS) 455.447 a
"hazardous facility" is defined as any structure housing, supporting or containing sufficient quantities of toxic or
explosive substances to be of danger to the safety of the public if released.
(ZLDO 4.6.225(1)(a)). ZLDO 4.6.205(a) also clearly states the FEMA Flood Insurance Maps (FIRMs) are part of the County ordinance. The Application does not comply with these requirements.

**Rebuttal:** The applicant obtained a Letter of Map Amendment (LOMA) from the Federal Emergency Management Agency (FEMA) dated May 7, 2013, which corrected the National Flood Insurance Program (NFIP) map with respect to the property now proposed for development as the South Dunes Power Plant Project on land formerly known as the Weyerhaeuser Mill Site. The LOMA corrected the County’s map of Special Flood Hazard Areas on the Mill Site. The LOMA adjusted the County’s flood hazard boundary map and removed the proposed South Dunes Power Plant Project site from the County’s Special Flood Hazard Areas. Accordingly, Section 4.6.230 of the CCZLDO is inapplicable to the application. Based upon the Director’s prior boundary interpretation in Case File No. ABI-12-01 and the above-referenced LOMA, the proposed site plan area is not within a special flood hazard area. No development is being proposed within special flood hazard areas.

2. Application does not address the Project’s conditions, policies and impacts in the 7-D Zone. Not in compliance with ZLDO 4.5.285 I 4.5.286.

Even if the County’s improperly changed 7-D/IND boundary on the subject parcel were considered valid, the proposed project still extends beyond the IND zone into the 7-D zone.

**TIMELINE OF EVENTS:**

**January 23, 2013:** The day after Coos County Planning Director Jill Rolfe released a revised decision on the South Dunes Power Plant application, Jordan Cove Energy Project uploaded to the Federal Energy Regulatory Commission an overlay site plan drawing of the proposed facility that clearly shows the proposed South Dunes Power Plant “Project” would extend beyond the IND zone and impact the 7-D zone in several areas. (See Exhibit G)

**February 7, 2013:** An e-mail was sent to Jill Rolfe and Chris Green at the Oregon Dept of Energy by Jody McCaffree, Representative of CALNG, noting the submittal to FERC with the overlay site plan map that Jordan Cove had uploaded to FERC on January 23, 2013, which shows that the proposed South Dunes Power Plant “Project” would extend beyond the IND zone. (See Exhibit 11 in June 7, 2013, Brief on Standing for a copy of this e-mail)

**March 4, 2013:** Jordan Cove Energy Project Uploads to FERC a Geotech Report dated November 29, 2012, with yet another overlay site plan drawing that even more clearly shows the Jordan Cove Energy Project would impact the 7-D Zone. The Geotech Report also notes soil conditions of the site and the plan by Jordan Cove to use an average of 20 to 30 feet of fill to raise the site to a design elevation of 40ft. GRI rep011, p. 2. The first few pages of the GRI report are included as Exhibit H.

**March 6, 2013:** An e-mail sent to Planning Director Jill Rolfe from Jody McCaffree, CALNG’s Representative, notes that Jordan Cove had uploaded yet another document to FERC on March 4, 2013, that once again shows the South Dunes Power Plant “Project” extends beyond the IND zone. Jill replies to this informational e-mail by sending an e-mail that states she cannot consider documents outside of the record. (See Exhibit 14 in June 7, 2013 Brief on Standing)

The March 4, 2013 GRI Report to FERC leads to another report and series of site plan drawing maps that were completed by Black and Veatch on September 28, 2012. These site plan drawings also clearly show that the project would impact the 7-D zone. (See Exhibit I) The applicant knew WELL
BEFORE they filed an application with the County that the project would impact the County’s revised 7-D zone, but has not provided this information in its application, which states the project will impact only the IND zone.

By doing an overlay of the maps from Exhibit 1 and Exhibit 2 of the Applicant’s 8/9/13 narrative, it is very clear that the facility will extend into the 7-D zone. (See Exhibit J) In addition to this, the Applicant’s 8/9/13 Exhibit 6, also shows that the transmission main, access road and utility corridor will also all pass through the 7-D zoning area on the western portion of the subject parcel.

The 7-D zone has much more rigid requirements that the project might not be able to comply with including for example, compliance with Volume II- CBEMP (Appendix 3) Policy 30 and its requirement for protecting hazards to life, public and private property, and the natural environment, which could be caused harm by the proposed facility’s operations.

ZONING DESIGNATION: 7-D

SECTION 4.5.285. Management Objective: This shore/and district, which borders a natural aquatic area, shall be managed for industrial use. Continuation of and expansion of existing non-water-dependent/non-water-related industrial uses shall be allowed provided that this use does not adversely impact Natural Aquatic District #7. In addition, development shall not conflict with state and federal requirements for the wetlands located in the northwest portion of this district.

SECTION 4.5.286. Uses, Activities and Special Conditions. Table 7-D sets forth the uses and activities which are permitted, which may be permitted as conditional uses, or which are prohibited in this zoning district. Table 7-D also sets forth special conditions which may restrict certain uses or activities, or modify the manner in which certain uses or activities may occur. Reference to “policy numbers” refers to Plan Policies set forth in the Coos Bay Estuary Management Plan.

GENERAL CONDITIONS (the following condition applies to all uses and activities):

1. Uses in this district are only permitted as stated in Policy #14 “General Policy on Uses within Rural Coastal Shorelands”. Except as permitted outright, or where findings are made in this Plan, uses are only allowed subject to the findings in this policy.

2. Inventory resources requiring mandatory protection in this unit district are subject to Policies #17 and #18.

3. All permitted uses and activities shall be consistent with Policy #23 requiring protection of riparian vegetation.

4. All permitted uses shall be consistent with the respective flood regulations of local governments as required in Policy #27.

5. All permitted uses in dune areas shall be consistent with the requirements of Policy #30.

6. In rural areas (outside of UGBs) utilities, public facilities, and services shall only be provided subject to Policies #49, #50, and #51.
SPECIAL CONDITIONS

...Activities:

2a. New dikes may be constructed, provided that findings are developed which document that in proposed future development, the use of a dike, berm, or buffer setback will protect the natural aquatic area to the south from major development impacts.

3. Dredge material disposal shall be allowed when consistent with Policy #20.

4. Excavation to create a new water surface shall be allowed only for the purposes of an approved restoration project.

5. The wetland in the southeast portion of this district can be filled for a development project contingent upon satisfaction of the prescribed mitigation described in Shoreland District #5.

6b, 6c. These activities are permitted subject to the findings required by Policy #9, “Solutions to Erosion and Flooding Problems”.

9a. Active restoration shall be allowed when consistent with Policy #22b.

10. Land divisions are only permitted where they meet the conditions in Policy #15.

The Planning Director’s August 13, 2013, Revised Staff Report for Appeal of a Planning Director’s decision of file No. SP12-02 Administrative Site Plan Review states on page 36:

* LDO Section 4.5.285 and Section 4.5.286 are not relevant to this review. The development is within the Industrial zoned portion of the property and if it extends into the 7-D portion of the property another application to address that zoning would be required

Several attempts were made to inform the Planning Director that the SP-12-02 Application clearly shows the proposed project already does impact the 7-D zone in several areas: (1) - at the Gas Conditioning (Processing) Facility, and (2) - at the projects Access Road and Utility Corridor. The zoning requirements for the 7-D management district should have been considered in with the Application and the Planning Director’s review. Due to the fact that our attempts to inform the Planning Director of this information was not considered due to her stating she could not accept or consider data that is not in the application, there was no way to address this issue except by filing this appeal of the Planning Director’s decision and submitting the evidence into the record.

Rebuttal: CALNG’s comments regarding zoning district 7-D are misplaced because: (1) most of the areas referenced in CALNG’s position paper are outside of the area of the proposed site plan for the power plant and gas conditioning facility; and (2) the only areas within the 7-D zoning district originally shown to have facilities or components of the power plant or gas conditioning facility within them have been modified by the applicant where those facilities and components have been relocated to be outside of the 7-D zoning district. Accordingly, none of the CBEMP policies, nor the zoning district matrix for district 7-D, are applicable to this application.
3. Application does not provide adequate Site Plan Maps as required by ZLDO 5.6; 4.6.335; and the Southwest Oregon Regional Airport Overlay Zone.

The applicant has not provided a grading plan for the project that illustrates cut/fill lines, pre-and post-grading contours, and total cut and fill yardage (See Exhibit K) that the South Dunes Power Plant "Project" would be built upon in order to show the final elevations of the proposed structures as required by ZLDO 5.6.500. The applicant has also not provided evidence of any compaction testing requirements for the proposed fills. Maps provided were not even legible and were also not in line with the Coos County ZLDO Site Plan Review requirements of ZLDO Article 5.6, as set out below.

SECTION 5.6.100 (8). Assure that proposed structures are harmonious with the applicable zoning; and thereby promote and protect the health, safety and welfare of the County;...

(Emphasis added)

SECTION 5.6.200. Site Review and Approval Criteria. The County finds that excessive uniformity, dissimilarity, inappropriateness or poor quality of design in the exterior appearance of structures and the lack of proper attention to site development and landscaping in the industrial and airport operations zone districts hinders the harmonious development of the County, impairs the desirability of residence, investment or occupation in the County, limits the opportunity to attain the optimum use and value of land and improvements, adversely affects the stability and value of property, produces degeneration of property in such areas with attendance deterioration of conditions affecting the health, safety and welfare of the County, and destroys a proper relationship between the taxable value of property and the cost of services thereof.

Further, the County finds that riparian vegetation is a resource which has been identified in the Comprehensive Plan ...

(Emphasis added)

SECTION 5.6.400. Site Development Criteria and Standards. (6) Special Features.

a. Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures and similar accessory areas and structures shall be subject to such setbacks, screen plantings or other screening methods as shall be reasonably required to prevent their being incompatible with the existing or contemplated environment and the surrounding properties.

b. Service, processing, and storage on property abutting a residential zone or commercial zone shall be wholly within an enclosed building or screened from view from such zone, street or highway by a permanently maintained, sight obscuring device or vegetation ...

(Emphasis added)

SECTION 5.6.500. Application Submittal and Review procedure. (l)(c) Architectural drawings or sketches, drawn to scale, including floor plans, in sufficient detail to permit computation of yard requirements and showing all elevations of the proposed structures and other improvements as they will appear on completion of construction.

(d) Specifications as to type, color and texture of exterior surfaces of proposed structures including reflective surfaces of solar collectors ....

... vi. any other materials or information as may be deemed necessary to assist in evaluation of the request. (Emphasis added)
The applicant has not provided enough information for the Planning Director to be able to make a determination as to whether the proposed facility will be compatible with the existing or contemplated environment and the surrounding properties or as to whether the proposed facility has met the required criteria as noted above for ZLDO 5.6.200. The vague and incomplete maps that were provided by the Applicant did not even begin to give the necessary details and information. Without elevation drawings of the proposed project as it will appear upon completion, there is no way to make a determination as to the impacts of the development on adjacent properties which includes a campground directly to the North of the facility and to the South includes the City of North Bend and the Southwest Oregon Regional Airport.

Rebuttal: As stated at the hearing, the Director has not required the applicant to provide the information otherwise required by Section 5.6.500(1)(c) & (d), based upon her discretionary authority to waive all or a portion of the design and site plan review requirements, including fees, under Section 5.6.500(3). In spite of that fact, the applicant is submitting elevations and floor plans for the proposed structures as they will appear on completion of construction, including the ultimate height of the tallest structure on the site. The elevations evidence that the power plant will be compatible with the existing or contemplated environment and the surrounding properties.

4. Application does not line up with ZLDO 4.6.335 or the requirements spelled out by Southwest Oregon Regional Airport overlay zoning (See Exhibit L)

In 1932 the North Bend /Coos Bay, Oregon airport officially opened to the public and was later known as the North Bend Municipal Airport and currently as the Southwest Oregon Regional airport. The airport has been in operation long before the Coos County Land Use Ordinances were established and is therefore grandfathered in with all the rights attendant to such status. In addition, the Coos County Land Use Ordinances are to be in line with ORS 836.600 through 836.630 and Statewide Planning Goal 12 (Transportation). The Application is not in line with these guidelines. (See Exhibit M & N)


1. In addition to Article 3.4, the regulations prescribed by this zone shall not be construed to require the removal, lowering, or other change or alteration of any structure not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of the Grandfathered Use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance, and is diligently prosecuted.

However, no permit shall be granted that would allow the establishment or creation of an obstruction or permit a Grandfathered Use or structure to become a greater hazard to air navigation than it was on the effective date of this Ordinance or any amendments thereto or than it is when the application for a permit is made.

2. Marking and Lighting- Notwithstanding the preceding provision of this Section, the owner of any existing Grandfathered structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Airport Owner to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the Airport Owner. (Emphasis added)

2 "Images of America- Coos County" by Lise Hull; 2007; page 112
ZLDO 3.4.100. Use and Alteration of Buildings, Structures or Land Existing Prior to the Enactment of this Ordinance. The lawful use of any building, structure or land at the time of the enactment or amendment of this Ordinance may at the discretion of the owner be continued ...

... With the exception of grandfathered uses in resource zones, conditions shall not be placed upon the continuation or alteration of a grandfathered use when necessary to comply with state or local health or safety requirements or to maintain existing structures associated with the use. (OR-98-01-002PL 5/4/98) (Emphasis added)

Rebuttal: The applicant fails to understand CALNG's argument regarding an alleged grandfathered status for the North Bend Airport. CALNG's references to Goal 12 and ORS Chapter 836 are misplaced in that neither the statute nor the statewide planning goal serve as applicable review criteria for the design and site plan review application.

NORTH BEND AIRPORT OVERLAY ZONING
18.56.080 Land use compatibility requirements.

