Jody McCaffree,  
PO Box 1113  
North Bend, OR 97459

July 11, 2014

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

Re: Coos County Pacific Connector Gas Pipeline application for (2) year CUP extension on former County File No. HBCU-10-01 (REM-11-01), Coos County Final Orders 10-08-045PL and 12-03-018PL. Extension Application and Appeal under County File No. ACU-14-08 & AP-14-02.

Dear Hearing Officer Stamp:

Please accept the following comments into the record of the Coos County Pacific Connector Gas Pipeline (PCGP) land use extension application ACU-14-08 & AP-14-02. As a citizen who resides in Coos County I have a direct interest in this proceeding in that I live 2 miles from the proposed LNG terminal and the proposed end of the Pacific Connector Gas Pipeline in Coos Bay. I also live in the proposed LNG hazardous impact zone of the LNG facility. The proposed project would directly impact me and my family due to these potential hazards and the increase in natural gas prices that would be a result of exporting LNG to foreign countries for the benefit of a foreign controlled energy company. The foreign controlled Jordan Cove Energy Project would get the profits and benefits while citizens in North Bend/Coos Bay and along the pipeline route would be subject to all of the risks, hazards and land seizures.

This application seeks a request to approve a 2 year extension of the development approval period for County File No HBCU-10-01 (REM-11-01). The conditional use application was approved for a natural gas pipeline and associated facilities on approximately 49.72 miles extending from Jordan Cove Energy Project’s LNG Terminal upland from the Port’s Marine Terminal to the alignment segment in adjacent Douglas County.

The Conditions of Approval and Final Decision and Order 10-08-045PL and 12-03-018PL are applicable in this permit proceeding. I would like to ask that the complete prior records of the original and remanded final decision for this complete pipeline project be included in with this proceeding including all final orders and Conditions of Approval. (See Exhibit 1 for Conditions of Approval)

Mark Whitlow’s March 7, 2014, letter submitted in with this application for extension states:

"...the FERC authorization to construct and operate the Gas Pipeline and import terminal was vacated by FERC on April 16, 2012. Since then, Pacific Connector filed its application with FERC on May 21, 2013, seeking authorization to construct a gas pipeline to serve an

McCaffree comments on ACU-14-08  
July 11, 2014

Page 1

Exhibit: 57
Date: 7/11/14
export LNG terminal. The applicant requests a two-year extension to allow the FERC process to move forward to completion.”

“....In support of the request for the extension of the conditional use, please note that there have been no substantial changes in the land use pattern of the area or other circumstances sufficient to cause a new conditional use application to be sought for the same use.”

The Pacific Connector extension request does NOT satisfy the applicable requirements of the Coos County Zoning and Land Development Ordinance ("CCZLDO") as explained further below:

1. Permit Application in violation of County Zoning and Land Development Ordinance

The extension application and current proposed pipeline is in violation of Condition of Approval No. 25 found in Final Order No. 10-08-045PL, dated September 8, 2010, as ratified by Final Decision and Order No. 12-03-018PL, dated March 13, 2012. The current proposed pipeline is proposed to export natural gas from a liquefaction facility located on the North Spit where it would be exported overseas. The original approved CUP permit does not allow for this type of pipeline. Condition #25 states: (See Exhibit 1)

“25. The conditional use permits approved by this decision shall not be used for the export of liquefied natural gas.” (Emphasis added)

This should have caused the Planning Director to reject the application entirely and request that a new application process be completed. When FERC vacated their prior Order and EIS for the Jordan Cove Import terminal and the Pacific Connector Gas Pipeline (See Exhibit 2), this should have caused the local land use permits to be invalidated also. Many of the original Pacific Connector Gas Pipeline’s CUP findings and Conditions of Approval are based on the no longer valid 2009 FERC Order and Environmental Impact Statement (EIS) found in the record of the original proceeding.

Multiple Conditions of Approval in the Final Decision and Order No. 10-08-045PL as ratified by Final Order No. 12-03-018PL, were based on FERC’s former and now vacated EIS and Order as follows:

A. Staff proposed Conditions of Approval:

#2 (Must comply Groundwater Supply Monitoring and Mitigation Plan approved by the federal Office of Energy Projects within FERC)

#4 (Pursuant to FERC’s Order Condition #6)

#8 (Compliant with FERC’s order Condition #43)

#14 (States – PCGP must provide the County with a copy of the "Notice to Proceed" issued by FERC.)

McCaffree comments on ACU-14-08
July 11, 2014
Page 2
#20 (Mentions that evidence must be consistent with the requirements of this approval and the FERC Order.)

#21 (Mentions that evidence must be consistent with the requirements of this approval and the FERC Order.)

**B. Applicant Proposed Conditions of Approval**

#19. (References compliance with former FEIS Section 4.12.10.)

The Original 2-12-2010 Pacific Connector Gas Pipeline CUP application stated on page 2:

"Pacific Connector has received authorization from FERC under Section 7c of the Natural Gas Act (NGA) to construct, install, own, operate, and maintain an interstate natural gas pipeline, the PCGP, that will transport gasified natural gas from the Jordan Cove LNG terminal in Coos Bay to existing interstate natural gas transmission pipelines near Malin, Oregon and points in between. The 36-inch diameter pipeline will be a total of 234 miles and will provide natural gas to markets throughout the region." [Emphasis added] (See Exhibit 3)

The now vacated FERC Final EIS that was used in the original Pacific Connector Gas Pipeline CUP record to support many of the findings in the County’s Final Decision and Order stated that the PCGP project would:

- *provide a new source of natural gas to Pacific Northwest, northern California, and northern Nevada markets to diversify the supply sources for these markets to meet future demands*; ... [Emphasis added]

The Pacific Connector Gas Pipeline is no long an “import” pipeline. It no longer meets Condition of Approval #25 or many of the other previously approved Conditions of Approval. There are no plans for the project to supply natural gas to anyone but the Jordan Cove Export facility. (See Exhibit 4) This clearly changes the application to the point that it should be completely redone.

**CCZLDO SECTION 5.0.700**

**EXPIRATION AND EXTENSION OF CONDITIONAL USES** states:

"All conditional uses, except for site plans, variances and land divisions, remain valid for the period set forth in ORS 215.417. Any conditional use not initiated within said time frame may be granted a two year extension as specified in ORS 215.417 provided that: ...

...B. The Planning director finds:

i. that there have been no substantial changes in the land use pattern of the area or other circumstances sufficient to cause a new conditional use application to be

McCaffree comments on ACU-14-08
July 11, 2014
Page 3
sought for the same use; and...”
[Emphasis added]

CCZLDO SECTION 5.0.350 (B) states:

“An applicant who has received development approval is responsible for complying with all conditions of approval. Failure to comply with such conditions is a violation of this ordinance, and may result in revocation of the approval in accordance with the provisions of Section 1.3.300.”
[Emphasis added]

CCZLDO states [Emphasis added]:

SECTION 1.3.300. Revocation. A. Any permit or verification letter (also referred to as zoning compliance letter or zoning clearance letter) may be subject to revocation by the Planning Director if it is determined the application included false information, or if the standards or conditions governing the approval have not been met or maintained. ...

SECTION 1.3.800. Violation of Ordinance. A violation of this Ordinance may, at the discretion of the County, be rectified in either of the following ways:

1. The construction, erection, location, enlargement, or use, or change in use or uses of any structure or property in violation of this ordinance or those conditions and limitations approved pursuant to the provisions of this Ordinance shall be deemed a nuisance and may be enjoined, abated or removed as provided by ORS 215.185; or

2. Upon conviction as provided by ORS 203.065:

   a. a fine or not more than $100 for each day of violation where the offense is a continuing offense but such fine may not exceed $1,000.

   b. A fine of not more than $500 where the offense is not a continuing offense

Currently the change in purpose of the pipeline clearly changes the classification of the pipeline and its use, or change in use, because no users in the Pacific Northwest, northern California, and northern Nevada would be getting any natural gas delivered to them. Once the gas enters the Pacific Connector Gas Pipeline at its connection point in Malin, it will all end up at the Jordan Cove LNG export facility for liquefaction and export. (See Exhibit 4)

As stated above, this is contrary to the purpose, need and intent of the original Pacific Connector Gas Pipeline application which should have been vacated since the pipeline is now in violation of the Coos County CUP issued in 2012 and the Coos County Zoning and Land Development Ordinance (CCZLDO).

McCaffree comments on ACU-14-08
July 11, 2014
Page 4
The applicant needs to reapply with a completely new application for the entire pipeline route in the Coastal Zone using the proper purpose and need of the pipeline along with a properly approved and completed Environmental Impact Statement. When the project changed from an import terminal to an export terminal the change was so vital that it caused FERC to vacate the Certificate and Order they had issued for the “Import” terminal and pipeline. FERC has not issued a Draft Environmental Impact Statement yet for the proposed export project much less issued a new Order. This should have made the original “import only” application and CUP for the Pacific Connector no longer valid. A new FERC Order and Certificate should have been completed prior to any new CUP application being submitted by the Pacific Connector, particularly since most of the original 2012 Coos County CUP findings were based on the now vacated FERC EIS and Order.

2. FERC EIS - NEPA Process and Requirements

The National Environmental Policy Act (NEPA) expressly prohibits certain actions while an Environmental Impact Statement (EIS) process is underway. Specifically, until a final record of decision is issued, the Applicant and the Federal Energy Regulatory Commission (FERC) are not to take any action concerning the proposal which would limit the choice of reasonable alternatives addressed in the EIS.¹

If the applicant takes any actions that would tend to bias or influence the ultimate choice amongst reasonable alternatives, FERC has the responsibility to tell the applicant to cease and desist, and may take injunctive measures under NEPA up to and including a refusal to process the application.²

The identification and the objective, un-biased evaluation of alternative ways of meeting the described need for the proposed action is the very heart of the NEPA process. In cases involving a non-federal applicant, FERC must still consider all alternatives that are practical or feasible from a technical and economic standpoint rather than simply desirable from the standpoint of the applicant.³

It is our perception that the Jordan Cove/Pacific Connector applicant is in the process of violating the NEPA regulations by taking inappropriate actions as indicated by all these land use applications and approval decisions that are being processed prior to the NEPA process being completed.

Role and Function of an EIS

NEPA requirements:

An EIS should “...serve practically as an important contribution to the decisionmaking process and will not be used to rationalize or justify decisions already made”. (40 CFR 1502.5)

¹ CEQ, Regulations for implementing the National Environmental Policy Act, 40 CFR 1500-1508, July 1, 1986, Section 1506.1(a)(2).
McCaffree comments on ACU-14-08
July 11, 2014
Page 5
An EIS “is more than a disclosure document. It shall be used by Federal officials in conjunction with other relevant material to plan actions and make decisions.” (1502.1)

An EIS is meant to document how, specifically, environmental considerations were incorporated with economic and technical considerations in all plans and projects (NEPA 102A)

An EIS “must be objectively prepared and not slanted to support the choice of the agency’s preferred alternative over the other reasonable and feasible alternatives”. (CEQ 40?, #4c.)

An EIS “should be analytic rather than encyclopedic”. (1502.2a)

Unfortunately, and inadvertently, Coos County and the State of Oregon are giving the appearance of facilitating this malfeasance on the part of FERC by processing the various permits and certifications under their jurisdiction prior to the completion of the EIS process.

An EIS, in and of itself, is not a decision document. Rather, after public review and comment, it is followed up by a formal record of decision (ROD) which documents how and why one of the alternatives analyzed in the EIS was selected for implementation.

How can Oregonians be expected to objectively evaluate the range of alternatives that would be provided in a valid EIS if, in fact, Coos County and Oregon state agencies have already issued permits and certifications for one of the alternatives beforehand?

In addition, pipelines are subject to oversight and regulation by the Oregon Public Utilities Commission and the U.S. Department of Transportation’s Pipeline and Hazardous Materials Safety Administration (PHMSA) under Title 49, Code of Federal Regulations, Parts 190 to 199. The Department of Transportation’s (DOT) Pipeline and Hazardous Material Safety Administration (PHMSA), acting through the Office of Pipeline Safety (OPS), administers the Department’s national regulatory program to assure the safe transportation of natural gas, petroleum, and other hazardous materials by pipeline. OPS develops regulations and other approaches to risk management to assure safety in design, construction, testing, operation, maintenance, and emergency response of pipeline facilities. The applicant must show that their project is in compliance with all these agencies.

3. The PCGP Application and CUP Public Need and Consistency requirements not in line with Coos County Comprehensive Plan and Zoning Land Development Ordinance

The proposed Pacific Connector Gas Pipeline would impact zoning districts within Coos County. The 49.72-mile segment of the Pipeline would cross 14 Coos Bay Estuary Management Plan (CBEMP) management units/zoning districts, including: Water Dependent Development Shorelands (6-WD, 8-WD); Conservation Aquatic (8-CA, 20-CA, 21-CA); Natural Aquatic (11-NA, 13A-NA); Rural Shorelands (11-RS, 18-RS, 20-RS, 21-RS); Development Shorelands (7-D, 19-D); and Development Aquatic (19B-DA). In addition, the pipeline would run through five Coos County zoning designations: Forest (F) (39.47 miles); Exclusive Farm Use (EFU) (3.72 miles); Rural Residential 2 (RR2)(0.10 miles); Rural Residential 5 (RR-5) (0.37 miles); and Industrial (IND)

McCaffree comments on ACU-14-08
July 11, 2014
Page 6
(0.07 miles).

The foregoing management units and zoning districts include the Coos Bay Estuary (at Haynes Inlet), sloughs (e.g., Kentuck Inlet, Willanch Slough, Catching Slough), rivers (e.g., Coos River, East Fork Coquille River), and numerous streams and wetlands. The PCGP Project’s Coos Bay Water Route across Haynes Inlet requires the construction right-of-way to be 250 feet in width with temporary work areas (TEWAs) to be located in the estuary. The trench for the 36-inch pipeline will be at least five feet deep through water bodies and because of scour issues in Haynes Inlet the pipeline requires 5 feet of fill over the top of the 3 foot pipe in the Inlet.

There currently is no FERC Order to proceed and the pipeline has not been construction yet. There has been no finding of “need” and “consistency” that supports this change in the direction of the flow of gas in the pipeline. Any use and activity which could alter the estuary is only to be allowed subject to requirements of CBEMP Policies being met including Policy 5. In this case and Pacific Connector has not followed those requirements.

Each of the CBEMP zoning management districts have both “Uses” that are allowed and “Activities” that are allowed in those zoning districts. While a low intensity pipeline structure is allowed in these estuary zoning districts, that does not mean digging a trench or an HDD to bury the pipeline would also be allowed. Essentially allowing a pipeline structure in these zones could mean you just placed the pipeline on the top of the tidal muds and/or shorelands. The structure being allowed does not automatically mean the digging of a trench or HDD to bury it would be. THAT IS CLEARLY AN “ACTIVITY” that has not yet occurred in these zoning districts. The removal and fill “Activity” requires a finding of “need” among other things. The prior “need” determination that was placed in the record due to FERC’s Certification approval was vacated and is no longer valid. THAT CHANGE CLEARLY MEANS A NEW “NEED” DETERMINATION MUST BE MADE.

**CBEMP Policy #5 Estuarine Fill and Removal**

1. Local government shall support dredge and/or fill only if such activities are allowed in the respective management unit, and:
   a. The activity is required for navigation or other water-dependent use that require an estuarine location or in the case of fills for non-water-dependent uses, is needed for a public use and would satisfy a public need that outweighs harm to navigation, fishing and recreation, as per ORS 541.625(4) and an exception has been taken in this Plan to allow such fill;
   b. A need (i.e., a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights;
   c. No feasible alternative upland locations exist; and
   d. Adverse impacts are minimized.
   e. Effects may be mitigated by creation, restoration or enhancement of another area to ensure that the integrity of the estuarine ecosystem is maintained;
   f. The activity is consistent with the objectives of the Estuarine Resources Goal and with other requirements of state and federal law, specifically the conditions in ORS 541.615 and Section 404 of the Federal Water Pollution Control Act (P.L.92-500).

2. Other uses and activities which could alter the estuary shall only be allowed if the requirements in (b), (c), and (d) are met.... (Emphasis added)

McCaffree comments on ACU-14-08
July 11, 2014
Page 7
CBEMP POLICY #5a Temporary Alterations

I. Local governments shall support as consistent with the Plan: (a) temporary alterations to the estuary, in Natural and Conservation Management Units provided it is consistent with the resource capabilities of the management units. Management unit in Development Management Units temporary alterations which are defined in the definition section of the plan are allowed provided they are consistent with purpose of the Development Management Unit. b) alterations necessary for federally authorized Corps of Engineers projects, such as access to dredge material disposal sites by barge or pipeline or staging areas, or dredging for jetty maintenance.

II. Further, the actions specified above shall only be allowed provided that:
   a. The temporary alteration is consistent with the resource capabilities of the area (see Policy #4);
   b. Findings satisfying the impact minimization criterion of Policy #5 are made for actions involving dredge, fill or other significant temporary reduction or degradation of estuarine values;
      (Emphasis added)
   c. The affected area is restored to its previous condition by removal of the fill or other structures, or by filling of dredged areas (passive restoration may be used for dredged areas, if this is shown to be effective); and
   d. The maximum duration of the temporary alteration is three years, subject to annual permit renewal, and restoration measures are undertaken at the completion of the project within the life of the permit.

Mitigation shall not be required by this Plan for such temporary alterations.

This Policy shall be implemented through the administrative conditional use process and through local review and comment on state and federal permit applications.

This Policy is based on the recognition that temporary estuarine fill and habitat alterations are frequently legitimate actions when in conjunction with jetty repair and other important economic activities. It is not uncommon for projects to need staging areas and access that require temporary alteration to habitat that is otherwise protected by this Plan.

(Emphasis added)

CBEMP Policy #14 General Policy on Uses within Rural Coastal Shorelands

I. Coos County shall manage its rural areas within the "Coos Bay Coastal Shorelands Boundary" by allowing only the following uses in rural shoreland areas, as prescribed in the management units of this Plan, except for areas where mandatory protection is prescribed by LCDC Goal #17 and CBEMP Policies #17 and #18:

   ...e. 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 nonresource use.

   ...g. Any other uses, including non-farm uses and non-forest uses, provided that the Board of Commissioners or its designee determines that such uses satisfy a need which cannot be accommodated at other upland locations or in urban or urbanizable areas. In addition, the above uses shall only be permitted upon a finding that such uses do not otherwise conflict with the resource preservation and protection policies established elsewhere in this Plan.

This strategy recognizes (1) that Coos County's rural shorelands are a valuable resource and accordingly merit special consideration, and (2) that LCDC Goal #17 places strict limitations on land divisions within coastal shorelands. This strategy further recognizes that rural uses "a through "g" above, are allowed because of need and consistency findings documented in the "factual base" that supports this Plan.

(Emphasis added)
In addition, the current pipeline can no longer be classified as a "utility public service structure - low-intensity facility" since it serves no public service as it was classified to do in the original 2012 Pacific Connector CUP. And even so, the **UTILITIES** definition under CCZLDO SECTION 2.1.100 and 2.1.200 list the pipeline structure in aquatic areas as "fill":

**UTILITIES:** Public service structures which fall into two categories:

1. low-intensity facilities consist of communication facilities (including power and telephone lines), sewer, water and gas lines, and
2. high-intensity facilities, which consist of storm water and treated waste water outfalls (including industrial waste water).

**II - 42**

*Note: in shoreline units this category also includes sewage treatment plants, electrical substations and similar public service structures. However, these structures are defined as "fill" for non-water-dependent/related uses" in aquatic areas.*

[Emphasis added]

Fill and Dredging are defined in the CCZLDO as:

**FILL:** The placement by man of sand, sediment, or other material, usually in submerged lands or wetlands, to create new uplands or raise the elevation of land....

**DREDGING:** The removal of sediment or other material from a stream, river, estuary or other aquatic area:....

There has been no independent “Resource Capability Consistency and Impact Assessment.” Pacific Connector has failed to prove that their project is needed and that the pipeline construction in these alternative route areas will not unreasonably interfere with public trust rights. Oregon’s public trust doctrine (PTD) is not of mere academic interest. The doctrine imposes duties on the state as sovereign owner of water, wildlife, and ancillary uplands. In an era of widespread skepticism of government management, the venerable public trust doctrine seems an especially appropriate mechanism to give citizens an opportunity to gain review of government action and inaction threatening unsustainable development of natural resources that are central to the state’s identity, culture, and economy.⁴ These public rights in natural resources impose certain duties on the state, such as providing public access, obtaining full market value for private use of public resources, and maintaining PTD resources for future generations.

