October 18, 2013

VIA EMAIL

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

Re: Pacific Connector Gas Pipeline Removal of Condition; File No. HBCU-13-02  
Applicant's Final Written Argument

Dear Mr. Stamp:

This letter is written on behalf of Williams Pacific Connector Gas Operator, LLC ("Williams") in support of the application by Pacific Connector Gas Pipeline Company, L.P. ("Pacific Connector") to modify Condition B.25 of File No. HGCU-10-01 for the Pacific Connector Gas Pipeline as reflected in the Final Decision and Order of the Board of Commissioners No. 10-08-045PL. As then established, Williams will manage the construction and operation of the Pacific Connector Gas Pipeline ("PCGP") and will manage its day-to-day business affairs as a contractor for the owners.

This letter provides the applicant's final written argument. Please make this letter part of the hearing record.

This letter sets forth the applicant's legal arguments regarding the various issues raised by written or oral testimony presented prior to, during and after the public hearing, as listed below:

1. Modifying Condition 25 Serves the Public Interest.

As stated in the application, modifying Condition 25 will serve the public interest. This argument is not to be confused with the fact that there is no land use "public need" criterion for the approval of the PCGP, a separate issue also addressed below.
Modifying Condition 25 to allow the PCGP to be used to support an LNG export terminal would serve the public interest. Specifically, ORS 770.065 is a legislative acknowledgment that "Assistance and encouragement of enhanced world trade opportunities are an important function of the state, and that development of new and expanded overseas markets for commodities exported from the ports of this state has great potential for diversifying and improving the economic base of the state. Therefore, development and improvement of port facilities suitable for use in world maritime trade at the Port[s] of ... Coos Bay ... is declared to be a state economic goal of high priority. All agencies of the State of Oregon are directed to assist in promptly achieving the creation of such facilities by processing applications for necessary permits in an expeditious manner and by assisting the ports involved with available financial assistance or services when necessary." [Emphasis added.] Accordingly, modifying Condition 25 to allow the PCGP to be utilized in conjunction with an LNG export terminal in conjunction with a marine terminal operated by the Oregon International Port of Coos Bay is in the public interest, as identified by the above-referenced statute.

On the separate issue of whether there is a land use public need criterion for the PCGP, a project-specific determination of "public interest" will be made for the PCGP by the Federal Energy Regulatory Commission (FERC), but not by Coos County. Federal law gives FERC the authority to determine whether an interstate gas pipeline is necessary. Under Section 7(c) of the Natural Gas Act, 15 U.S.C. § 717f(c)(1)(a), a FERC-issued "certificate of public convenience and necessity" is necessary in order to construct an interstate gas pipeline:

"No natural-gas company or person which will be a natural-gas company upon completion of any proposed construction or extension shall engage in the transportation or sale of natural gas, subject to the jurisdiction of the Commission, or undertake the construction or extension of any facilities therefor, or acquire or operate any such facilities or extensions thereof, unless there is in force with respect to such natural-gas company a certificate of public convenience and necessity issued by the Commission authorizing such acts or operations . . . ."

2. **Condition 25 Is Not Required to Ensure Compliance With Criteria.**

As recognized by the Hearings Officer during the public hearing, the findings made at the time of the adoption of the condition make it overwhelmingly clear that Condition 25 is not required to ensure compliance with any applicable criteria. The remainder of this section of our argument will be redundant of the information provided in the application.

As indicated in the Final Decision, Condition 25 does not ensure compliance with any identified approval criteria. As such, deleting or modifying the condition would not cause the PCGP to be non-compliant with any criteria.
The impetus for Condition 25 arose in the context of whether the pipeline facility was "necessary" or "needed" for purposes of ORS 215.275, which provides that a utility facility is necessary for public service when it must be located in an Exclusive Farm Use zone in order to provide the service. The statute articulates factors that will demonstrate whether a facility is "necessary." Because OAR 660-033-0139(16) exempts Federal Energy Regulatory Commission (FERC)-regulated pipelines (such as the PCGP) from the "necessary for public service" test, the Board determined in the Final Decision that ORS 215.275(1) was preempted by federal law and thus not applicable to the PCGP. See Final Decision at 116-119.