(2) Outdoor Lighting. No new or expanded industrial, commercial or recreational use shall project lighting directly onto an existing runway or taxiway or into existing airport approach surfaces except where necessary for safe and convenient air travel. Lighting for these uses shall incorporate shielding in their designs to reflect light away from airport approach surfaces. No use shall imitate airport lighting or impede the ability of pilots to distinguish between airport lighting and other lighting.

(3) Glare. No glare-producing material, including but not limited to unpainted metal or reflective glass, shall be used on the exterior of structures located within an approach surface or on nearby land where glare could impede a pilot's vision.

(4) Industrial Emissions. No new industrial, mining or similar use, or expansion of an existing industrial, mining or similar use, shall, as part of its regular operations, cause emissions of smoke, dust or steam that could obscure visibility within airport approach surfaces, except upon demonstration, supported by substantial evidence, that mitigation measures imposed as approval conditions will reduce the potential for safety risk or incompatibility with airport operations to an insignificant level. The review authority shall impose such conditions as necessary to ensure that the use does not obscure visibility.

(5) Landfills. No new sanitary landfills shall be permitted within 10,000 feet of any airport runway. Expansions of existing landfill facilities within these distances shall be permitted only upon demonstration that the landfills are designed and will operate so as not to increase the likelihood of bird/aircraft collisions. Timely notice of any proposed expansion shall be provided to the airport sponsor, the Department of Aviation and the FAA, and any approval shall be accompanied by such conditions as are necessary to ensure that an increase in bird/aircraft collisions is not likely to result.

(6) Communications Facilities and Electrical Interference. Proposals for the location of new or expanded radio, radiotelephone, television transmission facilities and electrical transmission lines within this overlay zone shall be coordinated with the Department of Aviation and the FAA prior to approval. (Emphasis added)
The Applicant has plans to raise the property up to 46 feet in the area of the South Dunes Power Plant in order to get the project out of the tsunami inundation zone. (See Exhibit 0 and P) The current land height in the area of the proposed power plant and gas liquefaction facility varies from 10 to 16 feet or so. (See Exhibit Q) We have also already noted above that the GRI report in Exhibit H says the applicant plans to use 20-30 feet of fill to raise the site to elevation 40 ft. Despite the applicant continually being inconsistent about its plans, all representations involve the use of >20 feet of fill and NONE OF THESE ELEVATION CHANGES WERE PRESENTED IN WITH THIS APPLICATION OR CONSIDERED as required per ZLDO 5.6.500 (j)c. What is the overall height of the entire facility in relation to the current property grade levels? The application has failed to provide evidence that this increase in height would not impact the Southwest Oregon Regional Airport and/or visibility issues with the surrounding properties. There are three landfill areas on the former Weyerhaeuser mill site that will be impacted by the increased fill and elevation. This was not addressed in the application.

The applicant also did not address siting requirements in use the day the application was submitted for outdoor lighting, glare, industrial emissions including steam, and/or the impact of building on all the proposed fill that will be placed on the property as they are required to do by the county ZLDO’s, OAR’s, ORS’s and the Airport’s overlay and zoning compliance requirements.

The maps provided by the applicant are inadequate and should not have been accepted by the Planning Director as meeting the requirements spelled out in ZLDO 5.6

Rebuttal: The North Bend Airport overlay zoning ordinance is inapplicable to a land use application in Coos County. As stated above, the elevations submitted by the applicant indicate that the ultimate height of the tallest structure depicted in the site plan is within the maximum height allowed by the FAA for uses proximate to the North Bend Airport.

5. Project did not address airport pollution impacts, columns of steam, etc, as required by CCP 5.12

Coos County Comprehensive Plan states:

CCCP 5.12 AIR, LAND & WATER QUALITY, Plan Implementation Strategies.
5. Coos County shall comply with state air, water quality and noise source standards that are established as law. (Emphasis added)

Oregon’s Statewide Planning Goal 6: Air, Water and Land Resources Quality OAR 660-015-0000(6):

To maintain and improve the quality of the air, water and land resources of the state. All waste and process discharges from future development, when combined with such discharges from existing developments shall not threaten to violate, or violate applicable state or federal environmental quality statutes, rules and standards. With respect to the air, water and land resources of the applicable air sheds and river basins described or included in state environmental quality statutes, rules, standards and implementation plans, such discharges shall not (1) exceed the carrying capacity of such resources, considering long range needs; (2) degrade such resources; or (3) threaten the availability of such resources … (Emphasis added)

The emission standards of the facility were not considered in with this review. All emissions related
to the project need to be included in the pollution analysis, including those associated with the LNG storage facility and vessel emissions. If the combined cumulative effect of all pollution sources were considered, the applicant would not be able to prove that the air quality impacts would be less than significant. The mere fact that a portion of a project may comply with an applicable regulatory standard for a stationary source does not negate the need to consider the emissions from all vehicular sources associated with the project as well.

The health impacts due to pollution coming from the facility need to be fully known and in compliance with Goal 6 requirements. Cost to health care from increases in asthma and other related health problems could be significant, thus jeopardizing the public health, safety, convenience and general welfare of the citizens living here.

In addition to this, natural gas consists primarily of methane, which is a powerful greenhouse gas.\(^3\) Methane traps 72 times as much heat as CO\(_2\) over a 20-year timeframe.\(^4\) Throughout the entire lifecycle of natural gas-from drilling to transport to end use-methane leaks into the atmosphere. These fugitive methane emissions could offset some of the emissions reductions of coal-to-natural-gas switching and pose a serious threat to the climate.\(^5\)

More than 100 million people will die and global economic growth will be cut by 3.2 percent of gross domestic product (GDP) by 2030 if the world fails to tackle climate change, a September 2012 report commissioned by 20 governments has claimed.\(^6\) (See Exhibit R) Failure to stabilize the climate would be tremendously costly over the long term and would erode the short-term economic benefits from the natural-gas boom. The federal government already has spent nearly $136 billion from 2011 to 2013 on climate-related disaster relief, which amounts to nearly $400 per household per year.\(^7\) Without climate stabilization, these costs would rise exponentially.

**Rebuttal:** As also stated at the hearing, statewide planning goals, together with their related administrative rules, do not serve as applicable land use review criteria for this site plan application. Under the CCZLDO, Statewide Planning Goal 6 and the provisions of the related administrative rule are inapplicable to this application.

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\(^3\) U.S. Environmental Protection Agency, "Overview of "Greenhouse Gases."

\(^4\) Forster and others. "Changes in Atmospheric Constituents and in Radiative Forcing."


6. Project did not address noise impacts nor cumulative noise impacts as it relates to the airport and other uses in the surrounding area.

Coos County Comprehensive Plan states:

CCCP 5.12 AIR, LAND & WATER QUALITY, Plan Implementation Strategies.

5. Coos County shall comply with state air, water quality and noise source standards that are established as law. (Emphasis added)

North Bend Airport Overlay Zone states:

18.56.080 Land use compatibility requirements.

Applications for land use or building permits for properties within the boundaries of this overlay zone shall comply with the requirements of this section as provided herein:

(1) Noise. Within airport noise impact boundaries, land uses shall be established consistent with the levels identified in OAR 660, Division 13, Exhibit 5. A declaration of anticipated noise levels shall be attached to any subdivision or partition approval or other land use approval or building permit affecting land within airport noise impact boundaries. In areas where the noise level is anticipated to be at or above 55 Ldn, prior to issuance of a building permit for construction of a noise-sensitive land use (real property normally used for sleeping or as a school, church, hospital, public library or similar use), the permit applicant shall be required to demonstrate that a noise abatement strategy will be incorporated into the building design that will achieve an indoor noise level equal to or less than 55 Ldn. (Emphasis added)

Gas Liquefaction facilities are extremely noisy facilities and the project needs to show that the cumulative noise impacts of the entire project are within regulatory requirements, including those requirements within airport boundaries. Noise issues are of serious concern with respect to these LNG facilities and Jordan Cove is legally required to address these issues with the proper studies. (See an example of a noise impact analysis for Freeport LNG as Exhibit 5). The noise analysis will need to include all components of the facility not just the compressors at the gas liquefaction facility. Boxcar Hill Campground is located directly across the road to the North of the proposed South Dunes Power Plant facility as is the Dunes National Recreation Area and several other campgrounds. Thousands of people come and camp and play in the Dunes year round. What will the impact of this facility be on this vital industry and what kind of a hazard will it place to campers and those recreating?

JCEP May 21, 2013, Application to FERC page 12 states:

"...The Project will include sirens that will be audible in all locations and will have a distinctive tone for easy recognition between alarms and emergency events .... "

"... The total maximum operating load of the Project will be approximately 330 MW .... "

JCEP May 21, 2013, Application to FERC page 21 states:

"The LNG Terminal will include sirens that will be audible in all locations and that will have a distinctive tone for easy recognition between alarms and emergency events. "

The SDPP Application should have supplied noise data and noise impact data of the entire facility and explained in detail what noise level their proposed facility would be operating at and what impact that
would have on the surrounding area including the airport and the Dunes National Recreation camping areas that are near the facility, particularly should these siren alarms go off frequently as they have been known to do at other LNG facilities?

Rebuttal: As stated above, the provisions of the Coos County Comprehensive Plan do not provide applicable review criteria for the design and site plan review application, nor do the provisions of the North Bend Zoning Code regarding airport overlay zones. The proposed site plan is situated outside of the territorial boundaries of the City of North Bend and of the North Bend Airport Overlay Zone. See copy of City of North Bend Zoning Map.

7. Neither the Applicant nor the Coos County Planning Director has recognized the Southwest Oregon Regional Airport as required by CCCP 5.19 Plan Implementation Strategy (6). The facility places an extreme hazard to the surrounding area due to its close proximity with the airport. Project does not protect public health, safety, convenience and general welfare as required by ZLDO 1.1.200, 5.6, 4.6.345; CCCP 5.11 and 5.19(1):

ZLDO 2.1.200:

AIRPORT/HELIPORT, AIR OPERATIONS FACILITIES: A facility or structures necessary or incidental to the operation of the landing and take-off of aircraft and receiving and discharging passengers and cargo, including but not limited to: navigational aids, runways, control towers, wind monitors, hangars, tie-downs, aircraft storage and repair, and refueling facilities.

Coos County Comprehensive Plan states:

5.19 TRANSPORTATION Plan
Implementation Strategies

1. Coos County shall strive to provide and encourage a transportation system that promotes safety and convenience for citizens and travelers and that strengthens the local and regional economy by facilitating the flow of goods and services.

...6. Coos County shall continue to support regional efforts to improve the County’s air transportation facilities, recognizing the: (1) regional importance of the North Bend International Airport to Coos County’s economy and transportation needs; and (2) local importance of all other existing airports within the County, which provide an important alternative mode of transportation. (Emphasis added.)

Gas liquefaction facilities are extremely hazardous facilities as are LNG facilities in general and the hazard extends out for several miles.

It is all spelled out in the scientific literature that if a LNG tanker ship was to be breached and only 1/2 of one of the (4-5) LNG tanks (or 3 to 4 million gallons of LNG) was to leak out into the water and a pool fire was to develop, people up to a mile away would be at risk of receiving 2nd degree

8 "First Yemenese LNG Tanker Arrives in Boston Harbor" By Matt Conti, Feb. 23, 2010:

"Waterfront residents received a 5:00 am wakeup call this morning. Between the helicopter noise, flashing lights and sirens, folks new that “it” had arrived. The first 395-foot long liquefied natural gas (LNG) tanker from Yemen was here."
burns in 30 seconds. This is because heat flux levels of 5kW/m² would go out as far as a mile away from the fire. If the Jordan Cove LNG Export Project was to actually make it through permitting and be built, 16,922 people would live in the Jordan Cove LNG hazard zones of concern according to the Jordan Cove former FERC EIS (Page 4.7-3). (See Exhibit T) LNG tankers would enter our narrow Bay carrying around 39 million gallons of LNG but there is little concern given for our safety by local officials. Both the cities of North Bend and Coos Bay have signed agreements indemnifying Jordan Cove should there be an LNG accident.

Structures close to an LNG pool fire, should one develop, could actually self-ignite from the high heat flux levels. This is not my words but comes directly from the December 2004 Sandia Report, “Guidance on Risk Analysis and Safety Implications of a Large Liquefied Natural Gas (LNG) Spill Over Water.” The large hazard zones associated with these facilities have also been confirmed by other Government and independent studies as well. In 2005 the Port of Long Beach and the California Public Utilities Commission had an analysis done entitled, “An Assessment of the Potential Hazards to the Public Associated with Siting an LNG Import Terminal in the Port of Long Beach.” The analysis resulted in the Port of Long Beach no longer approving the proposed LNG facility.

The applicant plans on liquefying .92 billion cubic feet a day of natural gas into liquefied natural gas (LNG). They have provided no evidence of how they would handle a leak at their facility or in the pipeline that will deliver the natural gas to the facility nor the LNG pipeline that will transport LNG to the storage facilities further to the west on the North Spit. The facility is well within the horizontal conical zone of the airport and the LNG pipeline crosses the direct path of the North/South Southwest Oregon Regional Airport runway. Even though the utility corridor for the LNG pipeline is shown in the Applicant’s Exhibit 6, it is inexplicably not addressed in the Applicant’s narrative or the Planning Departments staff report. This is a necessary component of the facility and there is no explanation as to why it was omitted in with the review.

7.1 Statewide Planning Goal 12; Oregon Administrative Rules and Oregon Revised Statutes governing planning decisions around transportation / airport facilities was not considered.

Oregon Statewide Planning Goal 12 is the goal directly applicable to airport planning in the context of periodic review. Goal 12 specifically promotes safe, convenient, and economic statewide transportation networks, including passenger and airfreight transportation. In order to comply with Goal 12 and the Airport Planning Rule (APR), city and county comprehensive plans must include a transportation element that addresses state requirements for airport planning and compatibility with surrounding land uses.

