ALLEGATIONS OF IMPROPER PRACTICES, AND REBUTTAL TO THE APPLICANT'S REBUTTAL
Coos County Hearing on the Proposed South Dunes Power Plant
September 3 – September 20, 2013
By Jonathan Hanson, Interested Party

I have only recently learned that the attorney for the applicant, Mark Whitlow, submitted a rebuttal on September 10, to my testimony at the hearing held on September 3, 2013. As an on the record intervener, in this process, I am entitled to receive all communications, and I expected notice of these from the County. Let this serve as legal notice, that I expect to receive all further Coos County information regarding the Jordan Cove LNG export project. The immediate issue, however, is my rebuttal to the applicant’s rebuttal.

I have attached a copy of the scoping comments from the US Environmental Protection Agency (EPA) to FERC (Exhibit 1), written October 29, 2012, in response to FERC’s Notice of Intent (NOI) to conduct an EIS on the proposed Jordan Cove Energy Project. This scoping document has just come to my attention, and it is clear that it contains information relevant to the proceedings before us. The document shows that Attorney Whitlow’s comments in paragraph 3 of his September 10, rebuttal letter, which states that the National Environmental Protection Act (NEPA) does not apply in this situation, are completely erroneous. Also note that Mr. Whitlow cites misleading comparison precedents from different states (not in Oregon) with one in a remote desert (Ivanpah Solar) and the other offshore in the ocean (Cape Wind) and neither of those projects have the dangerous life and property threatening environmental concerns (for example, no chance of explosion) like that of a gas liquefaction plant or terminal. In addition the 230 mile pipeline will cause unmitigable environmental damage and usurpation of private property to feed this power plant and project. His cited example projects have goals of being renewable forms of carbon-free energy alternatives, located far from population centers, don’t restrict the community’s use of their bay, and don’t take property by eminent domain. Both projects cited by Mr. Whitlow have clear public benefit and public need and basically represent the opposite for the environment and the people than the Jordan Cove proposal.

The overall context of the EPA scoping comments is that the EPA is responding to FERC’s NOI in relation to the various components of the proposed Jordan Cove Energy Project, and providing criticism and guidelines for the further development of the EIS. You can see that the last paragraph of page 3 and most of page 4 of the EPA scoping
comments regarding the South Dunes Power Plant discuss the plant in relation to the rest of the project. The point is clearly made that the power plant is an integral part of the overall project, that it does not stand alone, and that the requirements of NEPA apply to it. Mr. Whitlow states that the permits can be issued before the EIS, and also claims that this is a stand-alone project, thus technically Jordan Cove, given the permit now, could start to dredge and fill and do other site preparation (thus limiting the EIS choice of alternatives) to build the power plant without the issuance of the EIS or the Record of Decision (ROD) from FERC. That clearly violates the letter and intent of NEPA, as well as other EPA regulations, and also the Coos County Comprehensive Plan. This would have disastrous environmental impacts without any oversight by FERC or NEPA, which is in contempt of the intent of NEPA and denies due process to the public interest.

It is difficult to comprehend that the legal counsels for the applicant and the County were unaware of the above, and for that reason, I now view this as a clear case of collusion and deceptive practices, and therefore a prima facie violation, and indicative of a pattern as defined by the Oregon Racketeering Influenced and Corrupt Organizations Act (ORICO), and I hereby request that you inform the County and its representatives to CEASE AND DESIST in any further actions with respect to this proposed project NOW and until a ROD is issued by FERC. In addition, I am attaching this rebuttal to my complaint, in reference to this matter, addressed to the Oregon Secretary of State and Attorney General.

Sincerely yours,

Jonathan Hanson
Concerned Coos County Citizen
Oath Keeper Under Oath
U.S. Environmental Protection Agency
Detailed Scoping Comments to Address the Federal Energy Regulatory Commission’s
Notice of Intent to Prepare an Environmental Impact Statement
for the Jordan Cove Energy Project and Pacific Connector Gas Pipeline
FERC Docket Nos. PF12-7-000 and PF12-17-000

Purpose and Need
The EIS should include a clear and concise statement of the underlying purpose and need for the proposed project, consistent with the implementing regulations for NEPA (see 40 CFR 1502.13). In presenting the purpose and need for the project, the EIS should reflect not only the FERC’s purpose, but also the broader public interest and need.

In supporting the statement of purpose and need, we recommend discussing the proposed project in the context of the larger energy market, including existing export capacity and export capacity under application to the Department of Energy, and clearly describe how the need for the proposed action has been determined.