Notwithstanding the state of the law, the opponents contended that the PCGP was not needed or "necessary" to serve the U.S. market and thus there was a purported concern that the PCGP would be used to transport natural gas that might be converted to LNG and ultimately exported from the United States:

"WELC addresses this criterion by arguing that '[r]eams of testimony submitted to [FERC] explained how the *** pipeline is not at all necessary in order for natural gas to be provided to US residents.' See Letter from WELC staff attorney Jan Wilson dated June 8, 2010, at p. 5. Ms. Wilson goes on to state that California and other states will not need natural gas, and that 'the threat of this pipeline being used to bring domestic natural gas *** to a coastal terminal is very real.' Id."

Final Decision at 120. In responding to this issue, the Board concluded that it lacked any legal basis under state or local law to impose a limitation on which direction the natural gas would travel within the PCGP and only imposed Condition 25 because Pacific Connector acquiesced to it:

"Frankly, the Board fails to understand why, from a land use perspective, it matters which direction the gas is traveling, or why exporting gas is a 'threat.' To the contrary, it seems that if the United States is to be faulted, it is because it fails to export enough goods to other countries. Nonetheless, if 'reams of testimony' were submitted to FERC, then it seems proper that FERC decide the issue. There is no County zoning code provision that requires the County to make that decision.

"At the hearing, the applicant agreed to a condition of approval limiting the use of the pipeline to import use. Regardless, case law makes clear that the issue of whether new gas pipelines are 'needed' is not relevant to any approval standard contained in ORS 215.275 or CCZLDO §4.9.450. Sprint PCS v. Washington County, 186 Or App 470, 63 P3d 1261 (2003); Dayton Prairie Water Ass'n v. Yamhill County, 170 Or App 6, 11 P3d 671 (2000)."
Final Decision at 120 (emphasis added). Thus, on the basis of the Board's own findings, the condition was not imposed to ensure compliance with any provisions of state or local law. Therefore, deleting or modifying the condition will not cause the PCGP to become non-compliant in any way.

As stated at the hearing, to the extent that Condition 25 was imposed because the applicant acquiesced to it at the hearing, the applicant hereby withdraws its consent to the condition.

3. **NEPA Not Relevant.**

Opponents have argued that no land use permits can be applied for or obtained prior to the completion of the NEPA environmental impact analysis. However, NEPA does not apply to state or local actions and only applies to the decisions of federal agencies, as "major federal actions." 42 U.S.C. § 4332(2)(C) (emphasis added). NEPA was enacted by Congress for the environmental review of actions carried out by the federal government, and imposes certain obligations on the federal government, but not state or local governments. See 42 U.S.C. § 4331(b). A requirement of NEPA is that all agencies of the federal government prepare an environmental impact statement ("EIS") when they undertake or fund "major federal actions" that significantly affect the quality of the human environment, but once again the obligation is on a federal agency and not on a local or state government. 42 U.S.C. § 4332(2)(C); see also 40 C.F.R. § 1501.4 (the Council on Environmental Quality's NEPA regulations also explicitly reference that a federal agency is the responsible party for completing an EIS, "[i]n determining whether to prepare an environmental impact statement the Federal agency shall . . . .") (emphasis added). The courts have also found that "NEPA does not regulate the conduct of private parties or state or local governments. NEPA requires the federal government to issue an environmental impact statement before taking any action 'significantly affecting the quality of the human environment.'" 42 U.S.C. § 4332(2)(C). Since NEPA requires only action by the government, no private party can comply with NEPA. It is for that reason that in a lawsuit to compel compliance with NEPA, no one but the federal government can be a defendant." Forest Guardians v. Bureau of Land Management 188 F.R.D. 389, 393 (D.N.M. 1999).

It is clear that the local and state permitting processes are separate from the federal NEPA process. As a result, Coos County is only obligated to comply with its code and applicable state law -- nothing more or less. Neither the CCZLDO nor state law requires or even authorizes delaying a final decision in a quasi-judicial land use proceeding so that a federal agency that is not even a party to the proceeding can comply with NEPA in issuing a separate federal permit or approval. The legislature, moreover, has made it clear through the statutory time limits of ORS 215.427 that applications for land use permits are to be processed expeditiously to a final decision. The legislature did not authorize local governments to suspend those time limits while
a federal agency completes NEPA documentation. The applicant has not and will not agree to suspend the applicable time limit.