10 United States Government Accountability Office, Report to Congressional Requesters, Maritime Security; Public Safety Consequences of a Terrorist Attack on a Tanker Carrying Liquefied Natural Gas Need Clarification”, February 2007; GAO-07-316: http://www.gao.gov/new.items/d07316.pdf U.S. Department of Energy report to Congress, “Liquefied Natural Gas Safety Research”: May 2012: http://energy.gov/sites/prod/files/2013/03/00/DOE_LNG_Safety_Research_Report_To_Congress.pdf [NOTE: Based on the data collected from the large-scale LNG pool fire tests conducted, thermal (fire) hazard distances to the public from a large LNG pool fire will decrease by at least 2 to 7 percent compared to results obtained from previous studies. In spite of this slight decrease, people up to a mile away are still at risk of receiving 2nd degree burns in 30 seconds should a LNG pool fire develop due to a medium to large scale LNG breach event.]
11 “An Assessment of the Potential Hazards to the Public Associated with Siting an LNG Import Terminal in the Port of Long Beach” By Dr. Jerry Havens, September 14, 2005 - http://www.ecosakh.ru/data/im_odcs_62_ocenka_ugroz_v_svyazi_s_raxmescheniem_SPG%28angl.yaz%29.pdf
In accordance with Oregon Administrative Rule (OAR) 660-013-0030(1), (See Exhibit U) the Oregon Department of Transportation (ODOT) has prepared and adopted the 2000 Oregon Aviation Plan (OAP) as part of the State Transportation System Plan, in accordance with ORS 184.618 and the State Agency Coordination Program approved under ORS 197.180. The purpose of the state OAP is to provide state policy guidance and a framework for planning and operation of a convenient and economic system of airports, and for land use planning to reduce risks to aircraft operations and nearby land uses. The OAP encourages and supports the continued operation and vitality of Oregon’s airports.

The Oregon Airport Planning Rule (APR) further refines the provisions for local government airport regulation contained in Goal 12 and the Transportation Planning Rule. Specifically, the APR establishes a series of local government requirements and rules pertaining to aviation facility planning. These rules are intended to promote a convenient and economic system of airports in the state and for land use planning to reduce risks to aircraft operations and nearby land uses. The APR serves as the state regulatory basis for ensuring that local government airport planning conforms to the hierarchy of state plans and statutory requirements (i.e., Goal 12, ORS 836.600 et seq., Oregon Transportation Plan, 2000 Oregon Aviation Plan). These rules outline the parameters for local governments to follow as a framework for airplanning. (See Exhibits M, N & U)

There has been no determination or coordination with the Coos County Planning Department and the Oregon Department of Aviation resulting in a determination that the proposed development does not constitute a physical hazard to air navigation, as required by ORS 836.025; 836.530 and 836.535:

836.025 Establishment of airports and air navigation facilities by department.
(1) The Oregon Department of Aviation may, on behalf of and in the name of the state, out of moneys made available for such purposes, plan, establish, construct, enlarge, improve, maintain, equip, operate, regulate, protect and police airports and air navigation facilities, either within or without the state, including the construction, installation, equipment, maintenance and operation at such airports of buildings and other facilities for the servicing of aircraft or for the comfort and accommodation of air travelers.
(2) For such purposes the department may, by purchase, gift, devise, lease, condemnation or otherwise, acquire property, real or personal, or any interest therein, including easements in airport hazards or land outside the boundaries of an airport or airport site, as are necessary to permit safe and efficient operation of the airports or to permit the removal, elimination, obstruction-marking or obstruction-lighting of airport hazards, or to prevent the establishment of airport hazards. In like manner the department may acquire existing airports and air navigation facilities; provided it shall not acquire or take over any airport or air navigation facility owned or controlled by a municipality of this or any other state without the consent of the municipality. [Formerly 492.050] (Emphasis added)

836.530 Rules and standards; orders; appeals.
(1) In addition to any other rulemaking authority, the Director of the Oregon Department of Aviation may adopt rules:
(a) To define physical hazards to air navigation and determine whether specific types or classes of objects or structures constitute hazards. Rules defining physical hazards and

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12 Chapter 836- Airports and Landing Fields 2011 Edition [http://www.leg.state.or.us/ors/836.html](http://www.leg.state.or.us/ors/836.html)
determining whether specific types or classes of objects or structures constitute hazards may be adopted only after a fact-finding process and must be supported by substantial evidence.

(b) Establishing standards for lighting or marking objects and structures that constitute hazards to air navigation.

(c) Establishing standards for mitigating physical hazards to air navigation by altering the height or location of objects and structures.

(d) Establishing standards for mitigating hazards to air navigation by altering approach surface standards or installing navigational aids.

(2) In accordance with the rules adopted under this section, the director shall do the following:

(a) Determine whether specific objects or structures constitute a hazard to air navigation.

(b) Determine responsibility for installation and maintenance of lighting or marking and for alteration of the height or location of specific objects or structures that constitute hazards to air navigation.

(c) Issue orders to require that specific objects or structures determined to be hazards to air navigation be marked or lighted in accordance with rules adopted under this section.

(d) Make recommendations to the Federal Aviation Administration to require that airports alter approach surface standards or install navigational aids for the purpose of mitigating hazards to air navigation.

(3) Rules and standards adopted under this section are limited to and may not be more restrictive than current federal norms, including but not limited to, regulations and circulars, pertaining to objects affecting navigable airspace.

(4) Any person or entity required to comply with an order issued under this section may contest the order as provided under ORS chapter 183. [Formerly 492.820; 1999 c.935 §37; 2009 c.399 §3] (Emphasis added)

836.535 Hazards to air navigation prohibited; exceptions.

(1) A person may not construct an object or structure that constitutes a physical hazard to air navigation, as determined by the Oregon Department of Aviation in coordination with the governing body with land use jurisdiction over the property.

(2) Subsection (1) of this section does not apply:

(a) To construction of an object or structure that is utilized by a commercial mobile radio service provider; or

(b) If a person received approval or submitted an application for approval from the Federal Aviation Administration or the Energy Facility Siting Council established under ORS 469.450 to construct an object or structure that constitutes a physical hazard to air navigation.
Accidents have occurred in and around the Southwest Oregon Regional Airport in North Bend. (See Exhibit V) There is no way to condition or guarantee that an aircraft would NEVER fly into the proposed gas liquefaction facility being sited directly in the regulated navigational airspace less than a mile from the end of the airport runway. (See Exhibit W) Since just one airplane accident could decimate the entire area, the Coos County Planning Department has an obligation to the public to err on the side of caution and to protect the public health, safety convenience and general welfare as the Comprehensive Plan and County Ordinances require them to do. The County Planning Department should not proceed in allowing this liability, conflict and potential hazard to be sited at the end of the runway.

**Rebuttal:** ODA has submitted a letter requesting a condition of approval which was adopted by the staff report as Condition No. 2 which provides that:

> "The applicant shall comply with applicable local, state and federal regulations and laws including FAA regulations and regulations regarding impacts to jurisdictional wetlands and natural hazard areas under ORS 455.446 – ORS 455.449, as required by local, state and federal agencies having jurisdiction. Prior to issuance of a building or grading permit, the applicant must file FAA Form 7460-1 Notice of Proposed Construction or Alteration with the FAA and the Oregon Department of Aviation as required by OAR 738-070-0060 and ORS 836.530."

ORS 836.610 requires local governments to amend their comprehensive plans and land use regulations consistent with the OARs adopted by DLCD regarding airport planning.

OAR 660, Division 13 is the Airport Planning Rule. It requires that, "[a] city or county with planning authority for one or more airports, or areas within safety zones or compatibility zones described in this division, shall adopt comprehensive plan and land use regulations for airports consistent with the requirements of this division and ORS 836.600 through 836.630."

The project is subject to the jurisdiction of Coos County. The project is not located in any Airport Surfaces Overlay Zone established by Coos County. The North Bend Airport is subject to the jurisdiction and regulation of the City of North Bend. As the North Bend Code and the North Bend Airport Master Plan demonstrate, the project is not within the North Bend Airport Overlay Zone or any safety or compatibility zone of the North Bend Airport.

As shown on the Airport Airspace Drawing (FAR PART 77) Plan View (Sheet 5 of 10) of the North Bend Master Plan Airport Layout Plan, the project is not within any primary surface, runway protection zone, approach surface, horizontal surface, conical surface, or transitional surface, as defined by the City of North Bend and OAR 660, Division 13. The horizontal surface is a horizontal plane 150 feet above the established airport elevation, which is 172 feet. Therefore, the horizontal surface starts at 167.2 feet in height. The project is only 150 feet in height. The project is not within the North Bend Airport horizontal surface.

7.2 Federal Regulations governing planning siting of LNG facilities have not been considered.

The Federal Regulations could determine the siting location of the proposed facility conflicts with the surrounding properties due to thermal radiation and flammable vapor-gas dispersion exclusion zones and wind force requirements. These hazard impacts would likely extend into the
7-D and 7-NA zones to the South and the Recreational zones to the North and these impacts and hazards should have but considered by the Planning Director in her review.

The applicant has provided no wind impact analysis, no thermal radiation or vapor dispersion protection analysis as required by the 49 C.F.R. PART 193-LIQUEFIED NATURAL GAS FACILITIES: FEDERAL SAFETY STANDARDS

Subpart B-Siting Requirements
§ 193.2051 Scope.
§ 193.2057 Thermal radiation protection.
§ 193.2059 Flammable vapor-gas dispersion protection.
§ 193.2067 Wind forces.

Subpart B-Siting Requirements
§ 193.2051 Scope.
Each LNG facility designed, constructed, replaced, relocated or significantly altered after March 31, 2000 must be provided with siting requirements in accordance with the requirements of this part and of NFPA 59A (incorporated by reference, see §193.2013). In the event of a conflict between this part and NFPA 59A, this part prevails.

§ 193.2057 Thermal radiation protection.
Each LNG container and LNG transfer system must have a thermal exclusion zone in accordance with section 2.2.3.2 of NFPA 59A (incorporated by reference, see §193.2013) with the following exceptions:

(a) The thermal radiation distances must be calculated using Gas Technology Institute’s (GTI) report or computer model GTI-04/0032 LNGFIRE: A Thermal Radiation Model for LNG Fires (incorporated by reference, see §193.2013). The use of other alternate models which take into account the same physical factors and have been validated by experimental test data may be permitted subject to the Administrator’s approval.

(b) In calculating exclusion distances, the wind speed producing the maximum exclusion distances shall be used except for wind speeds that occur less than 5 percent of the time based on recorded data for the area.

(c) In calculating exclusion distances, the ambient temperature and relative humidity that produce the maximum exclusion distances shall be used except for values that occur less than five percent of the time based on recorded data for the area.

§ 193.2059 Flammable vapor-gas dispersion protection.
Each LNG container and LNG transfer system must have a dispersion exclusion zone in accordance with sections 2.2.3.3 and 2.2.3.4 of NFPA 59A (incorporated by reference, see §193.2013) with the following exceptions:

13 49 C.F.R. PART 193-LIQUEFIED NATURAL GAS FACILITIES: FEDERAL SAFETY STANDARDS

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(a) Flammable vapor-gas dispersion distances must be determined in accordance with the model described in the Gas Research Institute report GRI-89/0242 (incorporated by reference, see § 193.2031), "LNG Vapor Dispersion Prediction with the DEGADIS Dense Gas Dispersion Model." Alternatively, in order to account for additional cloud dilution which may be caused by the complex flow patterns induced by tank and dike structure, dispersion distances may be calculated in accordance with the model described in the Gas Research Institute report GRI-96/0396.5 (incorporated by reference, see § 193.2031), "Evaluation of Mitigation Methods for Accidental LNG Releases. Volume 5: Using FEMSHA for LNG Accident Consequence Analyses". The use of alternate models which take into account the same physical factors and have been validated by experimental test data shall be permitted, subject to the Administrator's approval.

(b) The following dispersion parameters must be used in computing dispersion distances:

1. Average gas concentration in air = 2.5 percent.
2. Dispersion conditions are a combination of those which result in longer predicted downwind dispersion distances than other weather conditions at the site at least 90 percent of the time, based on figures maintained by National Weather Service of the U.S. Department of Commerce, or as an alternative where the model used gives longer distances at lower wind speeds, Atmospheric Stability (Pasquill Class) F, wind speed = 4.5 miles per hour (2.01 meters/sec) at reference height of 10 meters, relative humidity = 50.0 percent, and atmospheric temperature = average in the region.
3. The elevation for contour (receptor) output H = 0.5 meters.
4. A surface roughness factor of 0.03 meters shall be used. Higher values for the roughness factor may be used if it can be shown that the terrain both upwind and downwind of the vapor cloud has dense vegetation and that the vapor cloud height is more than ten times the height of the obstacles encountered by the vapor cloud.

(c) The design spill shall be determined in accordance with section 2.2.3.5 of NFPA 59A (incorporated by reference, see § 193.2031).


§ 193.2067 Wind forces.

(a) LNG facilities must be designed to withstand without loss of structural or functional integrity:

1. The direct effect of wind forces;
2. The pressure differential between the interior and exterior of a confining, or partially confining, structure; and
3. In the case /impounding systems for LNG storage tanks, impact forces and potential penetrations by wind borne missiles.