The reason citizens and landowners previously requested this Condition of Approval was because it was apparent that the proposed Jordan Cove and Pacific Connector Gas Pipeline “Project” would do this bait and switch. They previously applied for permits under the misconception that their project would be importing natural gas which made it easier for them to show a justifiable public need and benefit when the real intent of the project was to actually export natural gas to markets overseas for the benefit and “interest” of the foreign owned and controlled Jordan Cove Energy Project only. The proposed PCGP “Project” has no plans to supply gas to Coos County residents and would be competing for capacity on interstate supply pipelines already being utilized

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McCaffree comments on ACU-14-08
July 11, 2014
Page 9
by American gas distributors. If PCGP wishes to change their application to an export pipeline and have it considered under the Coos County Comprehensive Plan and ZLDO, it is not enough for PCGP to say the structure would be the same as the one permitted for an “import terminal” since the building of the structure also requires that a public need (i.e. a substantial public benefit) be established, along with other requirements of the plan.

Even the Applicant’s attorney has stated this to be the case. At the Hearing held on June 12, 2014, in Salem for Pacific Connector LUBA case no. 2014-022 - McCaffree et al vs. Coos County (Coos County File No. HBCU-13-02), the Pacific Connector Gas Pipeline attorney stated at 35:22: (See provided LUBA audio)

35:22 PACIFIC CONNECTOR ATTORNEY:
Now then, Ms. Ryan, turning to your question. We have not argued that policy 5 is, a... I guess backed out as you’d say, on the grounds that we believe that there’s been a... a... We would agree that there is a change, a potential change, in the way that the gas would flow in the pipeline and that could potentially trigger, the... um... a consideration of public need questions. However, as to policy 5c, we would disagree... We do believe that is backed out. That is something that was asked and answered in the first preceding. There was no change in the pipeline that would justify revisiting that issue. [Emphasis added]

LUBA JUDGE:
You’re just simply saying that you’d analyze public need differently for an import facility and an export facility, is that right?

PACIFIC CONNECTOR ATTORNEY:
Yes. It may reach the same conclusion but it probably requires some additional considerations....

In addition, Oregon Administrative Rule 345-023-0005 clearly requires that the applicant must demonstrate a need for the natural gas pipeline.

3.1 The Cost of Exporting not in the Public Interest

Exporting natural gas will increase domestic gas prices. This increase in domestic natural gas prices will directly negatively impact citizens in Oregon and the United States and landowners along the pipeline rights of way. It will negatively impact thousands of manufacturing jobs that are in the process of coming back to the U.S. due in part to low natural gas prices. It will also negatively impact other local and national industries that use natural gas. Eminent domain of Oregon landowner’s private property for the benefit of a foreign controlled “private” corporation with plans to Export LNG would be contrary to the public interest and public trust rights. The negative impacts of exporting are all spelled out in the following attached report, “Drill Here Sell There – The Painful Price of Exporting Natural Gas” 5 (See Exhibit 5 and also Exhibit 6)

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5 “Drill Here Sell There – The Painful Price of Exporting Natural Gas” 3-1-2012
McCaffree comments on ACU-14-08
July 11, 2014
Page 10
The state has a duty under the Public Trust Doctrine (PTD) to protect public water resources for public uses consistent with “no-diminishment” trust principles, and statutes may help define when the state has failed to meet its duty and owes compensation to the trust.⁶ The Pacific Connector Gas Pipeline has failed to make a finding that the public need for their proposed project outweighs the detriment their project would cause to the use and impacts of multiple waterbodies and conservation aquatic zoning districts in Coos County. (See Exhibit 7)

3.2 Public Service Structures

I challenge whether the proposed pipeline meets the ZLDO definition of “utilities,” considering that it is not a “structure,” as defined in the ZLDO and it would be owned and operated by a “private” foreign controlled energy company.

The term “Utilities” is defined by the CCZLDO as "public service structures" (falling into two categories, low intensity and high intensity). CCZLDO § 2.1.200. It is questionable whether an export pipeline remains a "utility," because the pipeline would no longer provide service to the domestic public. If the pipeline is allowed to change its flow to export it fails to comply with CCZLDO §4.9.450(C). That code provision allows conditional uses for:

Utility facilities necessary for public service, except for the purpose of generating power for public use by sale and transmission towers over 200 feet in height. A facility is necessary if it must be situated in an agricultural zone in order for the service to be provided.

A similar issue arises with regard to Comprehensive Plan Policy #50: Rural Public Services. Policy 50 provides that Coos county shall consider "electrical and gas lines and similar low-intensity facilities and services traditionally enjoyed by rural property owners" as appropriate for all rural parcels. If the pipeline becomes an export line, it would not fit within this allowance. As stated above, an export line does not provide a "service," and certainly not one "traditionally enjoyed by rural property owners."

3.4 Transmission line vs. Distribution line

The change in use of the Pipeline changes the classification of the pipeline. LCDC administrative rules declare local distribution lines for natural gas are permitted outright. OAR 660-006-0025(3)(c). Additionally, new distribution lines for gas with rights of way up to 50’ or less may be conditionally permitted. OAR 660-006-0025(4). While new electric transmission lines may also be permitted, gas transmission lines are not mentioned.

Resolution of this issue rests in part on determining if the proposed pipeline is a transmission line or a distribution line. (See Exhibit 8) The proposed pipeline in this case is 36 inches in diameter with

⁶ Marshall v. Frazier, 81 P.2d 132, 134 (Or. 1938) (explaining that “[t]he question of what is a reasonable compensation for trustees depends largely on the circumstances of each particular case, and can not be properly determined by any inflexible rule” (quoting 26 R.C.L. Trusts, § 258)); 76 AM. JUR. 2D Trusts § 276 (2005) (“Where the trustee makes an unauthorized conversion, transfer, or encumbrance of trust property or funds, the beneficiary of the trust may elect to hold the trustee personally liable and accountable for this breach of trust.”); id. § 345 (“Misapplication of the trust estate renders the trustee immediately liable for the proceeds or the value of the property misapplied, at the option of the beneficiary.”).
McCaffree comments on ACU-14-08
July 11, 2014
Page 11
gas pressurized at 1,480 pounds per square inch. The pipeline will transport gas from outside the State of Oregon via gas transmission pipelines at interconnects in Malin, Oregon, to Coos Bay, where it will be liquefied and pumped into ships for export. These facts demonstrate that the proposed export pipeline equates to a “transmission line” as found in ORS 215.276(1)(c), rather than a distribution line:

"Transmission line" means a linear utility facility by which a utility provider transfers the utility product in bulk from a point of origin or generation, or between transfer stations, to the point at which the utility product is transferred to distribution lines for delivery to end users.

The Oregon Public Utilities Commission (PUC) has jurisdiction over all operators of intrastate natural gas pipeline systems within the state of Oregon. Three major operators of distribution and transmission pipeline systems are NW Natural Gas, Avista Utilities, and Cascade Natural Gas.

They have 755 miles of high-pressure natural gas transmission lines that begin and end within the boundaries of the state. This mileage of pipelines does not include the smaller distribution pipelines they operate within the state. Including the smaller distribution lines the total is approximately 18,000 miles.7

Oregon also has two operators of interstate natural gas transmission pipelines that cross or enter Oregon from other states. Those operators are Williams NW Pipelines and GTN TransCanada. Both these transmission pipelines follow road right-of-ways.

The State of Oregon regulates pipelines under Oregon Administrative Rules. These rules also encompass the Code of Federal Regulations:

OAR 860-024-0020

Gas Pipeline Safety
Every gas operator must construct, operate, and maintain natural gas and other gas facilities in compliance with the standards prescribed by:
(1) 49 CFR, Part 191, and amendments through No. 22 — Transportation of Natural and Other Gas by Pipeline; Annual Reports and Incident Reports in effect on April 4, 2011.
(2) 49 CFR, Part 192, and amendments through No. 117 — Transportation of Natural and Other Gas by Pipeline; Minimum Safety Standards in effect on August 15, 2011.

http://www.puc.state.or.us/consumer/Natural%20Gas%20Pipeline%20Safety%20Overview.pdf
McCaffree comments on ACU-14-08
July 11, 2014
Page 12
CFR Title 49; Part §192

§192.3 Definitions.

Transmission line means a pipeline, other than a gathering line, that: (1) Transports gas from a gathering line or storage facility to a distribution center, storage facility, or large volume customer that is not down-stream from a distribution center; (2) operates at a hoop stress of 20 percent or more of SMYS; or (3) transports gas within a storage field.

NOTE: A large volume customer may receive similar volumes of gas as a distribution center, and includes factories, power plants, and institutional users of gas.

Distribution line means a pipeline other than a gathering or transmission line.

Gathering line means a pipeline that transports gas from a current production facility to a transmission line or main.

Main means a distribution line that serves as a common source of supply for more than one service line.

Service line means a distribution line that transports gas from a common source of supply to an individual customer, to two adjacent or adjoining residential or small commercial customers, or to multiple residential or small commercial customers served through a meter header or manifold. A service line ends at the outlet of the customer meter or at the connection to a customer's piping, whichever is further downstream, or at the connection to customer piping if there is no meter.

The Pacific Connector Gas Pipeline is currently a transmission line because under the first definition of a transmission line this line currently transports gas from a transmission line to a large volume customer that is not downstream from a distribution center.

Whereas the prior 2012 Decision found that the pipeline would provide natural gas to markets throughout the region, this is no longer the case under the current project proposal. The Pacific Connector Gas Pipeline will not serve a single local customer in Coos County or the United States. The proposed Jordan Cove export of natural gas has no intended distribution to the domestic public. The Pipeline is not a utility for public service and it is not intended to make a distribution to individual end-use customers in the region. (See Exhibit 4) Since the proposed pipeline is not a

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8 http://arcweb.sos.state.or.us/pages/rules/oars_800/oar_860/860_024.html
9 Specified Minimum Yield Strength (SMYS) means the specified minimum yield strength for steel pipe manufactured in accordance with a listed specification. This is a common term used in the oil and gas industry for steel pipe used under the jurisdiction of the United States Department of Transportation. It is an indication of the minimum stress a pipe may experience that will cause plastic (permanent) deformation. http://en.wikipedia.org/wiki/Specified_Minimum_Yield_Strength
10 http://www.ecfr.gov/cgi-bin/text-idx?SID=a0f8e035e7a0eb0ede02709963e1138&node=49:3.1.1.8.1.8.2&rgn=div8

McCaffree comments on ACU-14-08
July 11, 2014
Page 13
distribution line and only gas distribution lines are allowed in a Forest zone it is not allowed and the application should be denied. OAR 660-006-0025.

3.5 The County signed off on this permit extension prior to the determination needed by the necessary agencies as required by CBEMP Policy 11

#11 Authority of Other Agencies

Local government shall recognize the authority of the following agencies and their programs for managing land and water resources:

~ The Oregon Forest Practices Act and Administrative Rules for forest lands as defined in ORS 527.620(1991) to 527.730 and Forest Lands Goal;

~ The nonpoint source discharge water quality program administered by the Department of Environmental Quality (DEQ) under Section 208 of the Federal Water Quality Act as amended in 1972 (PL 92-500);

~ The Fill and Removal Permit Program administered by the Division of State Lands (DSL) under ORS 196.800-196.880 (renumbered 1989); and

~ The programs of the State Soil and Water Conservation Commission and local districts and the Soil Conservation Service and the Agricultural Lands Goal.

This strategy recognizes there are several agencies with authority over coastal waters, and that their management programs should be used rather than developing new or duplicate management techniques or controls, especially as related to existing programs functioning to maintain water quality and minimize man-induced sedimentation.

This strategy shall be implemented through the permit coordination with ODFW and the Army Corps of Engineers prior to County sign-off on permits. (Emphasis added)

Where does the record show any permit coordination, need and consistency findings have been performed by the Planning Department prior to their approval of this permit? How can the Planning Department and citizens make judgments about this project when there is no data? Conditional permits are to be done in coordination with the State Agencies. Where in the record is this coordination? PCGP has not done this yet. CBEMP policy 4 and 4a clearly spell this out.

CBEMP Policy 4a (V) states:

"This strategy recognizes:

a. That resource capability consistency findings and impact assessments as required by LCDC Goal #16 can only be made for the uses specified above at the time of permit application, and

b. That the specified state agencies have expertise appropriate to assist local government in making the required finding and assessments." (Emphasis added)
4. Public Need and Benefit of Pacific Connector Pipeline Project Lacking

On June 6, 2013, Pacific Connector Gas Pipeline, L.P. (PCGP) filed an application with the Federal Energy Regulatory Commission (FERC) for approval to construct, own and operate a natural gas transmission pipeline in southern Oregon.

PCGP Resource report 1, page 3, under 1.2.2 Need states:

“The primary need for Pacific Connector is to supply approximately 1.02 Bcf/d (1,020,000 Dth/d) of firm transportation service to the Jordan Cove Terminal. The Jordan Cove Terminal, located on the bay side of the North Spit of Coos Bay, is designed to receive, liquefy, store and load LNG onto LNG ships for delivery to export markets...”

Under the Natural Gas Act (NGA), transportation of natural gas for public distribution must be “affected with a public interest.” 15 U.S.C. § 717(a). Under FERC regulations, the applicant must set forth “[t]he facts relied upon” to show that the construction is required by the public convenience and necessity. 18 C.F.R. §157.6(b)(2). Additionally, the applicant must provide “all information necessary to advise the commission fully concerning the operation, sales, service, construction, extension, or acquisition for which a certificate is requested..” 18 C.F.R. 157.5(a). The burden of justification for omitted data rests on the applicant. 18 C.F.R. §157.5(c).

Both the Jordan Cove Energy Project (JCEP) and the PCGP have failed to demonstrate that the proposed facilities are not inconsistent with the public interest as required by applicable regulations. 18 C.F.R. § 153.7(c). The applicant has failed to provide adequate evidence to support the proposition in the applications that the current proposed pipeline route and terminal local and design will have the least adverse impact on local water resources, salmon habitat, forests, and agricultural values. There is significant evidence that the project will negatively impact local farms, fish habitat, water quality and natural resources.

The Jordan Cove Energy Project L.P. (JCEP) has no experience in the export of LNG and both JCEP and PCGP’s Federal Energy Regulatory Commission (FERC) applications have failed to demonstrate that the proposed facilities will not involve any existing contract(s) between the applicant and a foreign government or person concerning the control of operations or rates for the delivery or receipt of natural gas which may restrict or prevent other United States companies from extending their activities in the same general area. 18 C.F.R. § 153.7(c) iii

JCEP Application to FERC page 4 states:

“...JCEP is a new entrant to the LNG industry and will bear the full economic risk of constructing and operating the Project (without subsidization from, or causing unsubscribed capacity on, existing pipelines). In fact, as the Project will provide a new outlet for North America’s abundant natural gas supplies, it will result in increased utilization of both new and existing pipeline infrastructure.”

McCaffree comments on ACU-14-08
July 11, 2014
Page 15
4.1 Motion to Intervene of Gas Transmission Northwest LLC under FERC PCGP Docket No CP13-492-000 states:

"Gas Transmission Northwest LLC ("GTN") is a "natural-gas company" as defined by the Natural Gas Act, 15 U.S.C. § 717a(6), and is engaged in the business of transporting natural gas in interstate commerce within the jurisdiction of the Commission. As an interstate pipeline serving many of the same markets as the facilities proposed in this proceeding, GTN has a direct and substantial interest in, and may be directly affected by, this proceeding..." \(^11\) (Emphasis added)

4.2 Motion to Intervene of Northwest Industrial Gas Users under FERC JCEP Docket No CP13-483-000 states:

"The proposal in this filing could impact NWIGU member companies' interests. NWIGU member companies purchase substantial quantities of natural gas for use in their facilities, and thus will be directly affected by the outcome of this proceeding..." \(^12\) (Emphasis added)

4.3 Motion to Intervene of Southwest Gas Corporation under FERC PCGP Docket No CP13-492-000 states:

"Southwest is a natural gas local distribution company engaged in, inter alia, the intrastate transmission, distribution, and sale of natural gas in certain portions of the states of California, Arizona, and Nevada pursuant to certificates of public convenience and necessity issued by the California Public Utilities Commission, the Arizona Corporation Commission, and the Public Utilities Commission of Nevada.

With respect to its northern California and northern Nevada service areas, Southwest relies upon the facilities of Ruby Pipeline L.L.C. (Ruby) for transporting and delivering supplies of natural gas, which Southwest purchases on a delivered basis, to supply Southwest's northern California and northern Nevada local distribution service areas. Southwest is also dependent upon the facilities of Northwest Pipeline GP (Northwest) for supplies of natural gas, which Northwest delivers to Paiute Pipeline Company for redelivery to Southwest's distribution systems. Southwest is a firm transportation customer of Northwest...

..... As a customer of both Ruby and Northwest, Southwest buys delivered supplies at Ruby's interconnect with Paiute Pipeline Company and is therefore affected by any change in Ruby's tariff rates. Southwest is also dependent upon Northwest for supplies of natural gas and is subject to the rates that the Commission authorizes Northwest to collect for its transportation of gas. An order in this proceeding may have a direct impact upon Southwest....." \(^13\) (Emphasis added)

\(^{11}\) Motion to Intervene of Gas Transmission Northwest LLC under CP13-492-000:
http://elibrary.ferc.gov/idms/fs/file_list.asp?accession_num=20130612-5004

\(^{12}\) Motion to Intervene of Northwest Industrial Gas Users under CP13-483-000:
http://elibrary.ferc.gov/idms/fs/file_list.asp?accession_num=20130618-5008

\(^{13}\) Motion to Intervene of Southwest Gas Corporation under CP13-492-000:

McCaffree comments on ACU-14-08
July 11, 2014
Page 16
5. JCEP / PCGP Project - Not Needed for Export According to Industry Analyst Data

In June 2013 Navigant released their updated Outlook for the North American natural gas market, including supply, demand, and prices at key market points. The Navigant Press Release stated among other things that:

"...the real Henry Hub average price will increase at an average rate of 2.9 percent, from $3.66/MMBtu in 2013, to $4.07/MMBtu by 2015, and reach $6.82/MMBtu by 2035... LNG exports are expected to grow in the U.S. and Canada, reaching 6.8 Bcf/d by 2020."

(Emphasis added)

The BP Energy Outlook 2030 that was released in January 2013 also concluded similar statistics:

"* North American shale gas production grows by 5.3% p.a. reaching 54 Bcf/d by 2030, more than offsetting the decline of conventional gas production. Supported by shale gas, North America will become a net exporter in 2017, with net exports approaching 8 Bcf/d by 2030..." (Emphasis added)

..."* Gas trade between regions continues to grow (3.7% p.a. from 2011). Europe remains the largest net importer, and accounts for the largest increment in net imports (18 Bcf/d). Russia remains the largest net exporter – predominantly to Europe.

"* LNG contributes an increasing share of trade. LNG production grows by 4.3% p.a., accounting for 15.5% of global gas consumption by 2030. On a regional level, Africa is set to overtake the Middle East to become the largest net LNG exporter in 2028.

"* Australia, with a wave of large projects coming on stream from 2014, expands LNG supply by 15 Bcf/d, overtaking Qatar as the largest LNG supplier by 2018 and accounting for 25% of global LNG production by 2030..." (Emphasis added)

These export volumes above have also been confirmed by several additional Navigant Reports that were completed in September of 2013 for the Jordan Cove Energy Project as a part of their application to the NEB:

Jordan Cove NEB Appendix D – Export Impact Assessment – Application for a Gas Export License to the National Energy Board; Gordon Pickering, Navigant; September 2013 – Page 26 states:

"Given this competition, Navigant believes that LNG exports will be more limited for the foreseeable future than the number of applications for LNG export approval might suggest.

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17 Jordan Cove Energy Project L.P. September 9, 2013, Application to National Energy Board (NEB) of Canada. McCaffree comments on ACU-14-08
July 11, 2014
Page 17
Our view is that not all LNG export projects will go ahead. In our estimation, export volumes in the 8 Bcf/d to 10 Bcf/d range from North American seem to be a reasonable estimate of the eventual volume. At these levels, the exports represent only 9 percent - 12 percent of the current market in 2013 and from 6 percent - 8 percent of the North American gas market in 2045. At these levels, we believe it is unlikely that even if global gas prices remain high, they will be able to materially affect prices in the North American market.”

(Emphasis added)


Page 17 – 18 states:

“It should be noted that Navigant considers the upper end of the volume ranges discussed here for Canadian LNG exports with respect to resource life (i.e., 15 Bcf/d) to be quite high, and unlikely. Navigant’s current view is that the likely development of North American liquefaction capacity for export is in the 8-10 Bcf/d range, with 6-8 Bcf/d from the U.S. and about 2 Bcf/d from Canada, meaning that the scenario of 4.75 Bcf/d of Canadian LNG exports (based on approved projects) should be viewed as a high export assumption.”