4. The Type of LNG Terminal Served by PCGP is Irrelevant.

The applicant presented oral testimony at the hearing and written testimony thereafter by Robert Peacock, Project Manager, that the physical nature of the PCGP in Coos County would be identical regardless of whether the PCGP was used to support an LNG export terminal versus an LNG import terminal. Further testimony was submitted to rebut the assertion by opponents that an export LNG terminal would utilize "dirty" natural gas which would have a corrosive effect on the interstate gas pipeline system. The applicant rebutted that erroneous testimony with surrebuttal evidence based upon information obtained from Mr. Robert Braddock of the Jordan Cove Energy Project, LP.

5. Condition 25 is Subject to Federal Preemption.

The fact that Condition 25 is preempted by federal law is an argument which has been preserved by the applicant throughout the application for the alternative alignments, as well as the original application for the entire PCGP alignment. In the Prior Decisions reflected in this hearing record, the Hearings Officer made significant findings in support of the proposition that federal law would have a preemptive effect. We hereby repeat the relevant section of the Prior Decisions so finding. A copy of Appendix A., Discussion of Federal Preemption Issues, is attached hereto and incorporated herein by reference into the applicant's final written argument.

6. Request to Delete Condition Converted to Request to Modify Condition.

As discussed at the public hearing, the application requested that Condition 25 be deleted. However, the Planning Director has pointed out that the relevant section of the CCZLDO, at Section 5.0.350C provides that, "At an applicant's request, the county may modify or amend one or more conditions of approval for an application previously approved and final." [Emphasis added.] Accordingly, in order to avoid any potential issue on appeal, the applicant has modified its request for the deletion of Condition 25 to a request to modify Condition 25 and to modify it with the language recommended by the Planning Director in her staff report submitted in advance of the public hearing.
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c/o Jill Rolfe, Planning Director  
Coos County, Oregon  
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For the reasons set forth above, the application should be approved with Condition 25 being modified as recommended by the Planning Director and as agreed to by the applicant.

Thank you for your attention to this matter.

Very truly yours,

Mark D. Whitlow

MDW:sv  
cc:  Pacific Connector Gas Pipeline, LP  
Mr. Robert Braddock, JCEP
Appendix A. Discussion of Federal Preemption Issues.

The proposed pipeline is authorized pursuant to Section 7 of the Natural Gas Act. ("The Natural Gas Act" or "NGA"), 15 U.S.C. §§ 717 et seq. Section 7 of the NGA authorizes the FERC to issue "certificate[s] of public convenience and necessity" for the construction and operation of natural gas facilities for the transportation of gas in "interstate commerce." The standard for evaluating an application for a certificate of public convenience and necessity is stringent: the FERC must find that the proposed project is "necessary or desirable in the public interest." To find that an action is necessary or desirable, the FERC must determine that the applicant is willing and able to satisfy a panoply of requirements enumerated in section 7, and that the action "is or will be required by the present or future public convenience and necessity." This higher standard is consistent with the extraordinary power of eminent domain that accompanies a certificate of public convenience and necessity.

The Supreme Court has held that the Natural Gas Act "confers upon FERC exclusive jurisdiction over the transportation and sale of natural gas in interstate commerce for resale." *Schmeidewind v. ANR Pipeline Co.*, 485 U.S. 293, 108 S.Ct. 1145, 1151, 99 L.Ed.2d 316 (1988). This creates an issue of whether state or local laws that conflict with FERC approvals are preempted by federal law.


Unlike the pipeline facility, which is authorized under Section 7 of the NGA, the proposed Jordan Cove LNG terminal itself is authorized pursuant to Section 3 of the Act. *See e.g., AES Sparrow Point LNG, LLC v. Smith*, 470 F.Supp.2d 586 (D.Md.,2007); *AES Sparrow

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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.