(b) The wind forces at the location of the specific facility must be based on one of the following:

1. For shop fabricated containers of LNG or other hazardous fluids with a capacity of not more than 70,000 gallons, applicable wind load data in ASCE/SEI 7-05 (incorporated by reference, see § 193.2031). (2) For all other LNG facilities:
   i. An assumed sustained wind velocity of not less than 150 miles per hour unless the Administrator finds a lower velocity is justified by adequate supportive data; or
   ii. The most critical combination of wind velocity and duration, with respect to the effect on the structure, having a probability of exceedance in a 50-year period of 0.5 percent or less, if adequate wind data are available and the probabilistic methodology
(Emphasis added)

The burden of proof of compliance with the CCCP and ZLDO rests with the applicant. How can the county find that the proposal complies with the ZLDO and Comprehensive Plan requirements to protect public health, safety, convenience and general welfare without having a full understanding of the project and the impacts due to siting it on the subject property? ZLDO 5.6.500 (l)(vi) allows the county plenty of leeway to request any other materials or information as may be deemed necessary to assist in evaluation of the request. The county has requested nothing and in fact during the initial Planning Director review, the Planning Director has stated the Planning Department cannot accept or consider data that is not in the application.

It is the obligation of the County to ensure that everything necessary for the proper analysis and safe siting of this facility is in place. The County is required to request the necessary data, not just accept what the applicant provides. The proposed Jordan Cove South Dunes Power Plant and Gas Liquefaction hazardous facility warrants that extra measures of protection be required by the county, not ignored completely. The full scope of the County’s Transportation Plan 14, Multi-jurisdictional Natural Hazards Mitigation Plan 15 and Emergency Operations Plan 16 should be considered in this decision making process. Where else in the planning process are they to be considered? Why did the county approve these County Operational Plans if they are not going to incorporate them into their decision making processes?

Rebuttal: This site plan involves the proposed power plant and interrelated gas conditioning facility, not the LNG terminal. The LNG terminal is regulated by FERC and all federal regulations have been and will be addressed during the FERC process. The applicant is coordinating with other state and federal agencies in obtaining all necessary approvals.

7.3 Proposed development does not comply with Comprehensive Plan 5.11 Natural Hazards Planning Implementation Strategies 1, 5 and 7 and statutes regarding proof of engineering and seismic design of facility (ORS 455.446 to 455.449).

The parcel of land that the JCEP is proposing to build their extremely hazardous facility on is located in a “red/orange/and yellow” Tsunami inundation zone 17 (See Exhibit X) and also an earthquake subduction zone (the Cascadia Subduction Zone). A 13 year study recently completed by researchers at Oregon State University, and published by the U.S. Geological Survey, concluded that there is a 40 percent chance of a major earthquake in the Coos Bay, Ore., region during the next 50 years. And that earthquake could approach the intensity of the Tohoku quake that devastated Japan in March of 2011. 18 Current Oregon law 19 prohibits hazardous facilities

14 The Coos County Transportation System Plan; http://www.co.coos.or.us/Portals/0/Planning/ccsp03-28-ll.pdf
15 Multi-jurisdictional Natural Hazards Mitigation Plan; http://www.co.coos.or.us/Portals/0/Emergency%20Management/Coos%20County%20NHMP_Final_062110.pdf
18 13-Year Cascadia Study Complete - And Earthquake Risk Looms Large http://oregonstate.edu/ua/ncs/archives/2012/jul/13-year-cascadia-study-complete-%E2%80%93-and-earthquake-risk-looms-large
Study Link: Turbidite Event History - Methods and Implications for Holocene Paleoseismicity of the Cascadia

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such as this from being built in tsunami inundation zones without the review and approval of the State Department of Geology and Mineral Industries (DOGAMI). Jordan Cove’s solution to this tsunami issue is to dump 30+ feet of fill on the property in order to raise the property level above the projected tsunami inundation zone. This is detailed more in the tsunami study that accompanies the JCEP application. (See Exhibit 0) This will make the facility pose more of a hazard to the nearby runway and flying aircraft. Also, because the facility will be built on dredged material (i.e. sand), the hazardous facility itself will be at risk of liquefaction impacts in the event of an earthquake. This will clearly violate ZLDO 4.6.335 as explained above and ZLDO 4.6.345.

The Coos County Comprehensive Plan states:

5.11 NATURAL HAZARDS
Plan Implementation Strategies
I. Coos County shall regulate development in known areas potentially subject to natural disasters and hazards, so as to minimize possible risks to life and property.
Coos County considers natural disasters and hazards to include stream and ocean flooding, wind hazards, wind erosion and deposition, Critical streambank erosion, mass movement (earthflow and slump topography), earthquakes and weak foundation soils.

This strategy shall be implemented by enacting special protective measures through zoning and other implementing devices, designed to minimize risks to life and property. This strategy recognizes that it is Coos County’s responsibility: (1) to inform its citizens of potential risks associated with development in known hazard areas; and (2) to provide appropriate safeguards to minimize such potential risks....

...5. Coos County shall promote protection of valued property from risks associated with critical streambank and oceanfront erosion through necessary erosion-control stabilization measures, preferring nonstructural solutions where practical.
Coos County shall implement this strategy by making “Consistency Statements” required for State and Federal permits (necessary for structural streambank protection measures!) that support structural protection measures when the applicant establishes that non-structure measures either are not feasible or inadequate to provide the necessary degree of protection.

This strategy recognizes the risks and loss of property from unabated critical streambank erosion, and also, that state and federal agencies regulate structural solutions.

6. Coos County shall permit the construction of new dwellings in known areas potentially subject to mass movement (earthflow/slump topography/rock fall/debris flow) only:
a. if dwellings are otherwise allowed by this comprehensive plan; and
b. after the property owner or developer files with the Planning Department a report certified by a qualified geologist or civil engineer stipulating:
i. his/her professional qualifications to perform foundation engineering and soils analysis; and
ii. that a dwelling can or cannot be safely constructed at the proposed site, and whether any special structural or siting measures should be imposed to safeguard the proposed


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building from unreasonable risk of damage to life or property.

This strategy recognizes the county is responsible for identifying potential hazard areas, informing its citizens of risks associated with development in known hazard areas, and establishing a process involving expert opinion so as to provide appropriate safeguards against loss of life or property.

Implementation shall occur through an administrative conditional use process, which shall include submission of a site investigation report by the developer that addresses the considerations above.

7. Coos County shall: (1) support the State Building Code Division’s building code enforcement program so as to provide maximum structural protection necessary to safeguard against seismic hazards (earthquakes); and (2) require that high occupancy and critical use facilities (such as schools and hospitals) to be located in the areas of stable ground conditions.

Coos County shall implement its share of this strategy through implementing ordinance provisions, while at the same time supporting the state building code program.
(Emphasis added)

Rebuttal: As previously mentioned, comprehensive plan policies are not applicable review criteria.

ZLDO 2.1.200:
CRITICAL FACILITY: means a facility for which even a slight change of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations. installations which produce, use or store hazardous materials or hazardous waste. (Emphasis added)

All structures and uses within the Airport Operations District shall conform to the requirements of Federal Aviation Agency Regulation FAR-77 or its successor, and to other Federal and State laws as supplemented by Coos County Ordinance regulating structure height, steam or dust, and other hazards to flight, air navigation or public health, safety and welfare. (Emphasis added)

Rebuttal: The project is not within any Airport Operations District.

A new report released in February "Reducing Risk and Improving Recovery for the Next Cascadia Earthquake and Tsunami"[20] spells out many of the issues we Oregonians will have to face with a potential Cascadia subduction earthquake and tsunami event when it should occur.

Sudden major subsidence and liquefaction along the North Spit would cause the Jordan Cove storage tanks, liquefaction facility and South Dunes Power Plant that is proposed to be built on

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Oregon Resilience Plan Full Report
dredging spoil sand to sink, exposing them to tsunami forces and ultimately fire from escaping natural gas, which would be devastating to our area. Too often, tsunami experts predict tsunami impacts assuming static current land conditions and ignoring possible co-seismic subsidence. The possibility of co-seismic subsidence should be examined by a multi-disciplinary team of experts before something as potentially dangerous as an LNG Export terminal is placed in these subduction tidal zones.

**Building Structures on Weak Foundation Soils**

“The Niigata earthquake of June 16, 1964 had a magnitude of 7.5 and caused severe damage to many structures in Niigata. The destruction was observed to be largely limited to buildings that were founded on top of loose, saturated soil deposits. A tsunami, triggered by movement of the sea floor associated with the fault rupture, totally destroyed the port of Niigata.”

The Niigata earthquake, together with the Alaska earthquake also of 1964, brought liquefaction phenomena and their devastating effects to the attention of engineers and seismologists. A remarkable ground failure occurred near the Shinano riverbank where the Kawagishi-cho apartment buildings suffered bearing capacity failures and tilted severely. (Photo above.)²¹ Obviously floating objects, barges, vessels, etc, can also be a significant issue in a tsunami.

Liquefied Natural Gas Accidents

Accidents involving LNG can and do happen. In January 2004 an explosion at an LNG liquefaction plant in Algeria resulted when a "large amount of liquid gas escaped from a pipe and formed a cloud of highly flammable and explosive vapor that hovered over the facility. The cloud exploded after coming into contact with a flame source." The explosion broke windows as far away as 6 miles from the accident. According to LNG Safety experts the accident in Algeria could occur at plants like the one being proposed by JCEP. 22(See Exhibit Y)

In August, 2005, a 28-inch LNG underground pipeline exploded at Kalakama. The explosion caused a "wild inferno" that "engulfed an estimated 27 square kilometers of the once rich Kalakama mangrove, killing sea foods and cash crops." Eleven people were missing after the fire, which was caused by a leak in the line. It took 48 hours to put out the fire. 23

In September, 2005, a tanker truck carrying LNG caught fire, likely as a result of static electricity. At the time, a HazMat team was attempting to shut off a leaking valve when the gas ignited. The flames from the fire reached 40 feet in the area, and burned for over 24 hours. 24

In 2005 leaks were found in LNG tankers in Britain. These were new ships, supposedly built with up-to-date safety features. To compound the matter, "...The problem is worrying the industry because no one has yet discovered what the exact causes of the problems are and there are fears of a design problem that could affect up to 20 vessels. The ships are needed to service a massive increase in demand for LNG in Britain, the United States and elsewhere as the indigenous supplies of natural gas

23 Raines, Ben, Report Sheds New Light on LNG Blast in Algeria. Mobile Register, April 14, 2004
25 Reno Gazette-Journal, Static electricity cause of tanker truck fire. September 20, 2005
On August 29, 1987, at the U. S. Liquefied Gaseous Spills Test Facility (LGSTF) in Nevada, during the fifth test (in the Falcon Test series), involving a large volume (50 cubic meters or 13,000 gallons) spill of liquefied natural gas (LNG), large and violent rapid phase transitions (RPTs—liquid phase transforming to vapor phase) occurred and were followed by the self-ignition of the natural gas vapor. The tests were done for the purpose of studying vapor dispersion and were therefore deliberately designed to avoid accidental fires. The Rapid Phase Transitions (RPTs) that occurred when the LNG contacted the water are believed to have thrown concrete blocks with such force as to (indirectly) cause a spark that ignited the vapor cloud. The fire that ensued burned very rapidly and dramatically. The 5th test was necessarily the last in the Falcon Series as the fire destroyed the testing facility.27

Finally, onshore natural gas pipelines can leak or rupture, causing significant harm. In May 2005, a natural gas pipeline near Hallsville, Texas exploded, sending a fireball 500 feet in the air.28 In 2007 natural gas pipelines were sabotaged in Mexico. Flames from the fires could be seen for six miles and explosions could be felt up to 12 miles away.29 More recently, a September 9, 2010, blast of a Pacific Gas and Electric Company (PG&E) natural gas pipeline that exploded underneath a suburb south of San Francisco left eight people dead, injured more than 50 and destroyed or damaged more than 100 homes. Internal PG&E memos, which have come to light in connection with legal proceedings resulting from the San Bruno explosion, reveal that PG&E engineers told company executives years before the blast that major cuts in pipeline safety spending could endanger the public safety. A division of the California Public Utilities Commission recommended on May 6, 2013, that the agency levy a $2.25-billion penalty against Pacific Gas and Electric Company for the deadly 2010 explosion.30

Williams and Pipeline Safety - Not wanted in anyone’s backyard

- On Thursday, June 13, 2013, an explosion at the Williams Companies Inc. plant in the Ascension Parish town of Geismar La., killed two workers and injured dozens of others. More than 300 people were evacuated from the site. The fire broke out in the morning hours of June 13th at the plant, which the company’s website says puts out about 1.3 billion pounds of ethylene and 90 million pounds of polymer grade propylene a year. The cause of the blast wasn’t immediately known, but the FBI had ruled out terrorism.31

- On May 30, 2013, according to the Natural Gas Watch, Williams (Transco), the natural gas company proposing to build a massive, new natural gas pipeline through wetlands and recreation areas in coastal New York City, asked federal regulators for an exemption to existing wildlife protection laws to “harass” a range of marine life during the pipeline’s construction.32

26 The Guardian, Safety fears for fleet of new LNG tankers after leaks are found, December 21, 2005.
28 Associated Press, “Explosion reported in Northeast Texas”. May 13, 2005
30 Los Angeles Times, "Record $2.25 billion fine recommended in San Bruno explosion" May 6, 2013, by Kate Mather : http://articles.latimes.com/2013/may/06/local/la-me-In-san-bruno-explosion-20130506
31 "2nd victim dies after blast at La. chemical plant " (AP) By Littice Bacon-Blood - Jun 14, 2013: http://bigstory.ap.org/article/2nd-victim-dies-after-blast-la-chemical-plant
On May 14, 2013, an explosion touched off a fire at a natural gas compressor facility owned by the Williams Co in New Milford, Pennsylvania, sending flames shooting high into the night sky. No one was injured in the explosion and subsequent fire. Williams has a lengthy history of pipeline safety violations according to documents obtained by Natural Gas Watch and this incident represents the second explosion at a Williams-owned facility in Pennsylvania's Susquehanna County in 14 months.