(Emphasis added)

Page 35 states:

“It is important to recognize that North American LNG exports will occur within a global marketplace, with a supply-demand balance that accounts for international competition. Consequently, it should be expected that only some portion of incremental international LNG liquefaction capacity will be built in North America, and relatedly that only some portion of proposed North American facilities will be built. .... Included in this outlook is “some” LNG export volumes (6.6 Bcf/d from North America) to account for expected increasing global gas on gas competition. Navigant’s current market view has developed to a range of 8 to 10 Bcf/d for North America, and we believe that range of export volumes will likewise be associated with reasonable prices.”

(Emphasis added)

According to their own consultant reports, the Jordan Cove Energy LNG Export project and their associated Pacific Connector Gas Pipeline are not needed due to already approved North American LNG Export projects ahead of Jordan Cove that currently total over 10 Bcf/d as documented further below.

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18 Report states this was based on the: “Navigant ‘Natural Gas Supply and Demand Market Assessment to 2045’”, Figure 14, page 26. 2013 North American gas production is 85 Bcf/d. 6/85=7%; 8/85=9% 2045 North American gas production is 130 Bcf/d. 6/130=5%; 8/130=6%
19 See studies referenced in footnotes 63 and 64 of Navigant Report McCaffree comments on ACU-14-08
July 11, 2014
Page 18
5.1 The order in which the U.S. Department of Energy (DOE) is processing proposed LNG Export Projects is below: 20
2.2 Bcf/d - Sabine Pass Liquefaction, LLC – DOE has approved
1.4 Bcf/d - Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC – DOE approved
2.0 Bcf/d - Lake Charles Exports, LLC – DOE approved
1.0 Bcf/d - Dominion Cove Point LNG, LP – DOE approved
.4 Bcf/d - Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC
1.7 Bcf/d - Cameron LNG, LLC
8.7 Bcf/d - Subtotal Bcf/d LNG Export volumes before JCEP approval by the U.S. DOE
.8 – 1.2 Bcf/d - Jordan Cove Energy Project, L.P. (per their application to the DOE)

It should be noted that the total above does not include the prospect of exporting LNG from the Alaska Kenai Plant. The Alaska Department of Natural Resources’ (DNR) requested that ConocoPhillips apply for a new license to export LNG from that terminal which suspended operations in 2012. The Alaska Department of Natural Resources (DNR) has entered into a Memorandum of Understanding (MOU) 21 with the Japan Bank for International Cooperation (JBIC). According to a September 11, 2013 press release, 22 JBIC plays a critical role in financing and securing Japan’s LNG imports. The MOU “focuses on opportunities for Japanese companies and JBIC to become involved in resource development projects in Alaska – in particular, a large-volume liquefied natural gas pipeline and export facility.” The Department of Energy (DOE) in April 2014 authorized the shipment of 40 billion cubic feet of gas over two years from the Kenai plant. 23

5.2 Canadian LNG Export Project Volumes Ahead of Jordan Cove: 24
.07-1.3 Bcf/d - KM LNG Operating General Partnership – Approved by NEB
.24 Bcf/d - BC LNG Export Co-operative – Approved by NEB
3.23 Bcf/d - LNG Canada Development Inc – Approved by NEB
2.6 Bcf/d - Pacific Northwest LNG Ltd
3.9 Bcf/d - WCC LNG Ltd
2.8 Bcf/d - Prince Rupert LNG Exports Limited
.3 Bcf/d - Woodfibre LNG Export Pte Ltd
13.14 - 14.37 Bcf/d - Subtotal Bcf/d LNG Export volumes before JCEP approval by the NEB in Canada
1.55 Bcf/d – Jordan Cove Energy Project L.P. (per their application to the NEB)

20 Pending Long-Term Applications to Export LNG to Non-FTA Countries - Listed in Order DOE Will Commence Processing http://energy.gov/sites/prod/files/2013/05/f0/Pending%20LT%20LNG%20Export%20Apps%20%285-17-13%29.pdf
21 http://dnr.alaska.gov/commis/priorities/JBIC_DNR_MOU.pdf

McCaffree comments on ACU-14-08
July 11, 2014
Page 19
5.4 If one adds up the North American LNG Export Terminal total volumes that have been approved to date,\textsuperscript{25} prior to the Jordan Cove Energy Project, those volumes EXCEED industry market analyst projections for LNG Export volumes by 2030.

Even if one considers the EIA's high/rapid LNG Export scenario of 12 Bcf/d phased in at a rate of 3 Bcf/d per year.\textsuperscript{26} These volumes would be met long before the Jordan Cove Energy Project:

\[ 8.7 \text{ Bcf/d} - \text{U.S. LNG Export volumes in line before Jordan Cove} \]
\[ +13.14 - 14.37 \text{ Bcf/d} - \text{Canadian LNG Export volumes in line before Jordan Cove} \]
\[ = 21.84 - 23.07 \text{ Bcf/d} \quad \text{Total volume of North America LNG Exports approved before JCEP} \]

SO WHY ARE WE WASTING EVERYONE’S TIME ANALYZING THE JORDAN COVE / PACIFIC CONNECTOR LNG “EXPORT” PROJECT WHEN INDUSTRY DATA DOES NOT SUPPORT IT?


Exporting domestically produced LNG will have a detrimental impact on American manufacturing and industries that rely on and use natural gas. (See Exhibit 9) These industries are currently becoming very concerned that any additional export volumes than what have already been approved by the U.S. DOE would be risking thousands of jobs in the manufacturing sector in both the U.S. and Canada. On September 18, 2013, the group America’s Energy Advantage, representing the American manufacturing sector, filed a motion to intervene on the next proposed LNG export project that was up for U.S. DOE approval, the Freeport LNG Expansion Export Project. The America’s Energy Advantage press release stated the following:

"…DOE is making decisions that will have far-reaching and potentially irreversible impacts on consumers, our economy, and America’s manufacturing renewal based on 30-year-old guidelines for natural gas imports, not exports. No matter where one stands on this issue, surely we can agree that exports and imports are different, and that DOE needs to make rules based on the 21st century, not the 1980s,” said Jennifer Diggins, Director, Public Affairs for Nucor Corporation and Chair of AEA.

"We felt the need to file a formal motion because American consumers of natural gas deserve as much say in the process as producers,” said Diggins. "All we’re saying is that the public interest test is important, and that DOE needs to take a more methodical and legally-based approach to defining what that public interest is. DOE itself conceded that 'the market of the future very likely will not resemble the market of today' in its previous grant applications, but what data are they using to project that future? Nobody knows."


\textsuperscript{26} EIA “Effect of Increased Natural Gas Exports on Domestic Energy Markets” – Jan 2012: [http://energy.gov/sites/prod/files/2013/04/f0/e_eia_lng.pdf](http://energy.gov/sites/prod/files/2013/04/f0/e_eia_lng.pdf)

McCaffree comments on ACU-14-08

July 11, 2014

Page 20
7. Changes in the land use pattern in Coos County have occurred after the original Pacific Connector CUP was issued:

7.1. Earthquake and Tsunami Mapping Changes

New tsunami inundation mapping was released by Department of the Oregon Geology and Mineral Industries on Feb 12, 2012, long after the record closed on the Pacific Connector Gas Pipeline proceeding. (See 2012 tsunami map provided) This new information could affect the scouring that will occur in the estuary where the pipeline would be placed. These current tsunami projections and analysis were NOT CONSIDERED in the original pipeline proceeding.

Under Statewide Planning Goal 7, Oregon Revised Statutes 455.446 to 455.449 prohibits construction of certain facilities and structures in tsunami inundation and earthquake zones. On August 1, 2013, a new report entitled, “13-Year Cascadia Study Complete – And Earthquake Risk Looms Large” was issued by Oregon State University. The report clearly spells out the fact that the Jordan Cove facility would be located in an area on the Southern Oregon coast that may be the most vulnerable to a Cascadia Subduction mega quake and tsunami event based on recurrence frequency. (See Exhibit 10)

According to the report, the evidence clearly shows that our region has a long history of these events, and the single most important thing we can do is begin ‘expecting’ a mega-quake because it is not a matter of “if” but “when.”

“The southern margin of Cascadia has a much higher

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McCaffree comments on ACU-14-08
July 11, 2014
Page 21
recurrence level for major earthquakes than the northern end and, frankly, it is overdue for a rupture,” said Chris Goldfinger, a professor in OSU’s College of Earth, Ocean, and Atmospheric Sciences and lead author of the study.

Written by researchers at Oregon State University, and published online by the U.S. Geological Survey, the study concludes 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.

The last known great earthquake in the northwest was in 1700, just over 300 years ago. In 1700, geologists say, a quake with an estimated magnitude of 9.0 struck, touching off waves that hit both Japan and the West Coast. The 1700 Cascadia Subduction Earthquake caused extensive land level changes of subsidence and emergence. Between earthquakes, when the oceanic and continental plates are locked, internal stress stored by the interacting plates slowly deforms the land, pushing it upward and inland. When the locked plates slip, the toe of the subduction zone moves seaward and up, and the uplifted land drops to a lower position.

State estimates are that in low-lying vulnerable areas such as Oregon’s Seaside or Washington’s Aberdeen, tsunami waves could wipe out entire towns.

This is new information, not available at the time of the original application but in affect at the time of the current application. This would constitute “substantial changes in the land use pattern of the area.” The Coos County Planning director should have made a note of this in her findings and rejected the extension request due to this issue. CCZLDO SECTION 5.0.700 (B) (i) requires that:

\[
\text{B. The Planning director finds:}
\]

\[i. \text{that there have been no substantial changes in the land use pattern of the area or other circumstances sufficient to cause a new conditional use application to be sought for the same use; and...} \]

[Emphasis added]

For the sake of the thousands of people who are at risk in the Coos Bay area we ask the Coos County Commission and Hearing Officer require a completely new independent review of the proposed project by denying this application CUP extension request.

The rules and guidelines spelled out in the Coos County Comprehensive Plan 5.11 need to be followed along with State Goal #7(3 – b), local county plans should 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. Natural hazards for purposes of this goal are: floods (coastal and McCaffree comments on ACU-14-08

July 11, 2014
Page 22
riverine), landslides\textsuperscript{29}, earthquakes and related hazards, tsunamis, coastal erosion, and wildfires. Local governments may identify and plan for other natural hazards.

7.2 Routine Oregon Coastal Management Program Changes

The Applicant requested an extension to the original Pipeline application on March 7, 2014 and the application was deemed complete on April 1, 2014.

On March 13, 2014 there was a notice of Federal Concurrence for Routine Program Changes to the Oregon Coastal Management Program that included “Updates to the Coos County, City of Coos Bay, and City of North Bend Comprehensive Plan and Land Use Provisions.” For the Planning Director to say that there has been no changes in the land use plan is not true. The LCDC has also made changes. Due to the massive number of copies it would take to include the entire notice of changes the notice and cover letter of these changes are only being provided here. (See Exhibit 11) There is no way to know exactly what impact this would have or could have on the pipeline but since the pipeline requires Federal Consistency, there are obviously changes that have occurred so for the Applicant and the Planning Director to say no changes have occurred in the land use pattern would be incorrect. There needs to be a finding that determines if these changes would have an impact on the pipeline and if so, those changes need to be considered in a new pipeline application that utilizes the correct public need criteria.

7.3 FEMA Floodplain Mapping Changes

In addition, on March 13, 2014, the Coos County Board of Commissioners adopted amendments to the CCZLDO having to do with Floodplain Overlay boundaries and Plan Policy 5.11. The new FEMA boundaries will directly impacted the pipeline and the proposed route. The Final Order and an example of the difference in the zoning can be found in Exhibits 12 & 13. These new changes and their impacts were not considered, nor could they be in the original CUP process. This requires a new evaluation of the pipeline route in these areas.

7.4 Other Changes to the CCZLDO made after PCGP was approved

Coos County File No. ABI-12-01 - Coos County Boundary Interpretation for the Coos Bay Estuary Management Plan for SHN Engineering/Weyerhaeuser NR Company. \textit{[Final Decision was actually a Boundary revision that was not fully revealed until later. (See Exhibit 14 & 15)]} Final Decision by the Planning Director was made on March 22, 2012 – These boundary changes occurred after the original PCGP CUP was approved.

Coos County File No. ACU-12-12/ABI-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. L.L.C. \textit{[Final Decision was actually a Boundary revision.]} Final Decision by the Planning Director was made on Sept 17, 2012, after the original PCGP CUP was approved.

Coos County File No. 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.

\textsuperscript{29} For "rapidly moving landslides," the requirements of ORS 195.250-195.275 (1999 edition) apply.

McCaaffree comments on ACU-14-08
July 11, 2014
Page 23
Final Decision by the Planning Director was made on Oct 4, 2012, after the original PCGP CUP was approved. The eventual site where the pipeline would end on the North Spit would be raised some 30 feet to a total of 46 feet overall above sea level. (See Exhibit 16)

The original and current pipeline alignment that was filed with the FERC is attached as Exhibit 17. See the original pipeline route filed with Coos County as Exhibit 18.

These are significant changes that should require a completely new analysis of the pipeline in these areas.

Conclusion

The amount of gas that would be flowing through the Pacific Connector for export is more than the entire state of Oregon uses in a day. The pipeline will require a 95 foot clear-cut corridor that will permanently scar and alter hundreds of miles of Oregon lands, much of this is private land and timberland that will be permanently stripped bare. The JCEP and PCGP project would place thousands of Oregon citizens unnecessarily in a hazard zone and will place private land owners at risk of losing rights to their private property by Eminent Domain. Natural gas pipelines that are already operating in the same vicinity as the proposed PCGP are currently only operating at a fraction of their proposed capacity. It makes no sense whatsoever to add yet another natural gas pipeline in these same general areas.

FERC vacated their December 17, 2009, Order authorizing the Jordan Cove Energy “LNG Import” Project and the related Pacific Connector Gas Pipeline and I have attached the FERC news release noting that Order Vacation. (See Exhibit 2) The once approved Jordan Cove Import terminal that the original Coos County Pacific Connector Gas Pipeline ruling was based on is no longer relevant and the Pacific Connector has no Certification of Approval currently under the Natural Gas Act. A pipeline used for importing gas does not have the same “public need” and environmental footprint as a pipeline that is used for exporting fracked gas for the benefit and profits of the foreign controlled Jordan Cove Energy Project. The gas Jordan Cove would be obtaining for export would be coming from different North American supply basins, and in this case from the controversial use of hydraulic fracturing. The gas flowing in the pipeline would thus have different levels of the various gasses and contaminants that are the result of the Shale basin hydraulic fracturing process. Those processes in and of themselves are not in the public interest as a new report entitled, “Fracking by the Numbers,” confirms.

The proposed Jordan Cove LNG Export Project would be building a gas processing facility that would clean out all these gas impurities coming from the shale hydraulic fracturing processed gas before they would be able to liquefy the gas for export. The proposed gas processing and liquefaction facility was not needed or a part of the prior “LNG Import” proposal as the gas would have been already liquefied in processes that would have occurred at a supplying Export terminal located overseas. Some of these additional impurities that will be coming in the pipeline can be very hard and corrosive on pipes. Williams does a very poor job of maintaining their pipelines.

McCaffree comments on ACU-14-08
July 11, 2014
Page 24
These additional extra contaminants in the pipeline would mean a higher risk of failure to every area the Pacific Connector Gas Pipeline crosses. It also puts a lot more contaminants into the air in the vicinity of the proposed Jordan Cove LNG Export facility and at the compressor and meter stations along the pipeline route. Some of these particulate contaminants would be carried by the wind into the nearby waterbodies and across the bay where thousands of citizens live, work and recreate.

The Pacific Connector Gas Pipeline has not provided evidence or made a finding that the export of natural gas is in the public interest. They have failed to demonstrate that the public need for the project “outweighs” the detriment to the use of the shorelands and waterbodies that will be negatively impacted by the proposed project’s construction activity as the CBEMP requires. There has been no findings of Need and/or Consistency as required prior to the County’s approval of the permit. The project cannot be considered a public utility since it currently no longer provides a service to the public. Natural Gas Transmission lines are not allowed in Forest zones. This application extension request should have been denied.

In addition, there is no public benefit in increasing domestic natural gas prices; There is no public benefit in a 95 + foot clear-cut through our forestlands and waterbodies; There is no public benefit in the use of eminent domain for the profit of a “private” foreign energy company; There is no public benefit in citizens living in the extreme hazard zones of the proposed PCGP and the JCEP LNG Export terminal; There is no public benefit to all the Bay closures that will occur due to the safety and security zones of transiting LNG tanker ships; There is no public benefit to the loss of fish, marine and wildlife habitat due to the destructive nature of pipeline construction projected to impact 400 waterbodies in Southern Oregon; There is no public benefit to the negative impacts of this project on tourism, recreation, fishing, farming, timber harvesting, ranching, crabbing, clamming, oyster harvesting, property values and use, real-estate, local air travel, transportation, noise, air and water pollution; There is no public benefit in the loss of thousands of manufacturing jobs in America and also local jobs in timber, ranching, farming, fishing and recreation; There is no public benefit in the detrimental impacts from hydraulic fracturing that will be used in order to obtain the gas supply. The project’s proposed transmission export pipeline violates Condition of Approval #25, it can no longer be considered a public utility and is not allowed in forest zones.

Exporting LNG out of Coos Bay would be for the sole benefit and “interest” of the foreign owned and controlled Jordan Cove Energy Project whose own country understands fully when LNG projects are contrary to the Public Interest and Public Trust. (See Exhibit 19) The Pacific Connector has not proven their case in order to justify this extension application. The application is no longer in line with what the applicant applied for in 2010 and it is not in line with the previously agreed upon Conditions of Approval. Substantial changes in the land use pattern have occurred since the time the original Pacific Connector Pipeline Application was approved and those changes were not considered in with the CUP or this extension request. The Pacific Connector original application is currently based on false data which should make it null and void. The pipeline is no longer in the public interest nor is it allowed as proposed. This extension request should be denied.

Sincerely,

Jody McCaffree
McCaffree comments on ACU-14-08
July 11, 2014
Page 25
Exhibit 1: Conditions of Approval of Coos County Final Decision and Order 10-08-045PL and 12-03-018PL for the Pacific Connector Gas Pipeline.

Exhibit 2: FERC news release noting Order Vacation of their December 17, 2009 Order authorizing the Jordan Cove Energy “LNG Import” Project and the related Pacific Connector Gas Pipeline. [Link]

Exhibit 3: Coversheets of Pacific Connector 2010 original Coos County land use application and pages 1 and 2. Coos County File No. HBCU-10-01.

Exhibit 4: Jordan Cove Application to the National Energy Board in Canada “Appendix B” showing their intended export volumes at the Jordan Cove facility.

Exhibit 5: “Drill Here Sell There – The Painful Price of Exporting Natural Gas” 3-1-2012 [Link]

Exhibit 6: 
- “FGE: US gas price sensitive to LNG exports” Oil and Gas Journal, August 27, 2013 By OGI editors
- “Exports of LNG May Raise U.S. Prices as Much as 54%, Agency Says” By Katarzyna Klimasinska, Jan 19, 2012; Bloomberg

Exhibit 7: June 28, 2014, Letter from Max and Lilli Clausen of Clausen Oysters in North Bend to the Coos County Planning Department.

Exhibit 8: The WinDOT Report “Is it transmission or distribution, 192.3?” Includes a letter from the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration.

Exhibit 9: 
- Press Release - “America’s Energy Advantage Files LNG Export Motion, Seeks Rulemaking on Public Interest Test” Sept 18, 2013 [Link]
- Financial Post Article - “Gas users warn LNG exports may impact Canada’s domestic supply” Jeff Lewis | Sept 03 2013 | [Link]
Exhibit 10: "13-Year Cascadia Study Complete – And Earthquake Risk Looms Large"


Exhibit 12: Coos County BOC Final Decision and Order 14-02-001PL for legislative amendments to the CCZLDO to amend floodplain provisions of Article 4.6 and Plan Policy 5.11

Exhibit 13: Jordan Point Comparative Flood Zone Mapping showing the new 2013 proposed FEMA Special Flood Hazard Area overlay as compared to the 2009 SFHA. From the Oregon Department of Geology and Mineral Industries. Dated 10/14/2013

Exhibit 14: Notice of Planning Director’s Decision and Map on ABI-12-01- dated March 22. 2012.

Exhibit 15: New Zoning Boundary Area Map of Jordan Point from Planning Director Jill Rolfe as placed in file SP-12-02.

Exhibit 16: Page 1 and 4 of Site-Specific Tsunami Modeling at the Jordan Cove LNG Facility By - Y. Joseph Zhang, Ph.D., November 29, 2012.

Exhibit 17: Pipeline Environmental Alignment map on Jordan Point submitted to the FERC in June of 2013 by the Pacific Connector Gas Pipeline as a part of their Final Application.