Alternatives Analysis
NEPA requires evaluation of reasonable alternatives, including those that may not be within the jurisdiction of the lead agency1. A robust range of alternatives will include options for avoiding significant environmental impacts. The EIS should “rigorously explore and objectively evaluate all reasonable alternatives”2 by developing a screening process. The screening process should rate each alternative against a set of pre-determined criteria. Each alternative should then be analyzed for its level of impact on a resource (e.g. no effect, negligible effect, minor effect, major effect, significant effect). Only the alternative that effectively meets or best meets all of the screening criteria should be recommended as the preferred alternative. The EIS should provide a clear discussion of the reasons for the elimination of alternatives which are not evaluated in detail.

We appreciate that Resource Report 10 for the Pacific Connector Pipeline Project (Section 10.4) evaluates system alternatives for the pipeline route. In the EIS we would like to see a more rigorous exploration of those alternatives. The basis for conclusions reached in Section 10.4.4 is not clear. Specifically, it is not clear how it was determined that an intertie with the Williams pipeline would result in prohibitive costs, associated rates, and environmental impacts. Because such a route would be significantly shorter than the currently proposed route, we recommend that the EIS give this route alternative additional consideration.

Non-Jurisdictional Facilities
In Section 1.9.2 of Resource Report 1, it is determined that as a non-jurisdictional facility, the South Dunes Power Plant does not need to be included in the DEIS. This assertion is based on the Report’s interpretation of FERC’s NEPA regulations at 18 CFR § 380.12(c)(2)(ii). Per those regulations, four factors are applied to determine the need for FERC to do an environmental review of project-related non-jurisdictional facilities. These factors include:

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1 40 CFR 1502.14(c)
2 40 CFR 1502.14(a)
1. Whether or not the regulated activity comprises “merely a link” in a corridor type project (such as a transportation or utility transmission project);
2. Whether there are aspects of the non-jurisdictional facility in the immediate vicinity of the regulated activity which affect the location and configuration of the regulated activity;
3. The extent to which the entire project will be within the FERC’s jurisdiction; and
4. The extent of cumulative federal control and responsibility.

Resource Report 1 considers each of these factors and finds that FERC environmental review is not warranted. We believe the Resource Report’s interpretation of these criteria to be overly narrow. In particular, because the South Dunes Power Plant and the Jordan Cove Export Facility are interdependent and interconnected, we believe the power plant inherently affects the location of the export facility. Without the power supplied by the power plant, the export facility cannot be built; and without the export facility, there is no need for the power plant to be built.

In addition, CEQ NEPA regulations at 40 CFR 1508.25(a)(1) address connected actions, and clearly call for actions to be considered within the scope of an EIS if they “cannot or will not proceed unless other actions are taken previously or simultaneously” or “are interdependent parts of a larger action and depend on the larger action for their justification.” It is clear from Resource Report 1 that the Power Plant is being constructed for the purpose of supporting the Project. The Power Plant is not being constructed for a purpose independent from the Project. On the contrary, it is being constructed specifically to support the power needs of the Project.

Section 40 C.F.R. 1508.25(a)(3) states that two actions should be evaluated in a single EIS when they are “similar actions, which when viewed with other reasonably foreseeable or proposed agency actions have similarities that provide a basis for evaluating their environmental consequences together, such as common timing and geography.” The Power Plant will be built in a timeframe that will coincide with the Project’s power needs. The Power Plant is specifically sited in proximity to the Project so that it can operate in conjunction with the Project. Because the South Dunes Power Plan and the Jordan Cove Export Facility are interdependent and interconnected, the locations of the two were selected to enhance the effectiveness of their co-operation. Therefore, we recommend that the FERC include the South Dunes Power Plant within the scope of the EIS.

Environmental Consequences
According to 40 CFR Part 1502.1, an Environmental Impact Statement, “...shall provide full and fair discussion of significant environmental impacts and shall inform decision makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the environment.” In order to facilitate a full and fair discussion on significant environmental issues, we encourage the FERC to establish thresholds of significance for each resource of concern, and to analyze environmental consequences in a clear, repeatable manner. For each action, a series of questions should be considered: 1) What is the action? 2) What is the intensity or extent of impacts? 3) Based on identified thresholds, is that significant? If an impact of the action is significant, then the EIS must contain appropriate mitigation measures.

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3 40 CFR 1508.25(a)(i)(ii) and (iii)