On March 23, 2013, a major natural gas gathering pipeline owned and operated by the Williams Companies ruptured in West Virginia, according to media reports, the accident occurred just days after the company rejected safety recommendations from the U.S. Army Corps of Engineers in connection with controversial new natural gas pipeline of similar diameter proposed for New York City. Natural gas gathering pipelines move methane from the wells in the gas fields to processing facilities, where it is then moved downstream via natural gas transmission lines. Natural gas gathering lines operate essentially unregulated by federal agencies.

On April 9, 2012, the Natural Gas Watch reported the following about the Williams Co. lengthy record of pipeline safety violations and about a leak that had occurred in a Williams’ natural gas pipeline:

"The Williams Transco natural gas pipeline, an 11,000 mile pipeline that runs from the Gulf Coast to markets on the eastern seaboard, sprung a leak in Bergen County, New Jersey, according to a recent media report (dated April 4, 2012). The leak in a 36-inch-diameter section of the pipeline represents the second incident calling into question the pipeline’s integrity in less than a month. A natural gas compressor station owned and operated by Williams, which pumps pressurized natural gas obtained from hydraulic fracturing wells in Pennsylvania through the Transco pipeline, exploded last week. The Williams Co., which is already operating under a federal Corrective Action Order in connection with a massive natural gas pipeline explosion in Alabama last year, has a lengthy record of pipeline safety violations, according to documents obtained by NaturalGasWatch.org."  

On March 29, 2012, Williams Partners L.P., was the owner/operator of the natural gas compressor station that exploded in northeastern Pennsylvania. Williams has a history of serious natural gas pipeline safety violations. The federal Pipeline and Hazardous Material Safety Administration (PHMSA) issued a Corrective Action Order to Williams Partners on Dec. 6, 2011, in connection with a massive natural gas explosion that occurred in Marengo County, Alabama, on Dec. 3, 2011, on the company’s Transco pipeline. The facility that exploded in Pennsylvania fed pressurized natural gas into the Transco pipeline.

On March 5, 2012, Williams Partners subsidiary, the Transcontinental Gas Pipeline Co. LLC, was fined $50,000 by PHMSA for failure to follow its own, internal policies related to controlling external corrosion in natural gas pipelines running through the New York City borough of Staten Island.

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33 This Week In Natural Gas Leaks and Explosions  May 27, 2013: http://www.naturalgaswatch.org/?p=2046
36 Owner of PA Natural Gas Facility that Exploded has Lengthy Record of Pipeline Safety Violations - March 30, 2012: http://www.naturalgaswatch.org/?p=1305
• Dec. 3, 2011, a massive natural gas explosion that occurred to a Williams pipeline in Marengo County, Alabama.  

• On June 24, 2011, Williams Partners subsidiary, the Transcontinental Gas Pipeline Co. LLC, was fined $23,800 by PHMSA for failure to conduct annual inspections of natural gas compressor stations in Texas and Louisiana.  

• On Sept 14th, 2008, a 36-inch Williams’ pipeline exploded in Appomattox County, VA. The fireball demolished two houses and blistered the siding on homes 400 yards away. Flames shot in the air in excess of 300 feet and five people were injured in the blast. The aftermath of the explosion left a 15-foot crater in the ground. Twenty-three families were evacuated. The Appomattox rupture was caused by corrosion of the 53-year-old pipeline, which had been inspected three months earlier by a “smart pig,” a computerized scanning device that travels through a pipeline searching for dings, dents or corrosion, but had not yet been repaired. Transco’s owner, the Williams Cos., paid the U.S. Transportation Department a $952,000 fine, replaced 2,500 feet of the pipeline, “smart pigged” all of its pipelines in Virginia and performed pressurized water tests to validate the repairs. 

Law360 out of New York reported on August 18, 2009:

“The second largest proposed penalty this year has been a $952,000 fine against Williams Gas Pipeline-Transco for a spill in September near Appomattox, Va. Five people were sent to the hospital, and several homes were damaged or destroyed from an ensuing fire.”

The Pipeline Safety Trust from 1986 through 2008 showed 11 non-public injuries and $43 million in damages along the entire length of that William’s Transco line. Most of the failures were caused by material defects, corrosion or outside forces. 

• On August 10, 2007, it was reported that 27 horses were found dead near a gas leak of the Northwest Pipeline, which is one of the Williams Companies pipelines. Company personnel discovered the dead horses on the ranch while conducting routine maintenance checks on the 24-inch pipeline that runs underground. The dead horses were found 300 to 400 yards from where the leak was suspected. 

• On November 11, 2006, a report indicated that a 300- to 400-foot section of the Williams Northwest natural gas pipeline had dropped into the Toutle River near Castle Rock when the river bank gave way. The exposed pipe did not rupture but Cowlitz County emergency crews established a 300-foot perimeter around the exposed pipe due to the potential of the pipeline rupturing which would have caused a significant explosion and fire. The pipeline is part of a 4,000-mile-long pipeline that carries

36 Owner of PA Natural Gas Facility that Exploded has Lengthy Record of Pipeline Safety Violations - March 30, 2012:  http://www.naturalgaswatch.org/?p=1305
40 “27 horses found dead near gas leak” By Sven Berg for the Times-News, Posted Friday, August 10, 2007: http://magicvalley.com/news/local/horses-found-dead-near-gas-leak/article_b32b16a5-c560-5ace-a0ae-00ed345be57f.html

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* A report in 2003 gives more examples of the jaded history of the Williams Co and their pipeline safety record.  

"... In June 1999, a pipeline explosion in a park in Bellingham killed three young people, and triggered an intensive investigation into pipeline safety and operating regulations. Following that, the Washington Utilities and Transportation Commission launched an investigation into the pipeline inspection and testing record of the companies operating in Washington State. Williams came out nearly at the bottom of the list, having inspected only 17% of its system and tested a mere 11%.(1) ... 

Dec 13, 2003. For the second time in six month, Williams' Northwest Pipeline (which runs from Sumas to Mexico) ruptured, releasing gas for three hours before it could be stopped.

The federal government has ordered a natural-gas supplier to shut down one of its two pipelines that run through Whatcom County, saying continued operation of the line would be hazardous to people, property and the environment.

The Office of Pipeline Safety on Thursday ordered Northwest Pipeline, a division of the Oklahoma-based Williams Cos. Inc. natural-gas drilling and transportation company, to idle the 26-inch line. The company must demonstrate the 47-year-old line is safe or replace certain segments before it begins operating the line again.(2)

May 1, 2003. Williams' same Northwest Pipeline ruptured dramatically

The company's natural-gas artery burst with a roar on May 1 near Lake Tapps, sparking evacuations at a school, a supermarket and about 40 homes. Inspectors later identified the cause as "stress corrosion cracking".

After repairs were made to the line near Lake Tapps in May, inspectors ordered the company to reduce the line's gas pressure 20 percent to 632 pounds per square inch.(3)

The Washington Utilities and Transportation Commission documents a series of earlier incidents on Williams Northwest Pipeline (4):

Feb 26, 1999. near Stevenson, the 22 inch pipeline failed.

Jan 3, 1998. a weld defect located on a fitting caused the 22 inch pipeline to rupture at a location east of Pendleton, Oregon.


Feb 9, 1997. near Kalama, the 26 inch pipeline failed.

Feb 8, 1997. near Everson, the 26 inch pipeline failed

The line has a history of problems that includes a February 1997 explosion just east of Everson. That incident didn't result in injuries, but the explosion shattered windows and damaged homes in the area. Flames could be seen for miles (2).

Mar 6, 1995. near Castle Rock, the 26 inch pipeline failed.

1994. A lateral line on the same system near Oregon City, Ore., failed 22 times during tests

1992. Stress corrosion cracking caused the Williams line to fail during tests in 1992. 43

Citizens have a right to have their lives and property protected and not subjected to harm or even death due to improper planning. If one component of this facility was to have a problem or fail it could essentially affect the other components and the entire surrounding area. The cumulative safety and security impacts of the project as a whole should be fully considered before Coos County gives the project their stamp of approval. No experts were brought in by the county in this case to analyze the proposed project. The county has taken the applicant's word for everything and that is not in line with the requirements of the Coos County Comprehensive Plan or the Coos County Zoning Ordinances.

Rebuttal: The airport planning statutes and administrative rules are legislative directions to local governments to adopt and implement regulations for airports and surrounding land uses. The statutes and rules do not, themselves, directly regulate the same. Nothing in the statutes or rules expressly state that they preempt local government laws.

8. Applicant did not provide a traffic impact study or ODOT review as required by the County's Transportation Plan. Application does not comply with ZLDO 6.2.400.5 and 7.1.550 Section 13.

ZLDO 6.2.400. Improvement Specifications. Improvements shall conform to the following standards

... 5. Streets or roads shall conform to the improvement standards stated in Chapter VII of this Ordinance.

"(5.5) For developments affecting State road facilities by more than 300 trips per day, as estimated using the most recent edition of the ITE Trip Generation Manual, or where the development causes traffic impacts that bring a State road below acceptable levels of service standards, or impacts a State road that is already operating below acceptable levels of service, or impacts a State road that has a documented safety problem, the applicant shall be required to provide a traffic impact study that identifies traffic impacts attributable to the development and appropriate mitigation measures. Mitigation must be provided in order for the development to be approved. The determination of impact effect, scope of the impact study, scheduling, and funding of improvements shall be coordinated between the developer, the county and the Oregon Department of Transportation." (Emphasis added)

ZLDO 7.1.550 Access Management.

Section 3. Conformance with Plans, Regulations, and Statutes
This ordinance is adopted to implement the access management policies of the county as set forth in the Transportation System Plan.

...Section 13. Site Plan Review Procedures for Access Management

2. Subdivision and site plan review shall address the following access criteria:
   a. All proposed roads shall follow the natural topography and preserve natural features of the site as much as possible. Alignments shall be planned to minimize grading; ...

3. Any application that involves access to the State Highway System shall be reviewed by the Oregon Department of Transportation for conformance with state access management standards, before the application is accepted by the County. All access measures ODOT deems necessary shall be made a condition of approval.

(Emphasis added)

Jordan Cove Energy Project’s May 21, 2013, Application to the FERC 44 page 28 states that an additional 1,530 indirect and 1,838 induced jobs a year would be created during the construction period. It would be expected that these workers would be commuting to the job site on a daily bases using the State highway transportation system roadways to get to the facility. The project construction is expected to last approximately 3 to 4 years. An article in the World newspaper on August 7, 2013, states that at the height of construction there will be 2,100 jobs and that there are plans to raise the entire 500 acre site 40 to 45 feet above its current level. (See Exhibit P) This will clearly affect the current grading and the amount of trucks transporting the fill. The Applicant has failed to mention the number of trucks that would be used to haul the 2.3+ million cubic yards of material to be excavated from the upland portion of the proposed slip to the South Dunes Power Plant, or the length of time it would take to complete this activity. These impacts should have been considered with regard to traffic onto the State Highway System of which Jordan Cove road and the Transpacific Highway are considered a part as noted in the Coos County Transportation System Plan on Figure 6-1 (See Exhibit Z). This influx of increased travel was not considered by the applicant in their application nor by the County Road master or the Planning Director in her decision. The grading of the site as noted above will increase in height up to 46 feet which violates the road grading requirements set forth in ZLDO 7.1.550 Section 13 (2) a.

An example of the types of conditions that should have been applied to this application can be found in our Exhibit A-1 under the Conditions of Approval for the Jordan Cove LNG facility. (See Exhibit A-1’s Exh B page 3 and Conditions of Approval 13-16). Unfortunately our current county Roadmaster does not seem to understand that he is not the ODOT.

Rebuttal: The applicant addressed Section 7.1.550, Section 13.2 in its application by finding that site lacked natural topography and features to preserve given that it is a brown field development site that has

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44 Jordan Cove Energy Project, LP’s CD containing their application to site construct and operate a natural gas liquefaction and liquefied natural gas etc under CP13-483. Part 1 of 2. CD 1 of 3.
*Jordan Cove Energy Project, LP’s CD containing their application to site construct and operate a natural gas liquefaction and liquefied natural gas etc under CP13-483. Part 2 of 2. CD 1 of 3.
http://elibrary.FERC.gov/idmws/file_list.asp?accesisonum=20130521-4010
been utilized for industrial development for the past 60 years. No grading will be required for any proposed internal roads. Otherwise, the site plan does not request nor propose access to the state highway system. Accordingly, there is nothing for ODOT to review with respect to the design and site plan review application.

9. **Condition of Approval #1 does not require ESEE analysis of conflicts or provide opportunities for citizen involvement as required under ZLDO 4.7.120, which incorporates OAR Chapter 660, Division 16 (old Goal 5 Rule).**

Maps submitted with this application clearly show that the property is an area of known archeological significance. Due to the fact that this is already known and established it is the county’s duty to protect the resource whether the Tribe chooses to protect it or not. Any dynamic compaction or vibro compaction to the site could essentially destroy any and all archeological and cultural resources that may be buried on the site. It is the duty of the county to protect these resources. The county should follow the ESEE analysis of conflicts process as lined out by OAR Chapter 660, Division 16 and ZLDO 4.7.120.

**Rebuttal:** CALNG misconstrues CCZLDO 4.7.120. That section only provides legislative direction to the County to create an administrative conditional use process that is based on findings that address the requirements of OAR 660-16-005(2) and OAR 660-165-010, which the County previously did in adopting allowed uses under CCZLDO.