Exhibit 18: Pipeline Environmental Alignment map on Jordan Point submitted in the Original Coos County PCGP CUP Application in 2010.

Exhibit 1
WHEREAS, on Pacific Connector Gas Pipeline filed consolidated permit applications to develop 49.72 miles of gas pipeline and associated facilities on property described in Exhibit "B" of this Order; and

WHEREAS, on March 2, 2010, pursuant to its authority under CCZLO §5.0.600, the Board of Commissioners (Board) voted to: (1) call up the applications; and (2) appoint a Hearings Officer to conduct the initial public hearing for the applications and then make a recommendation to the Board. On April 5, 2010, the Board appointed Andrew H. Stamp to serve as the Hearings Officer.

WHEREAS, on May 20, 2010, Hearings Officer Stamp conducted a public hearing on this matter and at the conclusion of the hearing the record was held open for 21 days to accept additional written evidence to rebut evidence presented at the hearing, followed by a 7-day period for accepting surrebuttal testimony, followed by a 7-day period for the applicant to submit final written argument.

WHEREAS, on July 16, 2010, Hearings Officer Stamp issued his Analysis, Conclusions and Recommendations to the Board to approve the applications subject to the imposition of conditions.
WHEREAS, on August 3, 2010, at 1:30 p.m., the Board met to deliberate on the
matter and made a tentative decision to accept the Hearings Officer's recommended
approval subject to amended findings and conditions.

NOW, THEREFORE, the Board adopts the Findings of Fact; Conclusions of Law and
Final Decision attached hereto labeled Exhibit "A" and incorporated into this order herein.

ADOPTED this 8th day of September 2010.

BOARD OF COMMISSIONERS

[Signatures]

COMMISSIONER

COMMISSIONER

COMMISSIONER

ATTEST:  

[Signature]

Recording Secretary

APPROVED AS TO FORM:  

[Signature]

Office of Legal Counsel

Order 10-08-045PL
"Prior to issuance of a zoning compliance letter for the project, the applicant shall file a bond, surety, irrevocable letter of credit, cash or other security deposit agreement in the amount of 120% of the estimated cost of necessary improvements to bring County road facilities impacted by pipeline construction back to current or better condition. After five (5) years, the security shall either be forfeited to the County if the applicant does not complete required improvements or be refunded to the applicant if applicant has completed required improvements or there are no improvements to complete."

The Board finds that this modified condition addresses this issue.

III. CONCLUSION

For the above stated reasons, and after consideration of the applicable law and all argument and evidence in the record, the Board finds that the applicant has met its burden of proof to demonstrate that the applications satisfy all applicable approval standards and criteria, or that those standards or criteria can be satisfied through the imposition of conditions of approval. Accordingly, the Board hereby approves the application, subject to the following conditions of approval, which are authorized by Section 5.2.800 of the CCZLDO:

A. Staff Proposed Conditions Of Approval

1. Intentionally deleted.

2. To minimize impacts to wells and groundwater, the applicant must comply with the Groundwater Supply Monitoring and Mitigation Plan approved by the federal Office of Energy Projects within FERC, including without limitation, provisions requiring: (a) subject to landowner consent, testing and sampling groundwater supply wells for both yield and water quality; and (b) as needed, implementing site-specific measures to mitigate adverse impacts on the yield or quality of groundwater supply.

3. The facility will be designed, constructed, operated and maintained in accordance with U. S. Department of Transportation requirements.

4. The pipeline will be rerouted, where feasible, in order to avoid impacts to the property identified on Drawing No. 3430.33-X-9007. (MP 13.8 to MP 14.4). If requested, the applicant shall work with affected property owners within the pipeline's alignment to make "minor field realignments per landowner needs and requirements which do not affect other landowners or sensitive environmental areas such as wetlands" pursuant to FERC Order Condition #6 in order to avoid or minimize impacts to structures or the owner's use of the property."

5. The proceedings for the condemnation of such lands shall be the same as that provided in ORS chapter 35, provided that any award shall include, but shall not be limited to, damages
for destruction of forest growth, premature cutting of timber, diminution in value to remaining timber caused by increased harvesting costs, and loss of product value due to blow-downs. Whatever incremental costs and value losses to timber lands can be identified and demonstrated to result from the granting of the pipeline easement will be reflected in the company’s appraisal of damages payable to the owner. Therefore, the landowner should not experience any uncompensated logging or access costs. [See ORS 772.210(4) and Report entitled Forest Practices and Economic Issues related to Proposed Pacific Connector Gas Pipeline, by Dallas C. Hemphill, ACF, CF, PE., dated June 17, 2010, at p. 5.]

6. Pacific Connector shall not begin construction and/or use its proposed facilities, including related ancillary areas for staging, storage, temporary work areas, and new or to-be-improved access roads until:

   Pacific Connector files with the Secretary remaining cultural resource survey reports and requested revisions, necessary site evaluation reports, and required avoidance/treatment plans;

   Pacific Connector file with the Secretary comments on the reports and plans from [SHPO], appropriate land management agencies, and interested Indian tribes; The [ACIP] has been afforded an opportunity to comment, and a Memorandum of Agreement has been executed; and

   The Commission staff reviews and the Director of OEP approves the cultural resource reports and plans, and notifies Jordan Cove and Pacific Connector in writing that treatment plans/mitigation measures (including archaeological data recovery) may be implemented and/or construction may proceed.”

   1. Pre-Construction

7. Intentionally deleted.

8. To protect residences and structures, evidence of compliance with FERC’s Certificate Order, Condition #43 must be provided prior to issuance of zoning clearance.

9. Coos River Highway is part of the State Highway system, under the authority and control of the Oregon Transportation Commission. Evidence that the applicant has the appropriate state authorization to cross Coos River Highway shall be provided to the Planning Department prior to zoning clearance authorizing construction activity.

10. Temporary closure of any county facility shall be coordinated with the County Roadmaster. Evidence of Roadmaster approval and coordination of any detour(s) shall be provided to the County Planning Department.

11. Each county facility crossing will require a utility permit from the County Road Department. Construction plan showing pullouts and permits for work within the right-of-way for monitoring sites will also require Roadmaster approval.
12. An analysis of construction impacts shall be provided to the County Roadmaster, which will include a pavement analysis. The analysis must identify the current condition of County facilities and include a determination of the project’s impact to the system and the steps that will be necessary to bring back to current or better condition. Prior to issuance of a zoning compliance letter for the project, the applicant shall file a bond, surety, irrevocable letter of credit, cash or other security deposit agreement in the amount of 120% of the estimated cost of necessary improvements to bring County road facilities impacted by pipeline construction back to current or better condition. After five (5) years, the security shall either be forfeited to the County if the applicant does not complete required improvements or be refunded to the applicant if applicant has completed required improvements or there are no improvements to complete.

13. Should any part of the project involve permanent structural streambank stabilization (i.e., riprap), the applicant must contact the Planning Department for a determination of the appropriate review, if any.

14. All necessary federal, state and local permits must be obtained prior to commencement of construction, including any required NPDES 1200-c permits. Prior to the commencement of construction activities, Pacific Connector shall provide the County with a copy of the “Notice to Proceed” issued by FERC. [See Letter from Mark Whitlow, dated June 24, 2010, at p. 52.]

15. Floodplain certification is required for “other development” as provided in CCZLDO 4.6.230 occurring in a FEMA flood hazard area. The applicant must coordinate with the County Planning Department.

16. Intentionally deleted.

17. The pipeline operator shall maintain an emergency response plan in compliance with 49 CFR 192.615.

2. Construction

18. Riparian vegetation removal shall be the minimum necessary for construction and maintenance of the pipeline, and shall comply with all FERC requirements for wetland and waterbody protection and mitigation both during and after construction. The applicant shall restore riparian vegetation 25 feet from the streambanks on either side of waterbodies on private lands where riparian vegetation existed prior to construction, consistent with the applicant’s ECRP.

19. Prior to construction, the applicant shall be required to undertake the sampling and analysis set forth in the Sediment Analysis Protocol (SAP) in order to ensure that there will be no adverse water quality impacts from digging the trench for the pipeline across Haynes Inlet.

3. Post-Construction
20. Evidence shall be provided to demonstrate that all temporary construction and staging areas have been abandoned and that those areas that were forested prior to construction have been replanted, consistent with the requirements of this approval, the FERC Order, and the applicant's ECRP.

21. Evidence shall be provided to demonstrate that all temporary construction and staging areas have been abandoned and that those areas have been replanted, re-vegetated and restored to their pre-construction agricultural use, consistent with the requirements of this approval, the FERC Order, and the applicant's ECRP.

22. In order to minimize cost to forestry operations, the applicant agrees to accept requests from persons conducting commercial logging operations seeking permission to cross the pipeline at locations not pre-determined to be "hard crossing" locations. Permission shall be granted for a reasonable number of requests unless the proposed crossing locations cannot be accommodated due to technical or engineering feasibility-related reasons. Where feasible, the pipeline operator will design for off-highway loading at crossings, in order to permit the haulage of heavy equipment. If technically feasible, persons conducting commercial logging operations shall, upon written request, be allowed to access small isolated stands of timber by swinging logs over the pipeline with a shovel parked stationary over the pipeline, subject to the requirement that, if determined by the applicant to be necessary, the use of a mat or pad is used to protect the pipe. The pipeline operator will determine the need for additional fill or a structure at each proposed hard, and shall either install the crossing at its expense or reimburse the timber operator/landowner for the actual reasonable cost of installing the crossing. [See Report entitled Forest Practices and Economic Issues related to Proposed Pacific Connector Gas Pipeline, by Dallas C. Hemphill, ACF, CF, PE., dated June 17, 2010, at p. 1.]

23. The pipeline operator will conduct routine vegetation maintenance clearing on the 30-foot strip every 3-5 years. [See Report entitled Forest Practices and Economic Issues related to Proposed Pacific Connector Gas Pipeline, by Dallas C. Hemphill, ACF, CF, PE., dated June 17, 2010, at p. 5.]

24. In order to discourage ATV / OHV use of the pipeline corridor, the applicant shall work with landowners on a case-by-case basis to reduce ATV / OHV impacts via the use of dirt and rock berms, log barriers, fences, signs, and locked gates, and similar means. Such barriers placed in key locations (i.e. in locations where access to the pipeline would otherwise be convenient for the public) would be an effective means to deter ATV / OHV use.

B. Applicant's Proposed Conditions Of Approval

1. Environmental

1. Intentionally deleted.

2. Intentionally deleted.
3. Intentionally deleted.

4. The applicant shall submit a final version of the Noxious Weed Plan to the county prior to construction in order to address concerns raised regarding invasive species in farm and forest lands.

5. The applicant shall employ weed control and monitoring methods consistent with the Weed Control and Monitoring sections of the ECRP. The applicant shall not use aerial herbicide applications.

6. Fill and removal activities in Coos Bay shall be conducted between October 1 and February 15, unless otherwise modified or agreed to by the Oregon Department of Fish and Wildlife.

7. The authorized work in Haynes Inlet shall be conducted in compliance with the required U.S. Army Corps of Engineers Section 404 Permit and OR DEQ's 401 Water Quality Certification and 402 NPDES permits, which will mandate turbidity standards, monitoring requirements, and reporting procedures.

8. Petroleum products, chemicals, fresh cement, sandblasted material and chipped paint or other deleterious waste materials shall not be allowed to enter waters of the state. No wood treated with leachable preservatives shall be placed in the waterway. Machinery refueling is to occur off-site or in a confined designated area to prevent spillage into waters of the state. Project-related spills into water of the state or onto land with a potential to enter waters of the state shall be reported to the Oregon Emergency Response System at 800-452-0311.

9. For dredging activity conducted by clamshell bucket, activity shall be positioned from a floating crane or top-of-bank position. In the closed position, the bucket shall be sealed so as to minimize sediment re-suspension.

10. If any archaeological resources and/or artifacts are uncovered during excavation, all construction activity shall immediately cease. The State Historic Preservation Office shall be contacted (phone: 503-986-0674).

11. When listed species are present, the permit holder must comply with the federal Endangered Species Act. If previously unknown listed species are encountered during the project, the permit holder shall contact the appropriate agency as soon as possible.

12. The permittee shall immediately report any fish that are observed to be entrained by operations in Coos Bay to the OR Department of Fish and Wildlife (ODFW) at (541) 888-5515.

13. Pacific Connector will comply with all federal and state requirements during the fire season that mandate the amount of water required on the right-of-way for adequate fire suppression during timber removal and construction activities.

Final Decision of Coos County Board of Commissioners
2. Safety


15. The pipeline operator shall conduct public education in compliance with 49 CFR 192.616 to enable customers, the public, appropriate government organizations, and persons engaged in excavation related activities to recognize a gas pipeline emergency for the purpose of reporting it to the gas pipeline operator. Such public education shall include a "call before you dig" component.

16. The pipeline operator shall comply with any and all other applicable regulations pertaining to natural gas pipeline safety, regardless of whether such regulations are specifically listed in these conditions.

17. The pipeline operator shall provide annual training opportunities to emergency response personnel, including fire personnel, associated with local fire departments and districts that may be involved in an emergency response to an incident on the Pacific Connector pipeline. The pipeline operator shall ensure that any public roads, bridges, private roads and driveways constructed in conjunction with the project provide adequate access for fire fighting equipment to access the pipeline and its ancillary facilities.

18. The pipeline operator shall respond to inquiries from the public regarding the location of the pipeline (i.e., so called "locate requests").

19. At least six (6) months' prior to delivery of any gas to the Jordan Cove Energy Project LNG import terminal, the applicant shall: (1) submit a project-specific Public Safety Response Manual to the County, and (2) in order to comply with federal safety regulations, coordinate with local emergency response groups. As detailed in Section 4.12.10 of the FEIS, Pacific Connector will meet with local responders, including fire departments, to review plans and communicate specifics about the pipeline. If requested, Pacific Connector will also participate in any emergency simulation exercises and provide feedback to the emergency responders.

3. Landowner

20. (a) This approval shall not become effective as to any affected property until the Applicant has acquired ownership of an easement or other interest in the property necessary for construction of the pipeline, and obtains either: (i) the signature of all owners of the property consenting to the application, or (ii) an order of a court in condemnation of the property interest required for the pipeline that operates to obviate the need for consent of owners of property other than the applicant. In the alternative, should this condition 20(a) be deemed insufficient on appeal to satisfy applicable code requirements, the applicant shall instead be subject to the alternative condition 20(b) immediately below.
20. (b) In the alternative to the above condition 20(a), in the event that condition 20(a) is deemed invalid on appeal, this approval shall not become effective as to any affected property until the applicant has acquired an ownership interest in the property and the signatures of all owners of the property consenting to the land use application for development of the pipeline, unless the signature requirement of CCZLDO 5.0.150 is preempted or otherwise invalid under another provision of law including without limitation federal statutes, regulations, or the United States Constitution.

21. The permanent pipeline right-of-way shall be no wider than 50 feet.

22. Intentionally deleted.

23. The applicant shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the utility facility.

4. Historical, Cultural and Archaeological

24. At least 90 days prior to issuance of a zoning compliance letter under CCZLDO Section 3.1.200, the County Planning Department shall make initial contact with the affected Tribe(s) regarding the determination of whether any archaeological sites exist within the area proposed for development, consistent with the provisions of CCZLDO Section 3.2.700. Once the Tribe(s) have commented or failed to timely comment under the provisions of CCZLDO Section 3.2.700, the County shall take one of the following actions: (1) if no adverse impacts to cultural, historical or archaeological resources have been identified, the County may approve and issue the requested zoning compliance letter and related development proposal; (2) if the Tribe(s) and the applicant reach agreement regarding the measures needed to protect the identified resources, the development can be approved with any additional measures the County believes are necessary to protect those resources; or (3) if the County finds that there will be adverse impacts to identified CBEMP Policy #18 resources on the site and the applicant and the Tribe(s) have not reached agreement regarding protection of such resources, then the County Board of Commissioners shall hold a quasi-judicial hearing to resolve the dispute. The hearing shall be a public hearing at which the governing body shall determine by preponderance of evidence whether the development project may be allowed to proceed, subject to any modifications deemed necessary by the governing body to protect the cultural, historical and archaeological values of the site. For purposes of this condition, the public hearing shall be subject to the provisions of Section 5.8.200 of the CCZLDO with the Board of Commissioners serving as the Hearings Body.

5. Miscellaneous

25. The conditional use permits approved by this decision shall not be used for the export of liquefied natural gas.

Approved this 8th day of September, 2010.

Final Decision of Coos County Board of Commissioners
BEFORE THE BOARD OF COMMISSIONERS
OF THE COUNTY OF COOS, OREGON

In the Matter of LUBA Remand of Pacific  )
Connector Gas Pipeline, L.P.  REM-10-01   ) FINAL DECISION AND ORDER
HBCU-10-01                  )  NO. 12-03-018PL

Whereas on September 8, 2010, the Coos County Board of Commissioners adopted Final
Decision and Order No. 10-08-045PL, approving Pacific Connector's application in county file
#HBCU-10-01 to develop 49.72 miles of interstate natural gas pipeline and associated facilities
connecting the Jordan Cove LNG terminal to the pipeline segment in adjacent Douglas County.

Whereas the opponents appealed the County’s decision to the Land Use Board of
Appeals (“LUBA”). On March 29, 2010, LUBA remanded the decision for further consideration
of two issues: (1) a procedural issue related to property owner consents under LDO 5.0.150; and
(2) potential impacts to Olympia oysters in Haynes Inlet under the two applicable CBEMP
Management Objectives.

Whereas Pacific Connector submitted a written request for a remand hearing on May 12,
2011. On June 7, 2011, the Board concluded that no additional evidence was required to address
the issue regarding property owner consents. However, the Board determined that the Olympia
oyster issue could not be fully resolved without an evidentiary hearing, and appointed a hearings
officer to hold a de novo evidentiary hearing on remand, with the scope of the hearing limited to
the second issue identified by LUBA regarding potential impacts on Olympia oysters.

Whereas Hearings Officer Andrew Stamp conducted a public hearing on September 21,
2011, and held the record open for additional evidence and argument until December 15, 2011.
The hearings officer issued his decision on January 30, 2010, recommending that the Board
approve the application on remand with conditions, and rejecting the opponents' arguments that
the applicable CBEMP Management Objectives were not satisfied.

Whereas the County Planning Director provided the Board with a staff report dated
February 15, 2012, which provides two substantive recommendations: (1) revised language for
Condition of Approval #20 regarding property owner consents under LDO 5.0.150, as required
by LUBA's opinion under Assignment of Error Two; and (2) proposed findings addressing a
procedural issue identified by the hearings officer in his decision regarding authorization of
witnesses to testify under LDO 5.7.300(4).

Whereas on March 13, 2012, the Board met to review the hearings officer's
recommendation “on the record,” without accepting additional evidence or argument from the
parties, and to deliberate regarding: (1) whether to accept, reject, or modify the hearings
officer’s recommendation, and (2) whether to accept, reject, or modify the revised findings and
conditions provided by staff.

Final Decision & Order 12-03-018PL
WHEREAS, at the conclusion of the March 13, 2012 meeting the Board reached a decision to adopt the hearings officer’s recommendation, with the modifications provided in the February 15, 2012 staff report regarding compliance with LDO 5.7.300(4). The Board finds that the applicant has addressed the remand issues and that all applicable approval criteria are met with the suggested new conditions of approval. The Board finds that staff’s suggested revisions to Condition 20 address Assignment of Error Two. The Board hereby adopts the hearings officer’s recommendation, as modified and attached as Attachment “A,” as its own approval findings, along with the attached conditions of approval. All other findings and conditions of approval in Order No. 10-08-045PL adopted September 8, 2010, remain in full force and effect, except as modified herein.

ADOPTED this 13th day of March, 2012.

BOARD OF COMMISSIONERS

[Signatures]

BOBBY B. PRATT
Commissioner

[Signatures]

BOBBY B. PRATT
Commissioner

[Signatures]

BOBBY B. PRATT
Commissioner

[Signatures]

BOBBY B. PRATT
Commissioner

ATTEST:

[Signature]

RECEIVED:

[Signature]

APPROVED AS TO FORM:

[Signature]

Office of County Counsel
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION
OF THE COOS COUNTY BOARD OF COMMISSIONERS
ON REMAND FROM LUBA

PACIFIC CONNECTOR GAS PIPELINE PROPOSAL
COOS COUNTY, OREGON

FILE NO. REM-10-01
No. 20. This approval shall not become effective as to any affected property in Coos County until the Applicant has acquired ownership of an easement or other interest in all properties necessary for construction of the pipeline, and/or obtains the signatures of all owners of the affected property consenting to the application for development of the pipeline in Coos County. Prior to this decision becoming effective, the County shall provide notice and opportunity for a hearing regarding compliance with this condition of approval and the property owner signature requirement. County staff shall make an Administrative Decision addressing compliance with this condition of approval and LDO 5.0.150, as applied in this decision, for all properties where the pipeline will be located. The County shall provide notice of the Administrative Decision as provided in LDO 5.0.900(B) and shall also provide such notice to all persons requesting notice. For purposes of this condition, the public hearing shall be subject to the procedures of LDO 5.8.200 with the Board of Commissioners serving as the Hearings Body.