**Conclusion:**

The EPA and other federal agencies actually don’t regulate how close hazardous facilities such as the proposed LNG South Dunes Power Plant and Gas Liquefaction facility can be to airports, population centers, etc. Those decisions are left up to the local zoning authorities. Propublica reported on April 25, 2013, that on April 17, a fire that had broke out at the West Chemical and Fertilizer Company plant in West, Texas, (a small town of about 2,800 people 75 miles south of Dallas) blew up twenty minutes after the fire started. The explosion shook houses 50 miles away and was so powerful that the United States Geographical Survey registered it as a 2.1-magnitude earthquake. It flattened homes within a five-block radius and destroyed a nursing home, an apartment complex, and a nearby middle school. According to the New York Times, the blast left a crater 93 feet wide and 10 feet deep, and the fire “burned with such intensity that railroad tracks were fused.” The blast killed at least 14 people, most of them firefighters and other first responders.45

A Dallas Morning News investigation in 2008 found that Dallas County residents were “at risk of a toxic disaster because outdated and haphazard zoning had allowed homes, apartments and schools to be built within blocks -in some cases even across the street - from sites that use dangerous chemicals.”46

The county has an obligation and liability under the law to analyze this project properly and to protect the public health, safety, convenience and general welfare as required under the Coos County Comprehensive Plan and Zoning and Land Development Ordinance. The FAA regulates various


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structures with regard to height, etc, on surrounding properties in the night path areas of the airport, but the FAA has told me that they do not recognize or deal with whether these facilities are hazardous or appropriate facilities to place at the end of the airport runways, particularly if the structures do not exceed their height limitations. We have been told that this is something that is to be taken care of and dealt with in the County's land use planning approval process. The county needs to involve not just the FAA but the Oregon Department of Aviation and the Southwest Oregon Regional Airport in this analysis and determination, as required by OAR 738-070-0060 and ORS 836-025, 836.530 and 836.535. A person may not construct an object or structure that constitutes a physical hazard to air navigation, as determined by the Oregon Department of Aviation in coordination with the governing body with land use jurisdiction over the property. The Oregon Department of Aviation will need to be provided with an application that is complete and that includes all the data provided and fully documented about the project.

The planning siting liability rests with the County and those decision makers who blindly approve this incomplete and inadequate application after being supplied with the information and documentation provided here that clearly shows the applicant supplied inadequate and incomplete data and information to the county and did not report on the extreme hazards this facility presents to the citizens in the county, thus jeopardizing the public health, safety, convenience and general welfare of the citizens.

The current application is inadequate and should be rejected and a full analysis including impacts to the 7-D zone, wind issues, particularly with building the facility at a height of 46 feet, noise impacts, visual impacts, fill height impacts, building on weak foundation soil impacts, airp01i hazard impacts, tsunami and earthquake impacts and fire hazard impacts need to all be fully analyzed, if the facility is to even be considered for zoning approval.

**Rebuttal:** As stated above, the majority of CALNG's comments are irrelevant to the proposed application, either because they address land outside of the confines of the proposed site plan, or because they do not constitute applicable review criteria, or both. The applicant has submitted project elevations, floor plans and visual simulations not previously required to be submitted by the Director exercising her discretion under the CCZLDO, that now been submitted into the record. The elevations show that the maximum height of the tallest structure on the site will not exceed the maximum height allowed by the FAA and the ODA for uses within proximity of the North Bend Airport. The other site plan review criteria have been satisfied. The application should be approved.

Sincerely,

Jody McCaffree
August 20, 2013

Jill Rolfe, Planning Director
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Re: ORCA Comments on Jordan Cove Energy Project on South Dunes Power Plant Project, File No. SP-12-02

On behalf of Oregon Coast Alliance (ORCA), please accept these comments on the Applicant Jordan Cove Energy Project, LLC's (the applicant) proposed South Dunes Power Plant Project (Project).

The Project

The applicant proposes to construct and operate a 420-megawatt, nominal capacity, thermal combustion gas plant to provide power for the proposed Jordan Cove Liquefied Natural Gas export facility. The proposed plant would be located on the east side of Jordan Cove, North Spit of Coos Bay, and one mile north of the City of North Bend.

Cascadia Subduction Zone, Earthquakes, and Tsunamis

Of primary importance is the proposed Project's location in an area of significant hazards. The site is located within the 500-Year Absolute Earthquake Shaking zone, calling for "very strong shaking, moderate damage"; within the Earthquake Ground Shaking Amplification zone at "very high" levels; within the liquefaction zone at "very high" levels; within the Special Flood Hazard Area; and within the Tsunami zone. According to the Pacific Northwest Tsunami Evacuation Zones, the Project's proposed location is within the local Cascadia earthquake and tsunami zone, as well as the distant earthquake and tsunami zone, raising the chances of

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1 "Liquefaction occurs when vibrations or water pressure within a mass of soil cause the soil particles to lose contact with one another. As a result, the soil behaves like a liquid, has an inability to support weight and can flow down very gentle slopes. This condition is usually temporary and is most often caused by an earthquake vibrating water-saturated fill or unconsolidated soil."

2 Tsunami hazard maps were produced to help implement Senate Bill 379 (SB 379), which was passed by the 1995 regular session of the Oregon Legislature.
inundation of the project site. Oregon Department of Geology and Mineral Industries (DOGAMI) issued Tsunami Inundation Maps for the Cascadia Subduction Zone. The Project is located in the area susceptible to ocean flooding. According to DOGAMI, the property would be inundated during a small, local earthquake (occurring on the Cascadia Subduction Zone) and a distant earthquake (occurring in the Alaska-Aleutian Subduction Zone). Despite this overwhelming evidence of ocean flooding, tsunamis, and earthquakes, the County's Special Considerations Phenomenon 7 - Natural Hazards Map fails to even mention these hazards, even though the comprehensive plan provides that "Coos County shall regulate development in known areas potentially subject to natural disasters and hazards, so as to minimize possible risks to life and property." There is no dispute that ocean flooding, tsunamis, and earthquakes are natural hazards. The County's map simply fails to accomplish its intent or accurately reflect reality.

According to the Staff report, "Coos County considers natural disasters and hazards to include stream and ocean flooding, wind hazards, wind erosion and deposition, "critical streambank erosion, mass movement, (earthflow and slump topography), earthquakes and weak foundation soils." Because Coos County did not recognize the risk of ocean flooding, tsunamis, and earthquakes, no "strategy was implemented by enacting special protective measures ... designed to minimize risks to life and property." The staff report also acknowledges that "the county is responsible for identifying potential hazard areas, informing its citizens of risks associated with development in known hazard areas, and establishing a process involving expert opinion so as to provide appropriate safeguards against loss of life or property." None of these responsibilities, enacted for the well-being of Coos County, will be satisfied because the special considerations maps does not reflect reality.

A tsunami is a series of ocean waves most often generated by disturbances of the sea floor during shallow, undersea earthquakes. A tsunami can be triggered by earthquakes around the Pacific Ocean including undersea earthquakes with epicenters located only tens of miles offshore the Oregon coast. Over the last century, wave heights of tsunamis in the Pacific Ocean have reached up to 13.5 m (45 ft) above the shoreline near the earthquake source. In a few cases, local conditions amplified the height of a tsunami to over 30 m (100 ft). An earthquake on the Cascadia Subduction Zon3, a 960-km-long (600 mile) earthquake fault zone that sits off the Pacific Northwest coast, can create a Cascadia tsunami that will reach the Oregon coast within 15 to 20 minutes. Massive earthquakes of magnitude 9 or greater than can last for several minutes have been generated on the fault zone. A destructive tsunami can follow moments later.

Since 1854, 21 tsunamis produced by earthquakes around the Pacific Ocean basin have reached the Oregon coast. Wave heights of four of these distant tsunamis reached 1-5 m (3-16 ft), causing damage to coastal communities and in one event, five deaths. Geologists predict a 10-14 percent chance that a Cascadia tsunami will be triggered by a shallow, undersea earthquake offshore Oregon in the next 50 years. The forecast comes from evidence for large but infrequent earthquakes and tsunamis that have occurred at the Oregon coast every 500 years, on average.

Almost 230,000 people from 11 nations were lost during the 2004 Indian Ocean tsunami, making it one of the deadliest natural disasters in human history. In 2011, the Tohoku Japan earthquake was a magnitude 9.0 subduction zone earthquake 80 miles off the coast of Japan. The earthquake triggered a devastating tsunami that inundated the northeast coast of Japan within
minutes. The quake and tsunami had massive societal impacts: according to the National Police Agency of Japan, 15,845 were confirmed killed and another 3,380 are still missing; thousands more were injured. Over 1.1 million buildings were damaged or destroyed, including 6,751 school buildings and more than 300 hospitals. The tsunami created 24 million tons of waste debris. Economic losses were estimated at US $210 billion, excluding the subsequent nuclear accident.

An earthquake similar in force to the Tohoku earthquake struck the Pacific Northwest in 1700 when the Cascade Subduction Zone, not far offshore from Oregon, ruptured in the form of an earthquake and created a tsunami that caused devastation on the Oregon coast and well-documented flooding and damage on the Pacific Coast of Japan. The Pacific Northwest will experience another earthquake - US Geological Survey scientists estimate there is a 10% chance in the next 30 years and up to a 20 percent chance in the next 50 years.3 According to DOGAMI, "Oregon's tectonic setting" is a "mirror image of Japan's." In a simulation prepared by DOGAMI for a magnitude 9 earthquake on the Cascade Subduction Zone - similar to the magnitude for the Tahoku event, the proposed project location would severely, violently, and extremely. The County should heed history's lessons and closely scrutinize the Project in light of the devastation that occurred in Tohoku.

Rebuttal: As discussed at the public hearing, the issues discussed in the above section relate to building code issues that will be dealt with in conjunction with the issuance of a building permit. Many of the considerations addressed above are contained within the provisions of ORS Chapter 455. The County has previously determined that ORS Chapter 455 is inapplicable in conjunction with the issuance of building permits and does not provide any applicable land use review criteria.

Special Considerations

As noted above, the property at issue is subject to ocean flooding, tsunamis, and earthquakes, which are natural hazards that the CCCP proposes to identify and implement a strategy for the well-being of the people of Coos County.4 It is undisputed that ocean flooding, tsunamis, and earthquakes are natural hazards. Appendix 1 of the Coos County Comprehensive Plan Policies provides that "Coos County shall regulate development in known areas potentially subject to natural disasters and hazards, so as to minimize possible risks to life and property. As noted above, the proposed Project location is located in an area of significant natural hazards. Coos County considers natural disasters and hazards to include stream and ocean flooding, wind hazards, wind erosion and deposition, critical streambank erosion, mass movement (earthflow and slump topography), earthquakes and weak foundations." As indicated above, the proposed development is subject to significant natural hazards, including ocean flooding (tsunamis) and earthquakes. Section 5.11 places the burden on the County to "(1) inform its citizens of potential

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3 "A 'Ring of Fire,' a zone of active earthquakes and volcanoes, surrounds much of the Pacific Ocean. Volcanoes and earthquakes are caused by the movements of tectonic plates, huge plates of rock that make up the shell of the earth. One type of movement is called subduction - when thin, oceanic plates such as those that compose the rock beneath the Pacific Ocean sink beneath thicker, lighter plates that make up continental plates."

4 The Applicant has not demonstrated that the inventory maps or other maps identified above do not trump the special considerations maps, which are meant to be generalized maps. See CCCP 4.7.115 - (inventory maps supercede special consideratons maps).

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risks associated with development in known hazard areas; and (2) to provide appropriate safeguards to minimize such potential risks." Here, the Applicant has not provided information to satisfy either issue.

Coos County is required to support the State Building Code Division's building code enforcement program so as to provide maximum structural protection necessary to safeguard against seismic hazards (earthquakes).

The Applicant has not yet satisfied the special considerations for earthquakes or ocean flooding/tsunamis.

**Rebuttal:** Section 5.11 of Appendix I of the Coos County Comprehensive Plan Policies is not directly applicable to the design and site plan review application. Section 5.11 provides a list of implementation strategies which constitute legislative direction to the County to adopt appropriate regulations to address the issues contained in the strategies. The strategies do not constitute review criteria for the design and site plan review application. ORCA overlooks the fact that the application and decision fully address the special considerations applicable in the Balance of County for the IND zoning of the Site.

**Failure to Comply with the Flood Plain Overlay Zone**

The Flood Plain overlay zone's purpose is "to protect public health and safety. The secondary aim is to improve the general welfare by reducing economic loss due to interruption of businesses and industry or damage to homes on other property." CCCP 4.6.200. Here, all of the above referenced maps indicate that the proposed property for the Project is subject to ocean flooding, not just a portion of the property. Because the development will occur within a floodplain overlay zone, the Applicant must satisfy the CCCP 4.6.230.

Furthermore, as identified above, the proposed Project is located within a special flood hazard area, which requires compliance with CCCP 4.6.235 and CCCP 4.6.270. In addition, the area is subject to Coastal High Hazard Area, the Applicant must comply with CCCP 4.6.281.

**Rebuttal:** As discussed at the hearing, the provisions of the Coos County Comprehensive Plan do not operate as applicable review criteria for the design and site plan review application. To the extent that ORCA has mischaracterized sections from the Coos County Zoning and Development Ordinance (CCZLDO) as residing within the Coos County Comprehensive Plan (CCCP) the provisions of Section 4.6.200 through Section 4.6.281 are applicable to the application, but have been fully complied with. The applicant obtained a letter of map amendment (LOMA) from the Federal Emergency Management Agency (FEMA). The LOMA adjusted the boundaries of the County’s special flood hazard areas on the site and removed the site from the area. Accordingly, no development is proposed within a special flood hazard area. The provisions of Section 4.6.235 are inapplicable to this application.

**Failure to Comply with Airport Surfaces Floating Zone**

The purpose of the Airport Surfaces floating zone "is to protect public health, safety and welfare. It is recognized that obstructions to aviation have potential for endangering the lives and property of users of selected airports, and property of occupancy of land in the airport's vicinity;
an obstruction may affect future instrument approach minimums; and obstructions may reduce the area available for the landing, take-off and maneuvering of aircraft, thus tending to destroy or impair the utility of the airport and the public investment therein." CCCP 4.6.300. Here, the proposed Project is located within the approach zone and/or transition zone and/or horizontal conical zone for the Lakeside Airport. See CCCP 4.6.310. The Applicant must also comply with the height limitations in the approach zone and the use restrictions set forth in CCCP 4.6.330.