CONDITIONS ON REMAND

Oyster Mitigation Plan

No 1. The applicant shall comply with the terms and conditions of the applicant's proposed Olympia oyster mitigation plan prepared by Bob Ellis of Ellis Ecological Services, Inc. dated October 7, 2011 (the "Mitigation Plan"), as supplemented and modified by the following mitigation measures:

a) The applicant's compliance with the Mitigation Plan will be administered through permits pursuant to the Clean Water Act Section 404 by the Army Corps of Engineers (Corps), pursuant to Section 401 of the Clean Water Act by the Oregon Department of Environmental Quality (DEQ), and pursuant to Oregon's Removal-Fill Law (ORS 196.795-990) by the Oregon Department of State Lands (DSL). These permitting agencies will be provided with copies of the Mitigation Plan, as modified by this condition, and approval of the permits issued by the Corps, DEQ and DSL may, as appropriate, incorporate the terms of the Mitigation Plan.

b) As part of the state permitting process for the pipeline discussed in subsection (a) above, the applicant shall consult with ODFW and OIMB on the specific details regarding how best to accomplish the actual amount and placement of Pacific oyster shells addressed in Section 4.2.1 of the Mitigation Plan in order to ensure success of the
project, including ideal depth and breadth of coverage of new hard substrate, specific methods for dispersal (e.g., bagged vs. loose), and best locations for placement of substrate within the pipeline right of way.

c) Unless modified under the direction of ODFW during the consultation described above, the applicant will establish appropriate baseline conditions for the Olympia oyster mitigation effort in Haynes Inlet using the following guidelines for a before-after control impact study design in order to ensure that any impacts to Olympia oysters are insignificant or de minimis:

i. The "Before" conditions shall be determined by field surveys of the distribution, abundance, status, and condition of existing Olympia oysters: (a) within the "Impact Area," i.e., the 250-foot pipeline right of way within the intertidal portion of Haynes Inlet; and (b) within an appropriate "Control Area" in another portion of Coos Bay that will not experience any influence from construction of the pipeline. The precise location of the Control Area will be selected in consultation with ODFW.

ii. The surveys of the Control and Impact Areas shall be conducted immediately prior to construction of the pipeline (Before), and repeated annually over a period of five years following construction of the pipeline (After) to encompass the lifespan of individual Olympia oysters.

d) Monitoring of the "Relocation Area" shall be undertaken as described in Section 4.3 of the Mitigation Plan.

No. 2. In-Water Work Periods

(a) If the applicant's mitigation plan is approved by other regulatory agencies, the dispersal of Pacific oyster shells within the pipeline right of way will be effectuated either in late July or early August following the construction season.

(b) Based on the potential for larval settlement peak in October, the applicant should not be allowed to conduct dredging operations between Milepost 2.6 to MP 3.2 during the month of October, unless otherwise modified or agreed to by the Oregon Department of Fish and Wildlife.

No. 3. Turbidity

The applicant must comply with all DEQ regulations and requirements regarding turbidity. The applicant shall employ turbidity curtains and/or other appropriate control measures to assure that turbidity does not exceed the levels specified in the applicant's DEQ water quality permit.
Exhibit 2
News Release: April 16, 2012
Docket Nos. CP07-441-001, CP07-442-001, CP07-443-001, CP07-444-001

FERC Vacates Order Authorizing Jordan Cove LNG Project

The Federal Energy Regulatory Commission (FERC) today vacated, without prejudice, an order authorizing Jordan Cove Energy Project, L.P., to site, construct and operate a liquefied natural gas (LNG) import terminal in Coos County, Oregon, and the related Pacific Connector pipeline from the terminal to a point near the Oregon/California border.

Jordan Cove had notified FERC on Feb. 29, 2012, that due to current market conditions it no longer intends to implement a Dec. 17, 2009, authorization to construct and operate an import terminal. In the same filing, Jordan Cove sought pre-filing status to explore the feasibility of a liquefaction export project that would be built and operated at the same site. FERC granted that status (Docket No. PF12-7-000).

FERC is not changing its longstanding policy of allowing the market to determine which gas infrastructure projects go forward, once the Commission has determined that a project would not result in substantial adverse impacts. But as Jordan Cove no longer intends to import LNG, the Commission is vacating that authorization. Jordan Cove may submit a new application to construct and/or operate facilities to import natural gas if it determines there is a market need for import service in the future.

Further, FERC said that Jordan Cove’s pre-filing application for export authorization will be considered on its merits in that proceeding.

In light of these actions, FERC dismissed as moot requests for rehearing.

Commissioner Philip Moeller dissented on today’s order.

R-12-14

(30)

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Updated: April 16, 2012
Exhibit 3
PACIFIC CONNECTOR GAS PIPELINE

Narrative in Support of
Consolidated Land Use Applications

Submitted
April 14, 2010
NARRATIVE IN SUPPORT OF LAND USE APPLICATION
FOR THE PACIFIC CONNECTOR GAS PIPELINE

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(425) 868-1010 x2052
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Perkins Coie LLP
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Portland, OR 97209
(503) 727-2000
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Request: Consolidated applications for land use approvals for a natural gas pipeline within the Exclusive Farm Use, Forest, Rural Residential-2, Rural Residential-5, Industrial zone and the related Coos Bay Estuary Management Plan management units.

I. INTRODUCTION

This consolidated application is made by Pacific Connector Gas Pipeline Company, LP (Pacific Connector) with respect to the Coos County segment of its proposed interstate natural gas pipeline known as the Pacific Connector Gas Pipeline (PCGP or "pipeline"). This is the fifth in a series of interrelated land use applications for the development of the Oregon International Port of Coos Bay's multi-berth Oregon Gateway Marine Terminal, a deep-draft moorage facility on the North Spit of Coos Bay, and Jordan Cove Energy Project's (JCEP) associated Upland LNG Terminal. Both were previously approved by Coos County and have now received Federal Energy Regulatory Commission (FERC) approval.1

This application seeks land use approval from Coos County for the 49.72-mile segment of the PCGP located within Coos County. The Coos County alignment runs from JCEP's LNG

1 The County previously approved JCEP's LNG Terminal (Case File No. HBCU-07-03), the Port's Marine Terminal and Access Waterway (Case File No. HBCU-07-04) and the related Port applications for Sand Storage and Sorting Yard (Case File Nos. ACU-08-10 and CL-08-01) and Kentuck Mitigation Site (Case File Nos. AM-09-03/RZ-09-02/HBCU-09-01).
Terminal upland from the Port's Marine Terminal to the alignment segment in adjacent Douglas County (mileposts [MPs] 0.00 to 45.70). \(^2\) See Figure 1.

Pacific Connector has received authorization from FERC under Section 7c of the Natural Gas Act (NGA) to construct, install, own, operate, and maintain an interstate natural gas pipeline, the PCGP, that will transport gasified natural gas from the Jordan Cove LNG terminal in Coos Bay to existing interstate natural gas transmission pipelines near Malin, Oregon and points in between. The 36-inch diameter pipeline will be a total of 234 miles and will provide natural gas to markets throughout the region. \(^3\)

**Project Purpose**

This application for approval of the PCGP is the last application in a series needed to develop the previously approved Marine Terminal and related LNG Terminal.

**Federal & State Regulatory Requirements**

This application is being made in conjunction with Pacific Connector's application to FERC for authorization to site, construct, and operate the PCGP under Section 7c of the NGA. FERC is required under NEPA to coordinate with federal and state agencies and with state and local governments and special districts. The FERC process thoroughly evaluates all aspects of the PCGP. On December 17, 2009, FERC issued a Certificate of Public Convenience and Necessity that includes both the Jordan Cove LNG Terminal and the PCGP. As will be explained in detail below, the majority of PCGP's impacts are from temporary construction activities, following which the operation of the pipeline itself will have virtually no impacts.

**Project Description and Associated Facilities**

Within the applicable 49.72-mile segment of the PCGP that will be located within Coos County, the PCGP will cross through five Coos County zoning designations: Forest (F), Exclusive Farm Use (EFU), Rural Residential 2 (RR-2), Rural Residential 5 (RR-5), and Industrial (IND). Additionally, the PCGP will cross 14 Coos Bay Estuary Management Plan (CBEMP) zoning districts: Water Dependent Development Shorelands (6-WD), Development Shorelands (7-D, 19-D), Water Dependent Development Shorelands (8-WD), Conservation Aquatic (8CA, 20CA, 21CA), Natural Aquatic (13A-NA, 11-NA), Rural Shorelands (11-RS, 18-RS, 20-RS, 21-RS), and Development Aquatic (19B-DA) (see Tables 1 and 2).

Within the forest (F) zone, the pipeline use is characterized as a new gas distribution line with no greater than a 50 foot right of way. Within the agricultural (EFU) zone, the pipeline use is

\(^2\) By submitting this application, the applicant is seeking to demonstrate that the proposal is consistent with applicable land use regulations and the consistency requirements of the Coastal Zone Management Act. However, submittal of this application is not a waiver of any federal jurisdiction over the Coos County segment of the PCGP.

\(^3\) The route mileposts no longer reflect the actual length of the PCGP because based on FERC’s National Environmental Policy Act (NEPA) process, which resulted in a Final Environmental Impact Statement, Pacific Connector incorporated an alternative within Coos County into the original route. The environmental analysis was tied to the original mileposts, and the mileposts remain unchanged from the route filed with FERC in September 2007. Therefore, MP 11.36 R (revised) merges with the 2007-filed route at MP 7.67.
Exhibit 4
IN THE MATTER OF the National Energy Board Act, RSC 1985, c N-7, as amended;

AND IN THE MATTER OF an application by Jordan Cove LNG L.P. for a licence pursuant to section 117 of the National Energy Board Act authorizing the export of gas.

To:     Secretary
        National Energy Board
        444 Seventh Avenue SW
        Calgary, AB
        T2P 0X8

APPLICATION

SEPTEMBER 9, 2013
Appendix B

Export Volumes

Illustrative Volume Build-up\(^{(1)}\)

<table>
<thead>
<tr>
<th>Year and Quarter(^{(2)})</th>
<th>Natural Gas Export Volumes(^{(3)}) (Bcf)</th>
<th>Including 15% Tolerance (Bcf)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year 1 Q1</td>
<td>94.13</td>
<td>108.24</td>
</tr>
<tr>
<td>Year 1 Q2</td>
<td>188.25</td>
<td>216.49</td>
</tr>
<tr>
<td>Year 1 Q3</td>
<td>376.50</td>
<td>432.98</td>
</tr>
<tr>
<td>Year 1 Q4</td>
<td>376.50</td>
<td>432.98</td>
</tr>
<tr>
<td>Year 2 Q1</td>
<td>376.50</td>
<td>432.98</td>
</tr>
<tr>
<td>Year 2 Q2</td>
<td>376.50</td>
<td>432.98</td>
</tr>
<tr>
<td>Year 2 Q3</td>
<td>376.50</td>
<td>432.98</td>
</tr>
<tr>
<td>Year 2 Q4</td>
<td>376.50</td>
<td>432.98</td>
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<tr>
<td>Year 3 Q1</td>
<td>423.81</td>
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<tr>
<td>Year 3 Q2</td>
<td>471.13</td>
<td>541.79</td>
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<tr>
<td>Year 3 Q3</td>
<td>565.75</td>
<td>650.61</td>
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<tr>
<td>Year 3 Q4</td>
<td>565.75</td>
<td>650.61</td>
</tr>
<tr>
<td>Year 4 – Year 25</td>
<td>565.75</td>
<td>650.61</td>
</tr>
<tr>
<td>Year 1 Average/Year</td>
<td>258.84</td>
<td>297.67</td>
</tr>
<tr>
<td>Year 2 Average/Year</td>
<td>376.50</td>
<td>432.98</td>
</tr>
<tr>
<td>Year 3 Average/Year</td>
<td>506.61</td>
<td>582.60</td>
</tr>
<tr>
<td>Year 4-25 Average/Year</td>
<td>565.75</td>
<td>650.61</td>
</tr>
<tr>
<td>Cumulative</td>
<td>13.59 Tcf</td>
<td>15.63 Tcf</td>
</tr>
<tr>
<td>Term Volume Requested</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

\(^{1}\)This table is an illustrative build-up of natural gas export quantities from Canada to the United States for the Jordan Cove LNG Export facility.

\(^{2}\)The year and quarter is the date from first natural gas export and does not correspond to calendar quarters. It is anticipated that a Licence would be in effect from 2019-2044.

\(^{3}\)Natural Gas Export Volumes includes natural gas requirements for pipeline fuel and losses and power generation. The volume build-up assumes a commissioning period of 6 months with trains 1-4 being available for commercial operations after this time. Trains 5 and 6 will be commissioned and available for commercial operations during year 3 of the anticipated Licence.
Exhibit 5
DRILL HERE SELL THERE PAY MORE

THE PAINFUL PRICE OF EXPORTING NATURAL GAS

This report has not been officially adopted by the Committee on Natural Resources and may not necessarily reflect the views of its Members.
Executive Summary

The United States faces a critical decision about whether to export natural gas following the rapid expansion of domestic production in recent years. The Department of Energy has already approved one export application and is currently considering eight others. If these applications are approved and the companies export at full capacity, the United States could soon be exporting more than 20 percent of current consumption. The Energy Information Administration has estimated that exporting even less natural gas than what is currently under consideration could raise domestic prices 24 to 54 percent, which would substantially increase energy bills for American consumers and could potentially have catastrophic impacts on U.S. manufacturing.

In a February 24th letter to Massachusetts Congressman Edward J. Markey, Department of Energy (DOE) official Christopher Smith made clear that no additional export permits will be approved by the Department at least until an additional evaluation of the macroeconomic impact of these prospective exports is completed and reviewed by DOE this spring.\(^1\) This decision represents an important deliberative step that ensures deeper consideration will be given to the ramifications of energy exporting.

In examining energy markets and the impacts of higher natural gas prices, the House Natural Resources Democratic Staff found that:

- Unlike the oil market, natural gas prices are not determined on a global market. Natural gas prices in Europe and Asia are 3 to 7 times higher than in the United States. This provides the American economy with a competitive advantage in the manufacture of energy-intensive goods.

- From 2000 to 2008, the price of natural gas rose more than 400 percent, and was a major contributor to the U.S. manufacturing sector losing 3.7 million jobs. While larger macroeconomic forces were also at work during this period, it is clear that the cost of natural gas for industries like steel, plastics, chemicals, paper, glass, fertilizer, cement, and refining is a very significant determinant in whether facilities are sited domestically or overseas. Keeping American natural gas resources in America and keeping prices low will support a more diversified domestic economy and provide greater domestic job benefits than pursuing an export strategy.

- Keeping natural gas resources at home will allow greater amounts of natural gas to be used in the domestic electric power and transportation sectors. Greater natural gas utilization in these sectors could lead directly to a 1.2 million barrel per day reduction in

\(^1\) Included as an appendix to this report.
foreign oil imports and a 9 percent reduction in coal consumption by 2035, which would measurably enhance America’s national, economic, and environmental security.

Legislation introduced by Rep. Markey would prevent companies from exporting natural gas extracted from public lands (H.R. 4025) and would place a moratorium on the Federal Energy Regulatory Commission approving the siting and development of LNG export terminals before 2025, except under special circumstances (H.R. 4024).
Background

On June 10, 2003, the Chairman of the Federal Reserve Board, Alan Greenspan, testified before the House Energy and Commerce Committee that rising natural gas prices were harming domestic manufacturers and that large numbers of liquefied natural gas (LNG) terminals were needed to import more natural gas and stabilize prices. He said:

The updrift and volatility of the spot price for gas have put significant segments of the North American gas-using industry in a weakened competitive position. ...The perceived tightening of long-term demand-supply balances is beginning to price some industrial demand out of the market. ...Access to world natural gas supplies will require a major expansion of LNG terminal import capacity. ...As the technology of LNG liquefaction and shipping has improved, and as safety considerations have lessened, a major expansion of U.S. import capability appears to be under way. These movements bode well for widespread natural gas availability in North America in the years ahead.  

Chairman Greenspan was half right. Since natural gas is both the primary fuel source for the industrial sector and a primary feedstock for the production of plastics, chemicals, fertilizers, and many other products, low-price natural gas is essential to our industrial competitiveness. The increase in natural gas prices of more than 400 percent between 2000 and 2008 significantly undermined American industrial competitiveness and was a major factor in the loss of 3.7 million manufacturing jobs during that time.  

But Chairman Greenspan turned out to be wrong about our need to import large amounts of LNG. Subsequent discoveries of domestic shale gas deposits and advances in horizontal drilling and hydraulic fracturing techniques, have led to expanded domestic gas reserves and production and the lowest well-head prices in 10 years. Of the nearly 50 LNG import terminals that have been certified for construction, only 12 facilities were ultimately built. And of this 6.95 trillion cubic feet (Tcf) of LNG import capacity, only 0.35 Tcf of natural gas was actually

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4 The well-head price is the price charged by the producer for petroleum or natural gas without transportation costs. See http://www.merriam-webster.com/dictionary/wellhead+price
imported in 2011, a utilization rate of 5 percent. Several of these import terminals are now mothballed entirely and their owners are looking to turn them into LNG export terminals.

The Natural Gas Market Today

Natural gas production in the United States reached a historical high in November 2011, when producers withdrew an average of 82.7 billion cubic feet per day, 18 percent higher than five years earlier. This expansion in domestic natural gas supplies has led to a reduction in domestic prices. Even while consumption of natural gas has been increasing, the average wellhead price has stayed below $5 per million cubic feet (Mcf) for more than two years. Shale gas now accounts for more than a third of total U.S. gas resources. The Energy Information Administration (EIA) estimates that shale gas will provide 49 percent of total U.S. natural gas supply by 2035, up from 23 percent in 2010. Net imports now represent 10 percent of total U.S. consumption, the lowest proportion since 1993, and this share is expected to continue to shrink.

Unlike oil, natural gas prices are not set on a global market. Natural gas cannot currently be moved cheaply in volumes great enough to efficiently link low-cost producing regions with high-demand regions. With massive deployment of expensive infrastructure—international natural gas pipelines, special cryogenic LNG tankers, liquefaction equipment—regional natural prices would converge to a global price in the same way that global oil prices have emerged. However, like the oil market, a global natural gas market could be manipulated by nations, national companies, and cartels in the same way that the Organization of Petroleum Exporting Countries (OPEC) now manipulates the global oil market.

Regional variation in natural gas prices is considerable, as seen in Figure 1. For example, natural gas prices are six to seven times higher in Asia than they are in the United States. Prices are more than three times higher throughout most of Europe. The regional nature of the natural gas market clearly benefits American consumers and businesses.

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8 Energy Information Administration, U.S. Natural Gas Imports by Point of Entry, available at http://www.eia.gov/dnav/ng/ng_move_poe1_a_EPG0_IML_Mmcf_a.htm
The Department of Energy Considers Export Permits

Export Applications Pour In

As a result of high domestic natural gas production and higher prices in foreign markets, several companies have submitted applications to the Department of Energy over the past year seeking permits to export domestically produced natural gas. Most of these applications are planning to use LNG terminals that were originally built for importing. Existing terminals can be seen in Figure 2.
DOE has already approved a plan from a Cheniere Energy subsidiary, Sabine Pass Liquefaction, to export LNG through a terminal originally built for importing the fuel. This export facility, which is still at least four years away from becoming operational, has booked major deals to export American natural gas to Indian and Korean markets and, in total, has long-term agreements in place to export 89 percent of its approved capacity.12 DOE is now considering eight other LNG export applications. If all nine export applications are approved and this export capacity is fully utilized, the companies would export an amount equal to 20.6 percent of current U.S. consumption, according to data provided by DOE to Democratic staff on the House Natural Resources Committee.

After the Sabine Pass approval in May of 2011 and the subsequent rush of new applicants, DOE commissioned the EIA and a private contractor to undertake separate studies on the cumulative impacts of pending natural gas export applications. DOE has since committed to withhold approval of the pending export applications until these studies are completed. EIA released its study in January, finding that domestic natural gas prices could rise more than 50 percent if exports take off (see summary below). The second study is scheduled to be completed this spring.