Rebuttal: As stated at the hearing, the site does not lie beneath any of the Coos County Airport Surfaces Floating zones. Accordingly, the above comments are irrelevant to this application.

Failure to Provide Information Related to the Jordan Cove Export Facility and South Dunes Power Plant

The South Dunes power plant application has not yet been received by the Energy Facility Siting Council (EFSC), an agency that is part of the Oregon Department of Energy, and that has not yet been submitted. The LNG terminal export facility application is being considered not by EFSC but by Federal Energy Regulatory Commission. That application (for the LNG terminal) was submitted to FERC in early summer 2013. Currently FERC is working on the Draft EIS for that application. Both South Dunes power plant and the LNG export terminal are part of the Jordan Cove Energy Project, though as two facilities undergoing review on different tracks, they are often named separately. Until the Applicant submits this application, the nature of the existing proposal cannot be fully understood. Therefore, process before Coos County must be stayed pending receipt of the application to EFSC, and determination of completeness by EFSC, so that the public has sufficient information on which to judge the application, its potential hazards, and the relationship to additional siting requirements that are part of the EFSC process.

Rebuttal: The appellant is incorrect with respect to the above assertions. The EFSC process contemplates applications for local land use approvals being made in advance of or during the EFSC process. There is no reason to stay the site plan review process for the power plant and gas conditioning facility based upon the EFSC process. In fact, to do so would constitute clear error.

Failure to Comply with Exhibit H (OAR 345-021-0010)

The Applicant must also comply with OAR 345-021-0010, referred to by the OARs as Exhibit H (Geologic and Soil Stability). As is evident from the above facts, the site is located within the 1995 DOGAMI SB 379 tsunami inundation line referred to in the Oregon Structural Specialty Code and the 2012 DOGAMI tsunami hazard maps, among other maps documenting significant natural hazards on the subject property. The application must include a thorough geological characterization of the project area and surrounding area and a site-specific geologic hazard and geotechnical assessment (including seismic, tsunami, lateral spreading, subsidence, surface fault rupture, flood, and channel migration hazards) at the proposed facility with supporting evidence to show that the facility can be safely constructed and operated. This analysis must include recently published scientific findings (or example papers published about the Japan 2011 earthquake and tsunami) and hazard maps (for example, landslide and tsunami maps for Coos Count, Oregon).
The application must include all results of field and laboratory investigation and any other geotechnical and geologic hazard site evaluations that have been conducted. A thorough ground shaking amplification, liquefaction, and lateral spread analysis with all of the calculations, methodologies, and recommendations based on this site-specific analysis will be required. Any geotechnical reports included in Exhibit H as supporting evidence that the proposed facility will meet the Council's structural standard should flow the guidelines of DOGAMI's "Open File Report 00-04 "Guidelines for Engineering Geologic Reports and Site Specific Seismic Hazard Reports."

The Applicant has not yet demonstrated compliance with any of these requirements.

Rebuttal: *To the extent that the above-referenced administrative rules have any applicability to the proposed project, it would only be prior to the issuance of a zoning verification letter by the County in advance of an application for a building permit. None of the referenced administrative rules constitute applicable review criteria for the design and site plan review application. The above comments are irrelevant to the application.*

Additional Legal Requirements

ORS 469.310 provides: "In the interests of the public health and the welfare of the people of this state, it is the declared public policy of this state that the siting, construction and operation of energy facilities shall be accomplished in a manner consistent with protection of the public health and safety and in compliance with the energy policy and air, water, solid waste, land use and other environmental protection policies of this state." The public safety will be put at serious risk by locating the Project in the proposed location.

Under 469.501, the Energy Facility Siting Council was required to adopt standards for the siting, construction, operation, and retirement of facilities, and those standards must include "seismic hazards" and the "[protection of public health and safety, including necessary safety devices and procedures." OAR 345-022-0020(1) (Structural Standard), provides:

(a) "[t]he applicant, through appropriate site-specific study, has adequately characterized the site as to the Maximum Considered Earthquake Ground Motion as shown for the site in the 2009 International Building Code and maximum probable ground motion, taking into account ground failure and amplification for the site specific soil profile under the maximum credible and maximum probable seismic events; and

(b) The applicant can design, engineer, and construct the facility to avoid dangers to human safety presented by seismic hazards affecting the site that are expected to result from maximum probable ground motion events. As used in this rule "seismic hazard" includes ground shaking, ground failure, landslide, liquefaction, lateral spreading, tsunami inundation, fault displacement, and subsidence;

(c) The applicant, through appropriate site-specific study, has adequately characterized the potential geological and soils hazards of the site and its vicinity that could, in the absence of a seismic event, adversely affect, or be aggravated by, the construction and operation of the proposed facility.
The Applicant has not demonstrated compliance with this provision of state law. Because it appears as though the Coos County land use process will be the only land use approval process, Coos County must take into account the EFSC requirements in the local determination.

Finally, OAR 345-027-0020(12) (mandatory conditions in site certificates) provides:

(12) The certificate holder shall design, engineer and construct the facility to avoid dangers to human safety presented by seismic hazards affecting the site that are expected to result from all maximum probable seismic events. As used in this rule "seismic hazard" includes ground shaking, landslide, liquefaction, lateral spreading, tsunami inundation, fault displacement and subsidence.

The Applicant has not demonstrated compliance with this administrative rule.

**Rebuttal:** *The applicant will adhere to the above-referenced EFSC standards during the EFSC review. However, those standards are inapplicable to the application for design and site plan review in Coos County.*

**Request to Leave Record Open**

ORCA respectfully requests that the record remain open for another 14 days given the significance of the proposed project and the breadth of information related to the project. *See ORS 197.763.*

Sincerely,

Sean T. Malone
Attorney for Oregon Coast Alliance

cc: Oregon Coast Alliance
July 25, 2013

Andrew Stamp, Hearing Officer
Coos County Planning Dept.
225 N. Adams
Coquille, OR 97423

RE: Coos County File SP-12-02
   Appeals of Planning Director Decision

1. Basic Findings p. 2 Date 12-13-12
   > Development Shorelands (7D)
   Section 4.5.285-Management Objective

   ... Continuation of and expansion of existing water-dependent/non-water industrial uses shall be allowed provided that this use does not adversely impact natural aquatic district #7.

   **Rebuttal:** There has been no evidence submitted to suggest that utilization of portions of zoning district 7-D would adversely impact natural aquatic district #7. However, the applicant has submitted revised site plans showing that all project facilities and components are being removed from the 7-D zoning district. Accordingly, the references to zoning district 7-D are irrelevant to this application.

   There are two points that need addressing:

   1. Placing 20-30 ft. of fill without something from a soil engineer or soil lab, some investigation of existing soils. Does it need compaction, what is the maximum density of the materials to be placed? What is to be done with the vegetation that is removed?

   **Rebuttal:** The application is for design and site plan review, which does not address building code compliance issues such as soil compaction, all of which is done in conjunction with the issuance of building permits under applicable building codes. These comments are not relevant to the site plan review application.

   2. How does the applicant propose to cross the wetlands with the pipe carrying the LNG to the storage tanks and the pipe carrying the boil off gas back to the generating plant?

   **Rebuttal:** The wetlands referred to in the above statement are outside of the area of the proposed site plan for the power plant and gas conditioning facility. The issues raised are, therefore, not relevant to this application.
Letter to Andrew Stamp, Hearing Officer
Page 2
July 25, 2013

1. Exhibit #1 & #12
2. Exhibit #2

4.6.300 Purpose
18.56.020 (Exhibit 7)

Rebuttal: Mr. Clarke recites Section 4.6.300, the purpose statement of the Airport Surface Floating zone in Coos County and then recites Section 18.56.020, a provision from the North Bend Code. As stated by the applicant in its pre-hearing submittal and during the hearing, the area of the proposed site plan for the power plant and gas conditioning facility does not lie beneath any of the Airport Surface Floating zones within the CCZLDO for the Bandon, Lakeside or Powers Airports. Accordingly, Section 4.6.300 is irrelevant to this application. Further, references to the North Bend Code (Exhibit 7) are also irrelevant to this application in that the proposed site plan area is situated outside of the territorial boundaries of the City of North Bend. Accordingly, the North Bend Code is inapplicable to this application.

The purpose of this overlay zone is to encourage and support the continued operation and vitality of the North Bend airport by establishing compatibility and safety standards to promote air navigational safety at such airport and to reduce potential safety hazards for persons living, working or recreating near the airport.

18.56.030 Definitions
(2) "Airport direct impact area" means the area located within 5,000' of an airport runway...
(6) "Airport secondary impact area" means the area located between 5,000' and 10,000' from the airport runway.

18.56.050 Notice of land use, permit applications and overlay zone boundary or surface changes within overlay zone area.

18.56.060 Height limitations on allowed uses in underlying zones.

18.56.070 Procedures

18.56.080 Land use compatibility requirement
(1) Noise
(2) Outdoor lighting
Letter to Andrew Stamp, Hearing Officer  
Page 3  
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(3) Glare  
(4) Industrial emissions of smoke, dust or steam that could obscure visibility within airport approach surfaces.

The applicant has not furnished anything that shows the height of these facilities and I don't believe the Planning Director has required anything.

I have submitted my exhibit #5 which the Department of Energy and the Department of Aviation said is similar to Jordan Cove.

North Bend requires 150 + 17 for 167'. Troutdale has a cooling tower which is 189' so it didn't make things any clearer. The other difference is that Troutdale is a generating facility and Jordan Cove is a gas processing and generating facility.

**Rebuttal:** The applicant has submitted elevations to show the maximum height of the proposed facilities. The elevations provide evidence that the maximum height of the structures on the South Dunes Power Plant site will not exceed 167 feet, following the addition of fill to the site. Accordingly, the appellant's concern that project facilities will extend above the maximum height required by the North Bend Airport are unfounded.

4. Beaches and Dunes  
Finding: The site received prior authorization for fill...  

If the hearing is de novo I should be able to challenge the fill. The staff report did not furnish that information (amount of fill & method of placement).

**Rebuttal:** The prior decisions referenced in the application which allow fill to be placed on the site are final decisions of the County, not subject to further review or collateral attack in this proceeding.

7. Natural Hazards  
Finding: The only natural hazard identified on the site is wind erosion/deposition CCCP appendix 1 p. 295.11(1)  

Earthquake, weak foundation soil please see exhibits #3 & #4  

What is a subsidence fault?  
It is where two plates collide. In Oregon along the coast the Pacific plate is moving under the North American plate. The Pacific Ocean is getting smaller. Exhibit 4 shows the subducton zone. Exhibit 3, which was submitted to F.E.R.C. by the applicants, shows a subsidence of 12'. When subsidence occurs, pipes break. These are large pipes with a vast amount of gas.

Weak foundation soil.

59892-0013.0001/LEGAL27703695.2
Letter to Andrew Stamp, Hearing Officer
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July 25, 2013

Where is the engineering to show that dredge materials will make good base when compacted over unconsolidated materials submerged in water. Please refer to exhibits #8 & #9. I would like to reference San Francisco's earthquake of 1989, which destroyed a part of the city known as the marina. Built on compacted materials over unconsolidated materials submerged in water.

Rebuttal: As stated above, project engineering regarding the adequacy of soils will be addressed at the time of development prior to the issuance of building permits under applicable building codes. The above comments are not relevant to this land use application seeking design and site plan review approval.

Chapter V Article 5.6
Design site plan review
Section 5.6.100 purpose

Finding: The application proposes an innovative site plan for an integrated utility and processing facility with shared access, parking, landscaping and other amenities. The site plan is consistent with the stated purpose.

I must have missed the architect's drawings. They were not in the staff report sent to me. I found some footprint drawings, some parking lot drawings, but nothing showing these facilities on top of 20-30 feet of fill. Please refer to 5.6.500(c) CCCP P V24. You may also refer to 5.6.100 (2), (3), (4), (5), (6), (7), (8), (9) P V20.

Section 3.1.500 Structure Height
Finding: The ND zone has no applicable maximum building height.

When a structure is next to an airport, there are height restrictions. I have to use my exhibit #5 because the report contains nothing with elevation. Section 5.6.500(c).

3.3.30. Fences, hedges and walls.
Finding: Staff has not placed any requirements for fencing or walls.

Are sound barrier walls required? Where is the declaration of anticipated noise levels?

In summary, this application seems, to me, incomplete. The missing pieces prevent informed conclusions.

Rebuttal: As stated above, the applicant has now submitted elevations showing the maximum height of the proposed facility under Section 5.6.500(1)(c). The appellant's reference to Section 3.3.300 relates to development standards for fences, hedges and walls, which become applicable prior to the issuance of a zoning verification letter by the County in advance of an
application for building permits and do not constitute review standards for the design and site plan review application.

Here are some things to consider. The facilities are both "hazardous facilities" (building code 455.447). Their hazards are different. The power facility's hazard is more in nature of gas leak or malfunction. The facility will have plenty of built-in protection, but consideration must be given to the 36" pipe delivering the compressed gas. The facility processing the gas is a different hazard, the gas at -260-270°F is heavier than air and expands to 600 times. The liquid must be contained on the site. Failure to do so will allow the liquid gas to enter the water, the airport and the community of North Bend.

Rebuttal: As discussed at the hearing, the provisions of ORS 455.447 are only applicable at the time of the issuance of a zoning verification letter, but not applicable as land use review criteria for this design and site plan review application.