Roles and Authorities

Section 3(a) of the Natural Gas Act of 1938 defines the process for DOE’s reviews of most LNG export applications. In particular, the Secretary of Energy must approve an export application “unless after opportunity for hearing, [the Secretary] finds that the proposed exportation... will not be consistent with the public interest.” Thus, there is “a rebuttable presumption that a proposed export of natural gas is in the public interest,” according to DOE. This presumption must be overcome for DOE to deny an export application. For export approvals, DOE may also attach terms or conditions that it considers necessary to protect the public interest.

The Energy Policy Act of 1992 amended the Natural Gas Act to further limit DOE’s ability to deny natural gas export applications. Specifically, DOE must approve applications to export natural gas to the 15 countries that have free trade agreements (FTAs) with the United States covering natural gas.\textsuperscript{13} Such applications are automatically deemed in the public interest, and DOE cannot add any terms or conditions to approvals.

In addition to DOE authorization to export LNG, companies must receive authorization from the Federal Energy Regulatory Commission (FERC) for the actual siting and development of LNG projects, as specified under Section 3 of the Natural Gas Act.\textsuperscript{14} FERC is also the lead agency responsible for the preparation of the analysis and decisions required under National Environmental Policy Act for the approval of new facilities, including tanker operation, marine facilities, and terminal construction and operation, environmental and cultural impacts.\textsuperscript{15}

The Energy Information Administration Study

If DOE approves the pending applications and exports rise as expected, domestic natural gas prices could increase 24 to 54 percent, depending on recoverable shale resources and how quickly exports are ramped up, according to the EIA’s January report.\textsuperscript{16} About three-quarters of the increased natural gas production needed to satisfy such export demand would come from shale sources, according to an EIA export scenario. That would require a dramatic expansion of hydraulic fracturing, or “fracking,” which is necessary to access these resources.

Higher prices are also expected to substantially reduce U.S. demand for natural gas. Around 30 to 40 percent of natural gas export demand would be met through reduced domestic consumption, not increased production, according to EIA. Consequently, EIA projects that dirty

\textsuperscript{13} These countries are Australia, Bahrain, Canada, Chile, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Peru, and Singapore. Three other countries, South Korea, Colombia, and Panama, will soon join this club when their Senate-ratified trade agreements take effect.

\textsuperscript{14} 15 U.S.C. § 717

\textsuperscript{15} Interagency Agreement Among the FERC et al. Available at: \url{www.ferc.gov/legal/maj-ord-reg/mou/mou-24.pdf}

\textsuperscript{16} Energy Information Administration, Effect of Increase Natural Gas Exports on Domestic Energy Markets, available at \url{http://www.eia.gov/analysis/requests/fe/pdf/fe_lng.pdf}
coal-fired power generation will rise in the United States to make up for the expected decline in natural gas-fired electricity generation.

Energy Department Responds to Markey Letter

Rep. Markey, Ranking Member on the House Natural Resources Committee, wrote to Energy Secretary Steven Chu in January asking about the consequences of exporting greater amounts of natural gas, including the consequences for prices, manufacturing and economic growth, energy security, and the environment.

Deputy Assistant Secretary Christopher Smith responded on behalf of Secretary Chu. This response, delivered February 24th, noted that DOE has already approved the export of 10.93 billion cubic feet of natural gas per day (Bcf/d) to countries with free trade agreements with the United States. The EIA report looked at export scenarios associated with the approval of additional exports to counties without free trade agreements. The second report by the private contractor is still being completed, but Smith wrote that it would provide important information about the macroeconomic consequences resulting from EIA’s export scenarios, including:

- Consequences for domestic energy consumption, production, and prices;
- Effects on gross domestic product, job creation, and balance of trade; and
- Impacts on U.S. manufacturers, especially energy intensive industries.

Smith made clear that DOE would not approve the pending export applications until this study is finished and DOE has considered the findings. “We are mindful of the need for prompt action in each of the non-FTA LNG export proceedings before us,” Smith wrote. “We are equally mindful that a sound evidentiary record is essential to reach a reasoned decision in these proceedings. As such, DOE will not issue a final order addressing the pending applications to export LNG to non-FTA countries until the full study has been completed and the Department has had an opportunity to review the results.”

Economic Ramifications of Exporting

The United States currently enjoys affordable natural gas that benefits consumers and also provides us with a competitive advantage that is felt up and down the U.S. economy. Affordable natural gas keeps energy prices low for consumers that rely on natural gas for heating, cooking, and electricity. Increasing those energy costs on American consumers and businesses by exporting would have a direct impact on their disposable income and reduce their purchasing power.

Industrial and manufacturing facilities are the largest consumers of natural gas in the United States—ahead of the electricity, commercial, and residential sectors—and would be especially hard hit. These facilities may require natural gas not only as a primary energy source

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17 DOE now has pending or approved permits for exports to FTA countries totaling 12.51 Bcf/d. DOE LNG docket available at: http://fossil.energy.gov/programs/gasregulation/LNG_Summary_Table_2-29-12_2.pdf
but also use it as a physical input into product. In some sectors, like fertilizers and chemicals, natural gas can constitute 80 to 90 percent of the cost of production. For businesses like these, the cost of energy may be the number one determining factor in whether to site production in the United States and employ American workers or whether to move production overseas.

In the past, high natural gas prices have had a disastrous effect on U.S. manufacturing. From 2000 to 2008, the price of natural gas rose more than 400 percent, and was a major contributor to the U.S. manufacturing sector losing 3.7 million jobs.18 Other variables were certainly relevant to this undermining of manufacturing competitiveness as well, including the 2001 recession in the global trend of moving manufacturing to countries with lower labor costs. However, for energy intensive industries—like aluminum, steel, plastics, chemicals, paper, glass, fertilizer, food processing, cement, and refining—the cost of energy is a far greater share of production costs than labor and a more significant determinant in facility siting.

The experiences of some specific energy-intensive industries below illustrate the dangers that natural gas exporting could have on sectors of the U.S. economy.

**Fertilizer Industry**

An important use of natural gas is as a feedstock in fertilizer production. In this process, natural gas is used to produce ammonia, which has a high nitrogen content, and the ammonia becomes the primary component of nitrogen fertilizers. It takes 33,500 cubic feet of natural gas to manufacture 1 ton of anhydrous ammonia fertilizer.19 As a result, natural gas can account for up to 90 percent of the cost to produce ammonia fertilizer.20

The fertilizer sector is the largest industrial consumer of natural gas in the United States, consuming 60 percent of U.S. industrial demand.21 The period between 2000 and 2006 was a devastating one for the U.S. fertilizer industry, as seen in Figure 3. Domestic ammonia fertilizer production declined 44 percent, and more than a third of all U.S. fertilizer production capacity shuttered. At the same time, imports skyrocketed 115 percent.22

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18 Dow Jones Industrial Average Basic Chart, Yahoo! Finance, available at http://finance.yahoo.com/q/bc?s=%5EDJI&t=m&d=s&l=on&z=1&q=l&c=;
19 Eddie Funderberg, *Why are Natural Gas Prices So High?*, available at http://www.noble.org/ag/soils/nitrogenprices/index.htm
The harm to the U.S. economy and domestic jobs was not limited to merely the fertilizer industry. The cost of buying fertilizer to farmers rose 130 percent between 2000 and 2006, from $227 per ton to $521. Farmers get especially squeezed with higher fertilizer costs because they are often times unable to pass along higher fertilizer costs in what they charge for their commodity crops. According to the U.S. Department of Agriculture, “With lower crop prices, high fertilizer prices would place downward pressure on farmers’ net returns. Farms with higher than average fertilizer costs, a greater need to use fertilizers on the crops they grow, and/or a limited ability to either move away from fertilizer-intensive crops or substitute other inputs will be especially vulnerable if fertilizer prices increase once again.”

With U.S. natural gas prices at 10-year lows, fertilizer production is coming back to the United States, albeit slowly. Over the past two years, several facilities have returned to production and a series of large expansions are under consideration: 24

- Oklahoma-based LSB Industries reopened its Pryor, Oklahoma ammonia facility in 2009 and two smaller units at Pryor will restart soon as well.

- Orascom Construction has purchased and reopened a large ammonia plant in Beaumont, Texas. The company announced earlier this year that “Low natural gas prices in the U.S. were a deciding factor in the company's decision to acquire and rehabilitate the plant.”

- PCS Corporation is in the process of reopening its large plant in Geismar, Louisiana with an online target in the third quarter this year. It is also considering expansions at its Lima, Ohio and Augusta, Georgia plants.

- CF Industries has reopened portions of its giant Donaldsonville, Louisiana, facility in the past two years and has purchased an additional facility. The company announced last year that it plans to invest $1 billion to $1.5 billion over the next four years to expand its production capacity for ammonia and other products.

For farmers waiting to see a drop in fertilizer prices, this new domestic production cannot come online fast enough. Even though U.S. natural gas prices have fallen to 10-year lows, fertilizer prices remain high because the United States now imports more than half of its fertilizer. Imported fertilizer comes from regions which do not have the low natural gas prices that the United States is currently enjoying, increasing the prices for farmers. 25

*Chemicals and Plastics Industry*

Chemical manufacturers rely on natural gas for 58 percent of their fuel and natural gas liquids for 58 percent of their feedstock. 26 Natural gas constitutes upwards of 80 percent of the total cost to produce plastic. 27 The high natural gas prices the U.S. chemical and plastics industry faced throughout much of the last decade significantly eroded the U.S. chemicals industry’s competitive position. As detailed in Figure 4, the U.S. chemical industry was essentially wiped out as an export sector between 1997 and 2006, as net exports fell from $15.8 billion annually to $218 million. Of the largest 120 chemical plants being built around the world in 2005, exactly one was located in the United States. According to the U.S. Commerce Department, “The

24 Stephanie Seay, Platts, *Low gas costs may not be enough to spur large fertilizer expansion*, available at http://www.platts.com/RSSFeedDetailedNews/RSSFeed/NaturalGas/3915346


27 PowerPoint presentation “Manufacturing Competitiveness and Jobs Depend Upon Affordable and Reliable Electricity and Natural Gas,” Industrial Energy Consumers of America, February 2012.
increase in U.S. natural gas prices has helped reduce and even eliminate in some recent years the United States’ trade surplus in bulk chemicals.”

Figure 4. U.S. Trade Balance for Chemicals (not including pharmaceuticals)


Appearing before the Select Committee on Energy Independence and Global Warming in 2008, the Dow Chemical Company’s Vice President for Energy, Rich Wells, testified to the difficulties that the domestic chemical industry was facing. Dow had shut down dozens of uncompetitive U.S. plants in the previous decade as natural gas prices had skyrocketed. They were investing preferentially in the Middle East and other parts of the world where energy costs were lower. Wells explained that it was cheaper for chemical companies to move their manufacturing to where energy is cheap than to move cheap energy to their manufacturing.

Once again, like the fertilizer sector, low domestic natural gas prices are driving a resurgence in the domestic chemical industry. According to the American Chemistry Council, “A new competitive advantage has already emerged for U.S. petrochemical producers.” Dow has

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announced it will increase key chemical processing capability along the Gulf Coast by 20 to 30 percent over the next two to three years. The American Chemistry Council estimates that if natural gas-based feedstock prices stay low and supply expands, the U.S. chemical industry is projected to invest $49 billion in new plants and equipment in the United States in the coming years and spur the creation of more than 400,000 jobs across the U.S. economy. Such investments would generate $44 billion in new federal, state, and local tax revenue over the next decade.\(^{31}\) Low-priced natural gas is the key to unlocking these economic benefits.

**Steel Industry**

The domestic steel sector’s fuel reliance is split mostly between natural gas, electricity, and coal-derived coke, and the sector’s natural gas consumption makes up 4 percent of U.S. industrial natural gas use.\(^{32}\) The steel industry is highly energy-intensive with very tight margins, and small changes in energy prices can have a significant impact on the cost of downstream manufactured goods like automobiles, construction equipment, and wind turbines. Recycled steel is especially energy intensive, and energy can account for 25 percent or more of the cost of production.\(^{33}\)

Integrated steelmakers, which produce steel from raw iron ore, use natural gas as the primary energy source for the reheating and rolling procedures at the end of the steelmaking process. Recent low natural gas prices have allowed companies to replace costly and dirty coal-derived coke with natural gas, which has become a far more cost-effective way of melting iron ore. U.S. Steel estimates that with natural gas prices around what they are today, substituting natural gas for coal-derived coke translates to savings of $7 per ton of steel.\(^{34}\) A $1 per million BTU increase in the price of natural gas would increase costs by more than $100 million for U.S. Steel, based on current gas usage and steel production levels.

Another American steel producer, Nucor, has utilized low natural gas prices to build new “direct reduced iron” facilities,\(^{35}\) which combine natural gas with iron ore pellets to create a steady feedstock for the company’s electric arc furnaces. This is a growing technology that now accounts for more than 60 percent of steel production in the United States. Low natural gas prices are critical to operating these types of facilities. Seven years ago, as U.S. natural gas prices

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\(^{31}\) Id.

\(^{32}\) American Iron and Steel Institute, *2010 Annual Statistical Report*, Table 37

\(^{33}\) PowerPoint presentation “Manufacturing Competitiveness and Jobs Depend Upon Affordable and Reliable Electricity and Natural Gas,” Industrial Energy Consumers of America, February 2012.


were much higher than today, Nucor relocated a facility to Trinidad in order to take advantage of "a low cost supply of natural gas."\textsuperscript{36}

**Conclusion**

If we keep natural gas here at home, and keep prices low, we will accelerate the transition away from coal and foreign oil, making U.S. energy consumption not only cheaper, but cleaner and more secure.

Natural gas could eventually overtake coal as America's primary source of electricity. In just the last six years, coal's share of the U.S. electricity market has dropped from 50 percent to 43 percent, with natural gas displacing most of this production, along with wind. At the same time, buses and commercial fleet vehicles, which consume large amounts of fuel, are increasingly powered by natural gas instead of gasoline. "Replacing 3.5 million of these heavy vehicles with natural gas vehicles by 2035 would save more than 1.2 million barrels of oil per day compared to business as usual, which is more than we imported from either Venezuela or Saudi Arabia in 2009," according to a report by the Center for American Progress.\textsuperscript{37}

Using more natural gas for electricity and transportation is expected to drive up U.S. demand by 18 percent by 2035 under current policies and commitments, "causing coal demand to drop by around 9% and oil demand by around 6%," according to the International Energy Agency.\textsuperscript{38} This transition away from coal and foreign oil, however, could be slowed or jeopardized if we undermine our affordable domestic natural gas supply by exporting it to foreign markets.

To address these concerns Rep. Ed Markey has introduced two bills to stop natural gas from being exported. H.R. 4025 would prevent oil and gas companies from exporting natural gas extracted from public lands, and H.R. 4024 would place a moratorium on the Federal Energy Regulatory Commission approving the siting and development of LNG export terminals until 2025, except under special circumstances. Markey also offered a floor amendment to H.R. 3408, the so-called PIONEERS Act, that would have stopped the exporting of natural gas extracted from the public lands and waters opened up by the bill. That amendment failed by a vote of 173 to 254.

Instead of starting with a presumption in favor of exports, they should be evaluated against the following goals for American energy policy:

1. Keep energy affordable for American consumers;
2. Grow U.S. manufacturing and support its competitive position in the global economy;
3. Reduce America’s dependence on foreign oil; and


4. Reduce dangerous environmental pollution.

These goals are now being advanced because natural gas supplies are abundant; prices are cheaper here than abroad; and natural gas is becoming more economical than dirtier coal and imported oil. If we keep natural gas here, these benefits will continue. If we export it abroad, we will undermine each goal.
Exhibit 6
The future price of natural gas in the US depends greatly on development of LNG exports, the outlook for which remains unclear, says Facts Global Energy (FGE).

In an analysis comparing its projections for LNG exports with a base-case production forecast by the Energy Information Administration’s Annual Energy Outlook (AEO), FGE sees problems.

FGE’s LNG export expectations are much greater than EIA’s: 40 million tonnes/year in 2020 and almost 80 million tpy in 2025, assuming full utilization of capacity, vs. 5.5 million tpy in 2020 and almost 30 million tpy in 2030 in the AEO reference case.

Expected pipeline exports to Mexico plus LNG exports at FGE’s projected rates would absorb all incremental gas production in the AEO reference case.

“Obviously, this is an untenable outcome as there is no room for domestic demand growth,” FGE says. “It implies that Henry Hub prices must rise higher than the AEO reference-case projections both to incentivize domestic gas supply and ensure that domestic demand is adequately served.”

The AEO reference-case price projections are $4.87/MMbtu in 2025 and $5.40/MMbtu in 2030, with domestic consumption growing 0.7%/year during 2010-30.

“Given the large number of variables at play, it is challenging to nail down exactly how high Henry Hub could rise if LNG export capacity materializes as anticipated by FGE and is fully utilized,” FGE says.

The firm notes AEO’s scenario assuming high economic growth and low oil and gas resources shows Henry Hub gas prices rising to $6-7/MMbtu by 2030. But that scenario for economic growth assumes the addition of only about 35 million tpy of LNG equivalent to US consumption in comparison with the reference case.

“Clearly, if LNG exports increase by some 50 million tpy more than projected by the AEO, US gas prices could settle at a higher plateau—perhaps $7-8/MMbtu if domestic demand remains robust,” FGE says.
Exports of LNG May Raise U.S. Prices as Much as 54%, Agency Says
By Katarzyna Klimasinska - Jan 19, 2012

Exporting liquefied natural gas may increase U.S. prices for the fuel as much as 54 percent, the Energy Information Administration said in a report sought by the Energy Department for its review of export permits.

The findings support manufacturers who oppose sales overseas, saying their production costs would rise. Sempra Energy (SRE), owner of the Cameron gas terminal in Louisiana, Freeport LNG in partnership with Macquarie Group Ltd. (MQG), and Dominion Resources Inc. (D) are seeking permits to ship the fuel, as hydraulic fracturing boosts production.

U.S. natural-gas prices, at record lows this month, will increase under all scenarios considered by the agency, which provides research to the Energy Department, even without any shipments to foreign countries.

"Rapid increases in export levels lead to large initial price increases that moderate somewhat in a few years," the agency said in the report. "Slower increases in export levels lead to more gradual price increases but eventually produce higher average prices during the decade between 2025 and 2035."

After Cheniere Energy Inc. (LNG) won a U.S. permit in May to ship gas from its Sabine Pass facility in Louisiana, manufacturers using natural gas, led by the Washington-based Industrial Energy Consumers of America, complained that sales to foreign countries may raise prices at home.

LNG exports were criticized by congressional Democrats including Representative Edward Markey of Massachusetts and Senator Ron Wyden of Oregon.

'Economic Advantage'

In allowing more exports, the U.S. may be "trading away the enormous economic advantage of having large, low-cost domestic natural gas supply," Wyden said in an e-mailed statement on Jan. 6.

Daily exports of 6 billion cubic feet, phased in over six years, would produce an increase as high as 14 percent in 2022. Boosting exports to 12 billion cubic feet over four years would drive prices up 36 percent in 2018, the report said.

While natural gas exports would spur production, prices at the well would rise 54 percent in 2018 under a more pessimistic estimate by the agency of total gas resources, according to the report.
Price changes for industrial consumers, on a percentage basis, tend to be lower than adjustments at the wellhead, the agency said in the report.

Natural gas futures settled at a 10-year low yesterday, pushed down by low demand as milder weather during mild U.S. weather, and abundant supply from gas extracted from shale formations such as Marcellus in Pennsylvania.

Natural gas for February delivery fell 1.6 cents to $2.472 per million British thermal units on the New York Mercantile Exchange, the lowest settlement since March 2002. Gas futures have tumbled 44 percent from a year ago.

To contact the reporter on this story: Katarzyna Klimasinska in Washington at kklimasinska@bloomberg.net
To contact the editor responsible for this story: Steve Geimann at sgeimann@bloomberg.net
To Coos County Planning Department  
June 28, 2014  

Request for LNG route adjustment in Coos Bay.

We are very concerned about the route of the pipeline through Haynes Inlet and the West side of Coos Bay. During one of the meetings in 2010 at our oyster plant, I mentioned the fact that the line was running diagonally through Silverpoint 1 oyster bed. One of the men said that could be “fixed.” I also pointed out that the route going through under the Highway 101 bridge would be very detrimental to our oyster business for several reasons:

We need access to the three oyster beds: Silverpoint 1, 7 and 8 depending on the different tide levels, at various times of the day or night. The harvest crew goes out with the boats at low tide. The large barge is taken out at high tide to bring in the full nets. The channel between Silverpoint 1 and 3 is narrow. We couldn’t fill orders if big equipment is being used to dig the trench for the line preventing us from going through.

Also, we need access to all three beds, at all times. Silverpoint 1 may be affected by mud or fines in the water which might prevent us from harvesting the oysters according to Dept. of Agriculture regulations. We are also storing our “re-beds” on S 1 for more growth time. We bring them in as they are ready. Another problem would be the new seed placed around S 1 and, potentially could be affected by the fines suspended in the water.