At this time I would like to invite you to visit the North Bend City Hall. In the Planning Office, on the wall, is a large picture. You will be able to see Jordan Cove, airport & the community of North Bend. Take a minute and look at the homes. Those are people. This is the public that is referred to in Section 1.1.200 CCCP(12).

Rebuttal: The applicant has submitted elevations and a simulation of what the power plant and gas conditioning facility will look like from across the bay. The simulation provides evidence that the project will be harmonious with the surrounding area.

Promoting and Protecting the Public health, safety, convenience and general welfare.

Is it time to have this conversation or do you say "I don't have merit" and assume the liability that goes with that statement.

John Clarke

[NOTE: THE ABOVE REBUTTAL RESPONSES ARE EQUALLY APPLICABLE TO THE OTHER, SIMILAR LETTERS ENTERED INTO THE RECORD BY JOHN CLARKE, WITH HIS OTHER LETTERS BEING DATED AUGUST 6, 2013, AND, FURTHER, AUGUST 20, 2013.]
# LETTER OF MAP AMENDMENT
## DETERMINATION DOCUMENT (REMOVAL)

<table>
<thead>
<tr>
<th>COMMUNITY AND MAP PANEL INFORMATION</th>
<th>LEGAL PROPERTY DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>COOS COUNTY, OREGON</td>
<td>A portion of Government Lot 2, Section 3, Township 25 South, Range 13 West, Willamette Meridian, and a portion of Government Lots 1 and 2, Section 4, Township 25 South, Range 13 West, Willamette Meridian, and a parcel of land, as described in the Statutory Special Warranty Deed (Mill Site), recorded as Document No. 2012 10676, in the Office of the County Clerk, Coos County, Oregon. The portion of property is more particularly described by the following metes and bounds:</td>
</tr>
</tbody>
</table>

**COMMUNITY NO.: 410042**

**AFFECTED MAP PANEL NUMBER:** 41011C0167D: 41011C0186D

**DATE:** 9/25/2008; 9/25/2009

**FLOODING SOURCE:** COOS BAY

**APPROXIMATE LATITUDE & LONGITUDE OF PROPERTY:** 43.433, -124.244

**SOURCE OF LAT & LONG:** ARCGIS 10

**DATUM:** NAD 83

# DETERMINATION

<table>
<thead>
<tr>
<th>LOT</th>
<th>BLOCK/SECTION</th>
<th>SUBDIVISION</th>
<th>STREET</th>
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<td>X</td>
<td>12.2 feet</td>
<td>--</td>
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Special Flood Hazard Area (SFHA) - The SFHA is an area that would be inundated by the flood having a 1-percent chance of being equaled or exceeded in any given year (base flood).

**ADDITIONAL CONSIDERATIONS** (Please refer to the appropriate section on Attachment 1 for the additional considerations listed below.)

**LEGAL PROPERTY DESCRIPTION STUDY UNDERWAY**

**DETERMINATION TABLE (CONTINUED)**

**PORTIONS REMAIN IN THE SFHA**

This document provides the Federal Emergency Management Agency's determination regarding a request for a Letter of Map Amendment for the property described above. Using the information submitted and the effective National Flood Insurance Program (NFIP) map, we have determined that the described portion(s) of the property(ies) is/are not located in the SFHA, an area inundated by the flood having a 1-percent chance of being equaled or exceeded in any given year (base flood). This document amends the effective NFIP map to remove the subject property from the SFHA located on the effective NFIP map; therefore, the Federal mandatory flood insurance requirement does not apply. However, the lender has the option to continue the flood insurance requirement to protect its financial risk on the loan. A Preferred Risk Policy (PRP) is available for buildings located outside the SFHA. Information about the PRP and how one can apply is enclosed.

This determination is based on the flood data presently available. The enclosed documents provide additional information regarding this determination. If you have any questions about this document, please contact the FEMA Map Assistance Center toll free at (877) 336-2627 (877-FEMA MAP) or by letter addressed to the Federal Emergency Management Agency, LOMC Clearinghouse, 847 South Pickett Street, Alexandria, VA 22304-4605.

Luis Rodriguez, P.E., Chief
Engineering Management Branch
Federal Insurance and Mitigation Administration
LETTER OF MAP AMENDMENT
DETERMINATION DOCUMENT (REMOVAL)
ATTACHMENT 1 (ADDITIONAL CONSIDERATIONS)

LEGAL PROPERTY DESCRIPTION (CONTINUED)

TL 100A:
COMMENCING at the north Quarter corner of Section 4, Township 25 South, Range 13 West, Willamette Meridian; thence S01°46'53"E, 1313.85 feet to the POINT OF BEGINNING; thence N47°19'12"E, 169.33 feet; thence N58°06'27"E, 149.59 feet; thence N38°09'45"E, 1437.15 feet; thence N76°05'05"E, 89.81 feet; thence S47°44'43"E, 155.79 feet; thence S16°25'43"E, 147.62 feet; thence S33°54'49"E, 566.28 feet; thence S27°44'31"E, 506.15 feet; thence S02°34'08"W, 220.70 feet; thence N39°40'48"W, 146.05 feet; thence N30°08'27"W, 453.50 feet; thence N31°19'51"W, 112.23 feet; thence N46°38'53"W, 72.72 feet; thence N58°31'54"W, 427.26 feet; thence N02°12'34"E, 93.73 feet; thence N19°02'34"W, 221.24 feet; thence N38°40'42"W, 26.31 feet; thence N33°38'00"E, 16.26 feet; thence N66°28'41"E, 53.03 feet; thence N33°51'10"E, 41.91 feet; thence N51°33'11"E, 33.84 feet; thence N23°52'02"E, 7.65 feet; thence N15°14'57"W, 4.97 feet; thence N38°38'09"W, 4.42 feet; thence S80°14'36"W, 50.84 feet; thence S62°00'14"W, 49.65 feet; thence S65°28'39"W, 83.35 feet; thence S56°19'11"E, 40.51 feet; thence S82°48'36"W, 40.58 feet; thence S71°54'25"W, 164.25 feet; thence N89°50'27"W, 287.49 feet; thence S83°54'04"W, 71.70 feet; thence S87°53'19"W, 408.19 feet; thence S89°36'28"W, 385.25 feet; thence S50°39'41"W, 157.59 feet; thence S02°37'15"W, 45.18 feet; thence S13°20'07"E, 96.35 feet; thence S01°52'17"E, 44.09 feet; thence N41°11'13"W, 110.81 feet; thence N02°41'16"E, 203.06 feet to the POINT OF BEGINNING.

TL 200A:
COMMENCING at the northwest corner of Section 3, Township 25 South, Range 13 West, Willamette Meridian; thence S02°34'08"W, 2163.09 feet to the POINT OF BEGINNING; thence S47°30'39"E, 78.70 feet; thence S39°21'53"E, 88.02 feet; thence S47°48'11"E, 121.65 feet; thence S54°11'51"E, 147.92 feet; thence S67°46'24"E, 41.38 feet; thence S75°58'43"E, 50.25 feet; thence S86°11'22"E, 78.52 feet; thence S87°39'56"E, 85.38 feet; thence S81°07'42"E, 56.39 feet; thence N71°35'00"E, 49.54 feet; thence N86°26'11"E, 82.17 feet; thence S38°25'44"E, 27.21 feet; thence N67°40'48"E, 28.13 feet; thence S66°05'28"E, 34.47 feet; thence S03°38'01"W, 22.41 feet; thence S85°33'22"W, 40.40 feet; thence S35°28'12"W, 66.82 feet; thence S81°41'59"W, 161.28 feet; thence S82°12'32"W, 139.38 feet; thence N89°00'23"W, 139.07 feet; thence N71°24'37"W, 56.73 feet; thence N61°20'16"W, 103.69 feet; thence N53°02'36"W, 91.40 feet; thence N44°48'09"W, 123.51 feet; thence N39°40'48"W, 22.89 feet; thence N02°34'08"E, 187.87 feet to the POINT OF BEGINNING.

DETERMINATION TABLE (CONTINUED)

This attachment provides additional information regarding this request. If you have any questions about this attachment, please contact the FEMA Map Assistance Center toll free at (877) 336-2627 (FEMA MAP) or by letter addressed to the Federal Emergency Management Agency, LOMC Clearinghouse, 847 South Pickett Street, Alexandria, VA 22304-4605.

Luis Rodriguez, P.E., Chief
Engineering Management Branch
Federal Insurance and Mitigation Administration
LETTER OF MAP AMENDMENT
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PORTIONS OF THE PROPERTY REMAIN IN THE SFHA (This Additional Consideration applies to the preceding 2 Properties.)

Portions of this property, but not the subject of the Determination/Comment document, may remain in the Special Flood Hazard Area. Therefore, any future construction or substantial improvement on the property remains subject to Federal, State/ Common wealth, and local regulations for floodplain management.

STUDY UNDERWAY (This Additional Consideration applies to all properties in the LOMA DETERMINATION DOCUMENT (REMOVAL))

This determination is based on the flood data presently available. However, the Federal Emergency Management Agency is currently revising the National Flood Insurance Program (NFIP) map for the community. New flood data could be generated that may affect this property. When the new NFIP map is issued it will supersede this determination. The Federal requirement for the purchase of flood insurance will then be based on the newly revised NFIP map.

This attachment provides additional information regarding this request. If you have any questions about this attachment, please contact the FEMA Map Assistance Center toll free at (877) 338-2927 (877-FEMA MAP) or by letter addressed to the Federal Emergency Management Agency, LOMC Clearinghouse, 847 South Pickett Street, Alexandria, VA 22304-4605.

Luis Rodriguez, P.E., Chief
Engineering Management Branch
Federal Insurance and Mitigation Administration
Reference: 611048.122

September 3, 2013

Mr. Mark Whitlow
1120 NW Couch St # 10
Portland, OR 97209

Subject: Explanation of Determination of the Base Flood Elevation and LOMA for South Dunes Power Plant Appeals Hearing; Appeal File Nos. AP-13-01 & AP-13-02; Application File No. SP-12-02

Dear Mr. Whitlow:

This letter is written to you in support of rebuttal testimony in the above case. You may include this letter as part of your response.

In conjunction with the performance of land use and site planning work related to the Jordan Cove Energy Project, SHN Consulting Engineers & Geologists, Inc. (SHN) applied to the Federal Emergency Management Agency (FEMA), and received approval for a Letter of Map Amendment (LOMA) associated with the location of the Special Flood Hazard Area (SFHA) boundary on the South Dunes Power Plant (SDPP) site. The LOMA process involved the following:

**Determine Base Flood Elevation:** The Base Flood Elevation (BFE) and SFHA boundary have been defined by FEMA and are identified on the Flood Insurance Rate Map (FIRM) #41011C0186D. As shown on the attached excerpt (Firmette) of the FIRM, the BFE for the project area is established at an elevation of 12 feet relative to the North American Vertical Datum of 1988 (NAVD 88).

**Initial Comparison of Site Specific topographic information with published SFHA boundaries:** Project site contours and a digital terrain model were developed by David Evans & Associates from project specific data acquisition of the site using Light Detection and Ranging (LiDAR) technology. Through the use of drafting software (Autodesk Civil 3D), SHN compared the LiDAR-established 12 foot elevation contour with that defined by the FIRM. It was apparent that the LiDAR-defined contour was significantly different than the one presented on the FIRM.

**Ground proofing the LiDAR topography:** SHN performed a Global Positioning System/Real Time Kinematic (GPS RTK) Survey utilizing ties to National Geodetic Survey (NGS) control stations to determine the accuracy of the LiDAR contours. An area along the Jordan Cove shoreline was surveyed and it was determined that the LiDAR contour elevations were accurate to within an average of 0.3 feet of actual ground elevations. In upland areas consisting of dense European Beach Grass, the accuracy also averaged 0.3 foot elevation difference. In improved upland areas that consisted of asphalt concrete or Portland cement concrete surfaces, the elevations differences were less than 0.1 feet. In upland areas consisting of dense canopy or vegetation growth, accuracies were near 1.0 foot. The 12 foot elevation contour established by the LiDAR survey is not located within any areas containing a dense canopy or vegetation growth/ground cover. Based upon the GPS

\coosbayswr1\projects\2011\611048-project-management\130-site plan review\pubs\corrout\ltr\20130909-loma-expl.doc
Mr. Mark Whitlow
Explanation of Determination of the Base Flood Elevation and LOMA Determination
September 3, 2013
Page 2 of 2

RTK survey SHN determined that the LiDAR contour elevations were sufficiently accurate to
determine the horizontal location of the SFHA boundary consistent with U.S. National Map
Accuracy Standards at the FIRM mapping scale of 1 inch = 500 feet.

LOMA Application: Due to significant variations between the location of the 12 foot elevation
defined by LiDAR contours and the FIRM, a determination was made to apply to FEMA to obtain a
LOMA to adjust the Special Flood Hazard Area (SFHA) boundary to more accurately reflect
elevations in the area. The LOMA process was developed by FEMA for verification of areas that
may have been inadvertently mapped in a Special Flood Hazard Area (SFHA). A MT-1 application
was completed and submitted by SHN along with supporting information including Autodesk
DWG digital files, Metes and Bounds descriptions of the areas to be removed from the SFHA, and
other map figures that depicted the areas of conflict with what the FIRM shows. FEMA uses the
digital information to determine the impacts of flooding on the site, to verify the BFE is accurately
located, and to issue the LOMA.

On May 7, 2013 SHN received a LOMA Determination Document approving the LOMA
Application (Case No.: 13-10-0670A) for the SDPP Site. The approval determination is attached for
your reference.

Please feel free to contact me at 541-266-9890 if you have and questions.

Regards,

SHN Consulting Engineers & Geologists, Inc.

[Signature]
Walter White, PLS
Senior Surveyor

WEW:dkl

Enclosures: FIRM Map
Figure 1 - Approved LOMA
FEMA Letter of Map Amendment Determination Document