However, according to the documentary we were shown some time ago, when a pipeline is constructed in the water, mud and sand are suspended in the water, especially on windy days. It could drift over our one, two and three year old oysters in the bay. Oysters are filter feeders. They seine out the tiny plankton from the seawater to feed on. Mud, sand or fines could clog the gills of countless oysters. I would hate to have a repeat of the New Carissa oil spill effect. It took 4 years and 9 months before we were paid for the damage!

Another worry is the 50 foot Right of Way! Would that apply in the bay as well? Any kind of hole or ditch in the mudflats takes years before the ground above it solidifies. One example is at the foot of the boat ramp next to us. A five foot diameter hole left by someone, was like quicksand, and one couldn’t walk across it for several years!
The line between Silverpoint 1 and 3 could cause problems when accessing the oyster beds, especially at night. Usually the boats are parked in shallow water close to the area to be harvested. I would hate for our guys to get stuck there. And the channel is very narrow!

At that long ago meeting my husband, Max, and I tried to explain that the proposed line running through the bridge was too destructive to our business. Studying the maps it seemed more logical and doable to swing away from our oyster plant from Haynes Inlet and continue straight West, North of Horsefall Beach Road, and tunnel under Hwy. 101 through North Slough. There is nothing planted due to poor water quality and super muddy ground conditions. There could even be a half mile saved in total distance to offset some of the additional cost! Considering the line is starting in Canada to come to Coos Bay crossing many highways, roads and other obstacles, this should be a possible solution without destroying our oyster business!!

We do not like the idea of having a pipe line a few hundred feet from our oyster plant, but it would not impact our daily commute to and from the oyster beds. While it will not eliminate totally the threat of fines invading our oyster beds (at outgoing tide all the water is rushing through the bridge - and then over the oyster beds) we are hoping for the best outcome.

Over the years we have enjoyed excellent cooperation from the County. Nikki Whitty, Gordon Ross and John Griffith were most helpful at various times. I do not believe that anyone, on purpose, would intend to cause us problems. Therefore, I am requesting that the proposed line be changed to go through the North Slough rather than endangering, potentially, all the oyster beds from an invasion of mud, silt and fines!

Thank you!

[Signature]
Lilli Clausen
Clausen Oysters
Exhibit 8
The WinDOT Report

A blog with a Pipeline Safety point of view.

Is it transmission or distribution, §192.3?

Pipeline regulations in §192.3 provide definitions for transmission and distribution lines. Determining a distribution line seems relatively easy as the definition is simply “Distribution Line means a pipeline other than a gathering or transmission line.”

The difficulty lies in identifying transmission lines. The definition has 3 separate criteria, meeting any one condition will make a pipeline a transmission line. The regulatory definition is:

Transmission line means a pipeline, other than a gathering line, that: (1) Transports gas from a gathering line or storage facility to a gas distribution center, storage facility, or large volume customer that is not down-stream from a gas distribution center; (2) operates at a hoop stress of 20 percent or more of SMYS; or (3) transports gas within a storage field.

Note: A large volume customer may receive similar volumes of gas as a distribution center, and includes factories, power plants, and institutional users of gas.

It all seems pretty straightforward but questions do arise. Can one change the classification from transmission to distribution where the SMYS drops below 20%? Just how does this “large volume customer” concept work?

The following interpretation from 2010 explores these questions and provides some answers.

Interpretation 192.3 45
March 22, 2010

U.S. Department of Transportation
Pipeline and hazardous materials Safety Administration
1200 New Jersey Avenue, SE
Washington, D.C. 20590

March 22, 2010

New Mexico Public Regulation Commission
Pipeline Safety Bureau
Joe M. Johnson

http://влада.wordpress.com/2011/06/03/is-it-transmission-or-distribution-%c2%a7192-3/
Acting Bureau Chief  
1120 Paseo de Peralta  
Santa Fe, New Mexico  87504

Dear Mr. Johnson:

In a letter to the Pipeline and Hazardous Materials Safety Administration (PHMSA) dated September 15, 2009, you requested an opinion/interpretation on whether the following pipelines operated by New Mexico Gas Company (NMGC) should be regulated as transmission pipelines or distribution pipelines (as described by New Mexico Public Regulation Commission):

1. Animas Power Plant 6" diameter – an intrastate natural gas pipeline that transports natural gas from a transmission line to a large volume customer (Animas Power Plant).
2. Farmington (Bluffview) Power Plant 8" diameter – an intrastate natural gas pipeline that transports natural gas directly from a transmission line to large volume customers (Animas and Bluffview power plants).
3. Tucumcari Mainline – an intrastate natural gas pipeline that transports natural gas directly from a transmission to distribution centers (Tucumcari Townplant, Northeast Regulator Station, and Baker Kelso Regulator Station). This pipeline is a continuation of the Clovis Transmission Line that transports natural gas from El Paso Natural Gas Company's intrastate pipeline system to New Mexico Gas Company's Northeast Area distribution centers, and is not downstream of a distribution center.

4. NMGC has designated a valve at the Clovis Border Regulator Station as the end point of the Clovis Transmission Line and the beginning of the Tucumcari and Cannon mainlines. The Clovis Transmission line and the Tucumcari and Cannon mainlines all operate at 300 psig. The Tucumcari Mainline runs approximately 62 miles from Mile Post 0 at the Clovis Border Regulator Station to the Tucumcari Townplant distribution center.
5. Cannon Mainline – an intrastate natural gas pipeline that transports natural gas directly from a transmission to distribution centers (Northwest Regulator Station, Mixon lane Regulator Station, Hayfield Farmers Regulator Station, 6084 Regulator Station, Port Air Dairyma Regulator Station, Port Air Farmers Regulator Station, and Clovis Expansion Regulator Station). This pipeline is a continuation of the Clovis Transmission line that transports natural gas from El Paso Natural Gas Company's Intrastate pipeline system to New Mexico Gas Company's Northeast Area distribution centers, and is not downstream of a distribution center.

6. Northeast Distribution Mainline – an intrastate natural gas pipeline. The pipeline is a loop line that can be used to: (a) transports natural gas from El Paso Natural Gas Company's interstate pipeline via NMGC's Clovis Transmission line to the Tucumcari Townplant distribution center without going to the Clovis Border Regulator Station, or (b) transport natural gas to the Clovis Townplant distribution center via the Tucumcari Mainline.

7. Portales Mainline – an intrastate natural gas pipeline that transports natural gas from the Clovis Transmission line, and Transwestern's interstate transmission line to distribution centers (Portales Townplant, Grinder Regulator Station, Baxter Regulator Station, Midway Regulator Station, and Cameo Regulator Station). Pressure on the pipeline is regulated at 200 psig just downstream of the Transwestern interconnect at the Clovis Transmission line. There are no service lines on the Portales Mainline and the pipeline runs approximately 20 miles to the Portales Townplant distribution center.

http://ladota.wordpress.com/2011/09/03/is-it-transmission-or-distribution-%C2%A7192-3/
Based on the provided information, we agree with the New Mexico Public Regulation Commission – Pipeline Safety Bureau (PSB) determinations and PHMSA’s responses to the PSB requests as follows:

1. Regarding the Animas Power Plant 6” line, we believe this line is a transmission line because under the first definition of a transmission line this line transports gas from a transmission line to a large volume customer that is not downstream from a distribution center.

2. Regarding the Farmington (Bluffview) Power plant 8” line, we believe this line is a transmission line because under the first definition of a transmission line this line transports gas from a transmission line to a large volume customer that is not downstream from a distribution center.

3. Regarding the Tucumcari Mainline, we do not consider a decrease in pressure to below 20 percent SMYS at a transmission line to be a “distribution center” and lines downstream of that point to be distribution lines – this would violate the intent of the pipeline safety regulations. We consider a “distribution center” to be the point where gas enters piping used primarily to deliver gas to customers who purchase it for consumption as opposed to customers who purchase it for resale. Therefore, in our opinion, this line is an extension of the Clovis transmission line.

4. Regarding the Cannon Mainline, we do not consider a decrease in pressure to below 20 percent SMYS at a transmission line to be a “distribution center” and lines downstream of that point to be distribution lines – this would violate the intent of the pipeline safety regulations. We consider a “distribution center” to be the point where gas enters piping used primarily to deliver gas to customers who purchase it for consumption as opposed to customers who purchase it for resale. Therefore, in our opinion, this line is an extension of the Clovis transmission line.

5. Regarding the Northeast Distribution Mainline, we do not consider a decrease in pressure to below 20 percent SMYS at a transmission line to be a “distribution center” and lines downstream of that point to be distribution lines – this would violate the intent of the pipeline safety regulations. We consider a “distribution center” to be the point where gas enters piping used primarily to deliver gas to customers who purchase it for consumption as opposed to customers who purchase it for resale. Therefore, in our opinion, this line is an extension of the Clovis transmission line or the Tucumcari Mainline as described by PSB.

6. Regarding the Portales Main line, we do not consider a decrease in pressure to below 20 percent SMYS at a transmission line to be a “distribution center” and lines downstream of that point to be distribution lines – this would violate the intent of the pipeline safety regulations. We consider a “distribution center” to be the point where gas enters piping used primarily to deliver gas to customers who purchase it for consumption as opposed to customers who purchase it for resale. Therefore, in our opinion, this line is an extension of the Clovis Transmission line and Transwestern transmission line.

I hope that this information is helpful to you. If I can be of further assistance, please contact me at (202) 366-4046.

Sincerely,
John A. Gale
Director, Office of Regulations

http://wadata.wordpress.com/2011/09/03/is-it-transmission-or-distribution-%C2%A7192-3/
Exhibit 9
May 8, 2014

President Barack Obama
The White House
1600 Pennsylvania Avenue NW
Washington DC 20500

Dear Mr. President:

We write to express our concern regarding the impact that large-scale exports of natural gas could have on American consumers and businesses.

Families and businesses depend on affordable and reliable supplies of natural gas. This winter many parts of the country faced tight supplies of propane and natural gas and families were left to face high energy bills. During February, Henry Hub natural gas prices more than doubled to over $8 per million British thermal units and prices in some regions of the country were far higher. Our natural gas inventories are now 55 percent below the five-year average. This winter served as a reminder that high natural gas prices can hurt family budgets and be a drag on our economy.

Taking a longer-term view, the United States has benefited from rising supplies and lower prices for natural gas since 2008. Thanks in part to lower natural gas prices, America’s manufacturing sector has created more than 600,000 jobs since 2010. The Boston Consulting Group concluded that affordable natural gas prices could lead to 5 million more manufacturing jobs by the end of the decade. We must ensure that we do not squander what is clearly an American competitive advantage right now for American manufacturers and for the American economy.

Recently, the Department of Energy approved exports of liquefied natural gas from a sixth export facility. This means that total approved exports, combined with existing and approved export pipelines, now exceeds the total amount of gas that is currently used in every single American home and commercial business. This level of exports well exceeds the “high export scenario” referenced by a Department of Energy study in 2012 that indicated prices could increase by up to 54 percent. Price increases of this scale could translate into more than $60 billion a year in higher energy costs for American consumers and businesses.

Liquefied natural gas shipments to China, India, Japan, South Korea, and other Asian nations account for about 70 percent of the global trade of liquefied natural gas. Based on the contracts U.S. exporters already have in place, Asia would likely be the primary destination of U.S. natural gas exports as well. Natural gas prices in Asia are currently three to four times higher than those in the United States. Integration of U.S. and Asian natural gas markets through U.S. exports could lead to further increases in prices for American consumers and businesses, which may fundamentally reverse many of the economic benefits that have led to the current surge in manufacturing job growth in the United States. Large-scale exports of natural gas to Asia could also jeopardize America’s goal of achieving energy independence, a goal made more achievable by the recent increase in domestic gas production.
President Barack Obama  
May 8, 2014  
Page 2  

It is imperative, both for American jobs and for the environment, that the Department of Energy continue to consider the public interest and the cumulative impact of potential exports on U.S. consumers and businesses before granting approval of natural gas exports to countries with which the United States does not have a free trade agreement. We ask that you pay close attention to the effects that large-scale natural gas exports could have on businesses, workers, and residential consumers.

Thank you for your attention to this matter.

Sincerely,

[Signatures]
cc: Secretary of Energy Ernest Moniz
Press Release – September 18, 2013

America's Energy Advantage Files LNG Export Motion, Seeks Rulemaking on Public Interest Test
~ Says DOE's Standards for Reviewing LNG Export Applications "Appear to be in Flux"

PR Newswire

WASHINGTON, Sept. 18, 2013 /PRNewswire/ -- In a major new development in the debate over LNG exports, America's Energy Advantage (AEA) today filed a formal motion to intervene in the Department of Energy's (DOE) proceeding for the Freeport LNG Expansion, L.P. and FLNG liquefaction, LLC (together "FLEX") export application (FE Docket No. 11-161-LNG).

DOE is currently reviewing the application, which if authorized would raise the cumulative volume of authorized exports of LNG to 8.31 Bcf/d, which would go beyond the "low export scenario" level identified in a NERA report DOE used to grant three previous LNG export applications.

AEA is seeking a more formal rulemaking process based on current data and assessments of today's supply and demand environment, and noted that current applications are being granted based on guidelines developed for gas imports in the 1980s. AEA's motion also indicates that the legal standards that DOE used to analyze the public interest in two previous grant applications were not "adequate, appropriate, or sustainable." See AEA's motion here: http://www.americasenergyadvantage.org/AEA-Comment.

"DOE is making decisions that will have far-reaching and potentially irreversible impacts on consumers, our economy, and America's manufacturing renewal based on 30-year-old guidelines for natural gas imports, not exports. No matter where one stands on this issue, surely we can agree that exports and imports are different, and that DOE needs to make rules based on the 21st century, not the 1980s," said Jennifer Diggins, Director, Public Affairs for Nucor Corporation and Chair of AEA.

"We felt the need to file a formal motion because American consumers of natural gas deserve as much say in the process as producers," said Diggins. "All we're saying is that the public interest test is important, and that DOE needs to take a more methodical and legally-based approach to defining what that public interest is. DOE itself conceded that 'the market of the future very likely will not resemble the market of today' in its previous grant applications, but what data are they using to project that future? Nobody knows."

Diggins concluded: "As a result of available and affordable natural gas in the U.S., more than 120 manufacturing projects valued at nearly $110 billion of economic investment have been announced, including thousands of new jobs. Our country cannot afford to lose these job-creating investments or hurt consumers by driving up the cost of utility bills. We have a right to be heard in this debate."
Dow, which runs a sprawling petrochemical complex northeast of Edmonton, argues such proposals undermine the benefits of the U.S. shale boom. Exxon and others have accused the chemical maker of protectionism.

Gas used by oil sands companies and petrochemical plants in Alberta is growing at a “significant” pace, the IGCAA said.

By 2020, the oil sands alone could burn roughly three bcf/d, up from about 1.2 bcf/d today, according to Ziff Energy Group.

IGCAA members, who include energy giants Suncor Energy Inc. and Syncrude Canada Ltd., today burn roughly 1.3 bcf/d and purchase another 0.65 bcf/d in the market, the trade group said. Shell, by comparison, has approval to export up to 3.2 bcf/d from its LNG Canada project at Kitimat.

Mr. Sproule said the industry alliance is not proposing a moratorium on new export licenses. Rather, it is worried a “one-off approach” to assessing applications could mask the aggregate impacts on price and future supplies of the heating fuel.

Canadian chemical companies have also expressed concern that existing export orders could limit their access to petroleum liquids such as propane, butane and ethane, according to an Aug. 27 letter filed with the NEB by the Chemistry Industry Association of Canada. Member companies including Dow and DuPont use ethane, a natural gas byproduct, in Alberta petrochemical plants.

Canada has welcomed LNG projects with open arms in recent years, doling out coveted export authorizations for a raft of proposals amid an aggressive corporate and government push to find new markets for the fuel.

Those plans appear to be testing limits set by the NEB, which judges applications against several criteria, including forecast Canadian demand. The board, in separate information requests sent last week to BG, Exxon and Petronas, has told the companies to conduct a “sensitivity analysis” assessing Canadian gas needs.

It wants Exxon, for example, to run numbers assuming Canada’s yearly demand grows at a faster clip than levels forecast in its export application, adding 20% to corporate estimates.

The increase is a “drop in the bucket” relative to Canada’s technically recoverable resource base and is unlikely to affect the permitting process, a person familiar with the board’s thinking said.

The board “recognizes that not all the projects are going to go that are applied for,” the person said. “I would hope that they’re not going to pick winners and losers.”

Spokesmen for BG and Imperial Oil Ltd. declined to comment on the IGCAA submission or the demand analysis. A Dow spokesman did not respond to messages seeking comment.
AEA submitted today's motion following DOE's failure in recently issued export authorizations to apply reasonable standards for assessing the public interest as required by the NGA. As AEA stressed in its motion: "It is not enough for DOE to summarily refer to the public interest, vaguely acknowledge that conditions may change, and imply that these changed conditions could possibly affect pending and future proceedings or retroactively affect previously granted authorizations. The development of an LNG export industry in the United States has widespread consequences affecting all segments of the American public interest, including the economy, the environment, public policy, international relations and the quality of life for American citizens."

**About America's Energy Advantage**

America's Energy Advantage, Inc. is a 501(c)(6) not for profit organization that is dedicated to educating the American public about the growth in American manufacturing that has been made possible by our country's abundant and affordable supply of natural gas.

SOURCE America’s Energy Advantage

[Emphasis has been added]
Gas users warn LNG exports may impact Canada’s domestic supply

JEFF LEWIS | Sept 03 2013 |

CALGARY - Dow Chemical Co. and other big manufacturers are bringing their fight over unfettered natural gas exports in the United States to Canada.

With some 14 billion cubic feet a day of proposed export capacity on tap for the British Columbia coast, an Alberta-based trade group representing Dow’s Canadian arm, Nova Chemicals Corp. and other large gas users is calling for a comprehensive study into the potential impacts of liquefied natural gas projects on prices and future supplies of the heating fuel.

Concern over access to natural gas comes as Canada’s energy watchdog asks export hopefuls ExxonMobil Corp., Britain’s BG Group Plc and Malaysia’s Petronas to reassess forecasts for Canadian demand out to 2050. The companies are seeking permission to export a combined 10 billion cubic feet of gas per day – Equivalent to 75% of Canada’s daily gas production in 2012 – from separate projects on the B.C. coast.

The moves may throw up new roadblocks to obtaining export permits, frustrating an expected construction boom in B.C. and political promises of billions of new government revenue.

“It is plain to see on the surface of this issue that an unconstrained approach to issuing export licenses for serving LNG markets has the potential to exceed the current total production of” Western Canada, Greig Sproule, executive director of the Industrial Gas Consumers Association of Alberta, said in an emailed statement.

“Although one may assume that not all of these projects (or any of them) will proceed, the [National Energy Board] should not make this assumption when issuing licenses.”

IGCAA, in a submission filed this week with the board, said it is counting on B.C. shale gas to meet future industrial demand in Alberta. Member companies are concerned about the impact an export permit sought by Petronas may have on future gas supplies for domestic use, throughputs and tolls on existing pipelines on the Alberta system, the group said.

The complaint mirrors objections raised by Midland, Mich.-based Dow in the U.S. The chemical maker, through an advocacy group called America’s Energy Advantage, has waged a protracted battle over LNG exports against companies such as Exxon.
Exhibit 10
13-year Cascadia study complete – and earthquake risk looms large
Media Contact: Mark Floyd, 541-737-0788
Source: Chris Goldfinger, 541-737-5214
08/01/2012

CORVALLIS, Ore. – A comprehensive analysis of the Cascadia Subduction Zone off the Pacific Northwest coast confirms that the region has had numerous earthquakes over the past 10,000 years, and suggests that the southern Oregon coast may be most vulnerable based on recurrence frequency.

Written by researchers at Oregon State University, and published online by the U.S. Geological Survey, the study concludes 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.

“The southern margin of Cascadia has a much higher recurrence level for major earthquakes than the northern end and, frankly, it is overdue for a rupture,” said Chris Goldfinger, a professor in OSU’s College of Earth, Ocean, and Atmospheric Sciences and lead author of the study. “That doesn’t mean that an earthquake couldn’t strike first along the northern half, from Newport, Ore., to Vancouver Island.

“But major earthquakes tend to strike more frequently along the southern end – every 240 years or so – and it has been longer than that since it last happened,” Goldfinger added. “The probability for an earthquake on the southern part of the fault is more than double that of the northern end.”

The publication of the peer-reviewed analysis may do more than raise awareness of earthquake hazards and risks, experts say. The actuarial table and history of earthquake strength and frequency may eventually lead to an update in the state’s building codes.

“We are considering the work of Goldfinger, et al, in the update of the National Seismic Hazard Maps, which are the basis for seismic design provisions in building codes and other earthquake risk-mitigation measures,” said Art Frankel, who has dual appointments with the U.S. Geological Survey and the University of Washington.

The Goldfinger-led study took four years to complete and is based on 13 years of research. At 184 pages, it is the most comprehensive overview ever written of the Cascadia Subduction Zone, a region off the Northwest coast where the Juan de Fuca tectonic plate is being subducted beneath the continent. Once thought to be a continuous fault line, Cascadia is now known to be at least partially segmented.
This segmentation is reflected in the region’s earthquake history, Goldfinger noted.

“Over the past 10,000 years, there have been 19 earthquakes that extended along most of the margin, stretching from southern Vancouver Island to the Oregon-California border,” Goldfinger noted. “These would typically be of a magnitude from about 8.7 to 9.2 – really huge earthquakes.

“We’ve also determined that there have been 22 additional earthquakes that involved just the southern end of the fault,” he added. “We are assuming that these are slightly smaller – more like 8.0 – but not necessarily. They were still very large earthquakes that if they happened today could have a devastating impact.”

The clock is ticking on when a major earthquake will next strike, said Jay Patton, an OSU doctoral student who is a co-author on the study.

“By the year 2060, if we have not had an earthquake, we will have exceeded 85 percent of all the known intervals of earthquake recurrence in 10,000 years,” Patton said. “The interval between earthquakes ranges from a few decades to thousands of years. But we already have exceeded about three-fourths of them.”

The last mega-earthquake to strike the Pacific Northwest occurred on Jan. 26, 1700. Researchers know this, Goldfinger said, because written records in Japan document how an ensuing tsunami destroyed that year’s rice crop stored in warehouses.

How scientists document the earthquake history of the Cascadia Subduction Zone is fascinating. When a major offshore earthquake occurs, Goldfinger says, the disturbance causes mud and sand to begin streaming down the continental margins and into the undersea canyons. Coarse sediments called turbidites run up onto the abyssal plain; these sediments stand out distinctly from the fine particulate matter that accumulates on a regular basis between major tectonic events.

By dating the fine particles through carbon-14 analysis and other methods, Goldfinger and colleagues can estimate with a great deal of accuracy when major earthquakes have occurred over the past 10,000 years.

Going back further than 10,000 years has been difficult because the sea level used to be lower and West Coast rivers emptied directly into offshore canyons. Because of that, it is difficult to distinguish between storm debris and earthquake turbidites.

“The turbidite data matches up almost perfectly with the tsunami record that goes back about 3,500 years,” Goldfinger said. “Tsunamis don’t always leave a signature, but those that do through coastal subsidence or marsh deposits coincide quite well with the earthquake history.”

With the likelihood of a major earthquake and possible tsunami looming, coastal leaders and residents face the unenviable task of how to prepare for such events. Patrick Corcoran, a hazards
outreach specialist with OSU’s Sea Grant Extension program, says West Coast residents need to align their behavior with this kind of research.

“Now that we understand our vulnerability to mega-quakes and tsunamis, we need to develop a culture that is prepared at a level commensurate with the risk,” Corcoran said. “Unlike Japan, which has frequent earthquakes and thus is more culturally prepared for them, we in the Pacific Northwest have not had a mega-quake since European settlement. And since we have no culture of earthquakes, we have no culture of preparedness.

“The research, though, is compelling,” he added. “It clearly shows that our region has a long history of these events, and the single most important thing we can do is begin ‘expecting’ a mega-quake, then we can’t help but start preparing for it.”

Contact Info
News and Research Communications Oregon State University 416 Kerr Administration Bldg.
Corvallis, Oregon 97331 541-737-4611
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Exhibit 11
Notice of Federal Concurrence for Routine Program Changes to the Oregon Coastal Management Program

(Updates to the Coos County, City of Coos Bay, and City of North Bend Comprehensive Plans and Land Use Provisions)

From the OREGON COASTAL MANAGEMENT PROGRAM of the OREGON DEPARTMENT OF LAND CONSERVATION & DEVELOPMENT

DATE: March 13, 2014

NOTICE: Pursuant to 15 CFR Section 923.84 (federal Coastal Zone Management Act regulations), the federal Office of Ocean and Coastal Resources Management (OCRM) has concurred that the incorporation of the following local land use provisions constitute “routine program changes” to the Oregon Department of Land Conservation and Development’s (DLCD) federally-approved Oregon Coastal Management Program (OCMP).

Routine Program Changes:

- OCRM concurred with the incorporation of the Coos County Comprehensive Plan and Zoning and Land Development Ordinance on February 18, 2014. The initial notice DLCD provided on October 1, 2013, and the supplemental notice issued on December 18, 2013 provide details of the routine program change request.
- OCRM concurred with the incorporation of the City of Coos Bay Comprehensive Plan and Zoning Ordinance on March 6, 2014. The initial notice DLCD provided on November 1, 2013 provides details of the routine program change request.
- OCRM concurred with the incorporation of the City of North Bend Comprehensive Plan and Zoning Ordinance on March 6, 2014. The initial notice DLCD provided on November 1, 2013 provides details of the routine program change request.

Federal consistency will apply to the changes that OCRM approved starting March 13, 2014.

ADDITIONAL INFORMATION: Copies of the notices referenced above and tables listing the approved changes are posted on the DLCD website, under Public Notices for Coastal Program Updates, at: http://www.oregon.gov/LCD/OCMP/PublicNotice_Intro.shtml.

If you have questions regarding this notice, please contact Juna Hickner, Coastal State-Federal Relations Coordinator, at juna.hickner@state.or.us or (503) 934-0029.
Ms. Patricia L. Snow, Manager  
Oregon Coastal Management Program  
Department of Land Conservation and Development  
635 Capitol Street, Suite 150  
Salem, Oregon 97301-2540  

Dear Ms. Snow:

Thank you for the Department of Land Conservation and Development’s (DLCD) October 1, 2013, request to incorporate the current versions of the Coos County Comprehensive Plan (which includes the Coos Bay Estuary Management Plan and the Coquille River Estuary Management Plan), and the Coos County Zoning and Land Development Ordinance, into the Oregon Coastal Management Program. You requested that the changes described below be incorporated as routine program changes (RPCs), pursuant to Coastal Zone Management Act (CZMA) regulations at 15 C.F.R. part 923, subpart H, and Office of Ocean and Coastal Resource Management (OCRM) Program Change Guidance (July 1996). OCRM received the original request on October 21, 2013 and the addendum containing the complete Coos Bay Estuary Management Plan on December 18, 2013. OCRM’s decision deadline was extended to February 18, 2014 (the 120-day deadline).

Based on our review of your submission, we concur, with the exceptions described below, that the changes are RPCs and we approve the incorporation of the changes as enforceable and non-enforceable policies of the Oregon Coastal Management Program. Federal Consistency will apply to the approved changes to enforceable policies only after you publish notice of this approval pursuant to 15 C.F.R. § 923.84(b)(4), and the new and revised enforceable policies shall only be applied to applications for federal authorizations filed after OCRM’s approval. Please include in the public notice the list of changes provided in this letter, and please send a copy of the notice to OCRM.

**CHANGES APPROVED**

See enclosed list of the changes incorporated into the Oregon Coastal Management Program.

**QUALIFICATIONS**

States may not incorporate enforceable policies by reference. If an approved enforceable policy refers to another regulation, policy, standard, guidance, or other such requirement or document (hereinafter “referenced policy”), the referenced policy itself must be submitted to and approved by OCRM as an enforceable policy in order to be applied under the federal consistency review provisions of the CZMA. Therefore, no requirement or document referenced in the approved enforceable policies may be applied for federal consistency unless that requirement or document has separately been approved by OCRM.
Additionally, OCRM asked DLCD to confirm that the “consistency statements” language in the Coos County Comprehensive Plan Vol. I, Part 1 is not referring to federal consistency under the CZMA. DLCD confirmed, stating: “the text refers to Coos County’s right and ability to comment on state and federal permit applications, with regards to the application’s consistency with county land use requirements. Coos County does not make federal consistency decisions.” (See email from Juna Hickner (DLCD) to Jackie Rollerl and Kris Wall (OCRM) on January 21, 2014).

**CHANGES NOT APPROVED**

OCRM does not approve the definition of “Continental Shelf” in the Coos County Comprehensive Plan Vol. II, Part I, Sec. 3.2 and Vol. III, Part I, Sec. 5, and the Coos County Zoning and Land Development Ordinance Ch. II, Sec. 2.1.200. The definition provided in these sections differs from that in the State’s OCRM-approved Territorial Sea Plan, which is the controlling definition for federal consistency review purposes.

In addition, OCRM does not approve the Coos County Comprehensive Plan Vol. I, Part 1, Section 5.18, Strategies 1 and 3 as enforceable policies. Due to inadvertent error, the State’s program change submission table included Strategy 1 when the State had actually intended to incorporate Strategy 3 and not Strategy 1. Similarly, the Coos Bay Estuary Management Plan, as contained in the Coos County Comprehensive Plan Vol. II, Part I, Sec. 3.8 (Uses and Activities Matrix) was not included in the State’s program change submission table but was intended to be incorporated into the Oregon Coastal Management Program as an enforceable policy. OCRM concurs that Strategy 3 and Sec. 3.8 are enforceable policies, but cannot approve them as such until the State provides the requisite public notice and resubmits the provisions in a subsequent program change.

**PUBLIC AND FEDERAL AGENCY COMMENTS**

OCRM received no comments on this RPC submission.

Thank you for your cooperation in this review. Please contact Jackie Roller at 301-563-1179, if you have any questions.

Sincerely,

[Signature]

Joelle Gore, Acting Chief
Coastal Programs Division

Enclosure(s): Policies Approved and Incorporated into the Oregon Coastal Management Program
Exhibit 12
BEFORE THE BOARD OF COMMISSIONERS
OF THE COUNTY OF COOS, OREGON

IN THE MATTER OF AMENDING THE COOS COUNTY ZONING & LAND DEVELOPMENT ORDINANCE AND COMPREHENSIVE PLAN FLOODPLAIN PROVISIONS

This matter came before the Coos County Board of Commissioners sitting for the transaction of business on the 13th of March 2014, concerning amendments to the Coos County Zoning and Land Development Ordinance (CCZLDO) and Coos County Comprehensive Plan (CCCP).

WHEREAS, the Coos County Board of Commissioners initiated a legislative amendment to consider amendments to the CCZLDO to amend the floodplain provisions of Article 4.6, and Plan Policy 5.11.

WHEREAS, the proposed amendments were considered by the Planning Commission at public hearing on March 6, 2014, and following deliberation, the Planning Commission recommended the Board of Commissioners approve the proposal with some edits;

WHEREAS, Coos County Zoning and Land Development Ordinance Article 1.2 specifies the process to approve a change in the text of said Ordinance.

WHEREAS, the Board considered the recommendation of approval from the Coos County Planning Commission as well as testimony from interested parties; and,

WHEREAS, the Board has received the Planning Department staff report, Planning Commission recommendation, testimony, evidence and all materials submitted at the public hearings on March 13, 2014. The Board of Commissioners hereby adopts the proposed changes found in Attachment A.

ADOPTED this 13th day of March 13, 2014.

BOARD OF COMMISSIONERS

[Signatures]

Commissioner

Commissioner

[ABSENT]

Commissioner

ATTEST:

[Signature]

Recording Secretary

APPROVED AS TO FORM:

[Signature]

Office of County Counsel

Ordinance 14-02-001PL

-1-
Exhibit 13
NOTICE OF PLANNING DIRECTOR'S DECISION/PUBLIC NOTICE

This notice is to serve as public notice and decision notice and if you have received this notice by mail it is because you are a participant, adjacent property owner, special district, agency with interest, or person with interest in regard to the following land use application. Please read all information carefully as this decision may affect you. (See the vicinity map on the reverse side for the location of the subject property).

NOTICE IS HEREBY GIVEN that the Coos County Planning Director rendered the following decision on MARCH 22, 2012:

APPROVED IN PART *, File No. ABI-12-01. A request for boundary interpretations pursuant to the Coos County Zoning and Land Development Ordinance (LDO). The subject property is identified as Township 25, Range 13, Sections 3/4 and Tax Lots 200/100. The owner is Weyerhaeuser NR Company and the applicant is S&H Engineering. The applicant is seeking interpretations based on the listed criteria as follows: LDO

Section 4.1.400 Interpretation of Zoning District Boundaries Adjust and correct the exact location of the Northern boundary of the 7-D zone.

Section 4.1.450 Interpretation of Coastal Shorelands Boundary Adjust the exact location of the Coastal Shorelands Boundary

Section 4.6.205 (D) Designation of Flood Areas Adjust the exact location of the inland limit of the 100-year floodplain

The property owner previously operated a liner board facility on the property. Existing structural development is in the northeast corner of the property west of the Coos Bay Rail Link in Section 3. This development includes a tank, building and sub-station. The property is located within the Industrial (IND), 7-Development Shorelands (7-D), 8-Water Dependent (8-WD) and 8 Conservation Aquatic (8-CA) zoning districts.

*PLEASE NOTE – Decisions are subject to requirements and conditions stated in the staff report.

The application and all documents and evidence contained in the record, including the staff report and the applicable criteria, are available for inspection, at no cost, in the Planning Department located at 225 North Adams Street, Coquille, Oregon. Copies may be purchased at a cost of 50 cents per page.

Pursuant to Article 5.8 of the CCZLDO, this decision may be appealed to the Coos County Hearings Body within 15 days of the date notice of this decision is mailed, by filing a Notice of Appeal (NOA) with the Planning Department on the NOA form provided by the Department, along with the required filing fee. This means appeals must be received in the Planning Department by 5:00 p.m. on APRIL 6, 2012; otherwise, the appeal is not timely and will not be considered. Appeals should be submitted in the form of one (1) original and fourteen (14) copies. If copies are not provided, the Planning Department will make the copies at a cost of 50 cents per page billed to the submitter. The decision on this application will not be final until the period for filing an appeal has expired. Pursuant to Oregon Revised Statutes (ORS) 197.830, the decision cannot be appealed directly to the Land Use Board of Appeals.

Further explanation concerning any information contained in this notice can be obtained by contacting the Planning Department at (541) 396-3121 or 756-2020, extension 210, or by visiting the Planning Department between the hours of 8:00 AM – 5:00 PM (closed noon – 1:00 PM), Monday through Friday.

COOS COUNTY PLANNING DEPARTMENT
Staff Contact: Jill Rolfe, Administrative Planner; Patty Evernden, Planning Director

POSTED & MAILED ON: MARCH 22, 2012
POST THROUGH: APRIL 6, 2012
COOS COUNTY PLANNING DEPARTMENT

File: ABI-12-01
Owner: Weyerhaeuser
Location: Township 25S Range 13W
Sections 03/04 Tax Lots 200/100
Proposal: Boundary Interpretation

This map was generated by the Coos County Planning Department
Exhibit 15
----- Original Message -----
From: Jill Rolfe
To: Jody McCaffree
Sent: Friday, November 30, 2012 2:44 PM
Subject: FW: SP-12-02 Zone Map

Jody,

Attached is the correct zone map after the administrative boundary interpretation was done by Patty.

We have the notice ready to go in the mail today. The applicants sent a request for reconsideration. You will receive an electronic copy as soon as Troy gets it ready to go which will be shortly.

Thank you,

Jill Rolfe
Interim Planning Director
Coos County Planning Department
225 N. Adams St.
Coquille OR 97423
250 N. Baxter (Mailing)
541-396-7770
planning@co.coos.or.us

---

From: Christopher MacWhorter
Sent: Thursday, November 29, 2012 2:11 PM
To: Jill Rolfe
Subject: SP-12-02 Zone Map
COOS COUNTY PLANNING DEPARTMENT

Mailing Address: 250 N. Baxter, Coos County Courthouse, Coquille, Oregon 97423
Physical Address: 225 N. Adams, Coquille Oregon
Phone: (541) 396-7770
Fax: (541) 396-1022/TDD (800) 735-2900

File: SP-12-02
Applicant/Owner: SHN Consulting Engineers/Geologists/Weyerhaeuser NR Company
Location: Township 25S Range 13W Section 3/4 TL 200/100
Proposal: Site Plan Review for integrated power generation and processing facility
Exhibit 16
Final Report

Site-Specific Tsunami Modeling at the Jordan Cove LNG Facility
Coos County, Using New Cascadia Sources

Prepared by
Y. Joseph Zhang, Ph.D.
Center for Coastal Margin Observation & Prediction (CMOP)
Oregon Health & Science University
November 29, 2012

Summary
In 2008, the Center for Coastal Margin Observation & Prediction (CMOP) conducted a site-specific tsunami hazard study (Zhang 2008) for the proposed Liquefied Natural Gas (LNG) Terminal site located east of Henderson Marsh on the North Spit in Coos County, Oregon, across the Coos River shipping channel from the regional airport in North Bend (Fig. 1). Since then, revised Cascadia Subduction Zone (CSZ) sources have been developed by Oregon Department of Geology and Mineral Industries (DOGAMI); the hydrodynamic model has been further developed, validated and certified by National Tsunami Hazard Mitigation Program (NTHMP 2012); and the proposed site topography has been modified. This report summarizes the results of a new tsunami modeling study incorporating these changes. This study has focused on the three largest tsunami scenarios considered in the most recent DOGAMI study. Similar to the previous study, the maximum tsunami wave height occurs near the western boundary of the Terminal site.

Project Overview
The purpose of this investigation is to conduct site-specific tsunami modeling for the proposed Jordan Cove Energy LNG Terminal in Coos County, Oregon, using Oregon Health & Science University’s (OHSU) SELFE hydrodynamic model (Zhang and Baptista, 2008a, b), and new CSZ sources. The goal of the modeling study is to provide criteria for the design of mitigation measures to limit the impact of a tsunami on the site and terminal.

Accurate digital elevation model (DEM) of the site and surroundings has been obtained by CMOP through the NTHMP funded mapping and modeling project for Oregon coast as well as a high-resolution LiDAR survey conducted in February 2008 and made available by GRI. The SELFE hydrodynamic model has been rigorously benchmarked and certified by NTHMP as a tsunami inundation model (NTHMP, 2012). The source model for the CSZ (Hyndman and Wang, 1995) is based on Okada’s (1985) point source model, but is well constrained by geophysical evidence found in the offshore turbidities (Goldfinger, et al., 2012) and onshore sediment cores (Witter, et al., 2011). The concept of multi-deterministic approach adopted here has been expounded by Priest, et al. (2010).
Figure 2 Modified landscape near the LNG terminal. Negative values correspond to dry land. The numbers (60', 46', 40', 46') are raised ground elevations relative to NAVD88. Four stations in the turning harbor are used to examine the elevation and velocity time series. (cf. Fig. 8). Points A, B, C represent locations discussed in Table 2.

Figure 3 Seafloor deformation field for XXL1 near the project site. Subsidence of about 12 ft (3.7 m) is estimated at the site for this event.
Exhibit 17
Exhibit 18
Exhibit 19
May 17, 2013

Mr. Jon Wellinghoff, Chairman
Federal Energy Regulatory Commission
888 First Street N.E.
Washington, D.C. 20426

Dear Mr. Wellinghoff,

I am writing in response to the Federal Energy Regulatory Commission’s (FERC) March 2013 release of the Supplemental Draft Environmental Impact Statement (SEIS) on the Downeast LNG Project. The Government of Canada is committed to protecting the area including Head Harbour Passage and Passamaquoddy Bay, widely recognized as a unique and highly productive marine ecosystem.

Canada continues to have serious concerns with the proposal to construct an LNG terminal on the Maine side of Passamaquoddy Bay. These concerns relate to the environmental, navigational and safety risks as well as the adverse economic consequences arising from the passage of LNG tankers through Head Harbour Passage, New Brunswick, which the Government of Canada opposes.

The SEIS notes that co-ordination with the Government of Canada will be required to enable the safe and secure movement of LNG tankers through Canadian waters. As was reiterated in our July 7, 2009, letter to the FERC, the waters of Head Harbour Passage are internal waters of Canada by virtue of historic title and are therefore subject to the control and regulation of the Government of Canada. Given that LNG vessels would need to transit through Head Harbour Passage as well as the New Brunswick side of Passamaquoddy Bay, our position remains that this proposal cannot proceed. Canada will not cooperate in any coordination planning with U.S. authorities; nor will our Government curtail the use of Head Harbour Passage and Passamaquoddy Bay in order to accommodate the incursion of LNG tankers.

Canada and the United States share the closest and most integrated bilateral relationship in the world and have an extensive history of cooperation on energy and other transboundary issues. I look forward to working with you on further strengthening this important relationship in a way that considers the concerns and needs of both our countries.

Sincerely,

Gary Doer
Ambassador