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Point LNG, LLC v. Smith, 527 F.3d 120 (D.C. Md. 2008); (NGA Terminals); Subject to the exceptions discussed below, FERC has exclusive authority under Section 3 of the Natural Gas Act to authorize the siting of LNG terminals. 58 That authorization is conditioned on the applicant's satisfaction of other statutory requirements for various aspects of the project. For example, FERC requires a party seeking to construct an LNG terminal to first obtain authorization from FERC. 15 U.S.C. § 717b(a). In order to do so, applicants must comply with the NGA's requirements as well as complete FERC's extensive pre-filing process. See 18 C.F.R. § 157.21. FERC must then consult with the appropriate state agency on numerous state and local issues. See 15 U.S.C. § 717b-1(b). See also generally Jacob Dweck, David Wochner, & Michael Brooks, Liquefied Natural Gas (LNG) Litigation after the Energy Policy Act of 2005: State Powers in LNG Terminal Siting, 27 ENERGY L.J. 473 (2006) (describing the history of conflict between federal and state authorities over the siting of LNG terminals).

However, as mentioned above, FERC's authority over LNG terminals is not absolute. The NGA contains a "savings clause" that provides that "nothing in the [NGA] affects the rights of States under" the Coastal Zone Management Act ("CZMA") and [the Clean Water Act and the Clean Air Act]. 59 15 U.S.C. § 717b(d). Although the exception created by the Savings Clause seems to only apply to Certificates issued pursuant to Section 7 of the Act, it does reflect provisions of the CZMA that apply to Certificates issued under Section 7 of the NGA as well.

Thus, the federal preemption issue in this case is complicated by the fact that much of the County is subject to the CZMA and the Oregon Coastal Management Program (OCMP). The CZMA act states: "Each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs." 16 U.S.C. § 1456(c)(1). See also 15 CFR § 930.34 et seq. Weaver's Cove Energy, LLC v. Rhode Island Coastal Resources Management Council, 589 F.3d 458 (D.C. R.I. 2009).

The U.S. Congress passed the federal CZMA in 1972 to address competing uses and resource impacts occurring in the nation's coastal areas. The Act included several incentives to encourage coastal states to develop coastal management programs. One incentive was a legal authority called "federal consistency" that was granted to coastal states with federally approved coastal management programs. As relevant here, the federal consistency provisions of the CZMA require that any federal action occurring in or outside of Oregon's coastal zone which affects coastal land or water uses or natural resources must be consistent with the Oregon Coastal Management Program. 16 U.S.C. § 1456(c)(3)(A). The federal consistency requirement is a

58 "FERC shall have the exclusive authority to approve or deny an application for the siting, construction, expansion, or operation of an LNG terminal." 15 U.S.C. § 717b(e)(1). The pipeline, however, is apparently not part of a terminal.

59 Under Section 401 of the Clean Water Act, a certification of compliance with the state's water quality standards is required from DEQ for any activity that may result in a discharge into navigable waters. If the 401 certification is denied, the LNG facility cannot be constructed. Similar permits are required from the U.S. Army Corps of Engineers and DEQ for discharge of dredged and fill material. Section 502 of the Clean Air Act, a permit is required for any person to operate a source of air pollution, as detailed in the Act.

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rather unique concept in that state programs for coastal management cannot generally be preempts by federal law.

Nonetheless, the exact degree of regulatory power the CZMA exclusion gives the state is somewhat unclear. As mentioned above, under Section 307(c) of the Coastal Zone Management Act, an applicant must certify that the proposed activity in a designated coastal zone complies with the enforceable policies of the affected state's coastal zone management program. This applies to all Federal permits and authorizations, including FERC and the U.S. Army Corps of Engineers. If the state does not concur with the certification, FERC approval to construct may not generally be granted. Having said that, the State’s CZMA role is very limited. The Commission's only responsibility under the CZMA is to withhold construction authorization for a project until the state finds that the project is consistent with the state's NOAA-approved coastal zone management plan. In addition, there is also an appeals process established with the CZMA. On appeal, the Secretary of Commerce may determine that there are overriding national security interests that justify approval of the project over the state’s objection.61

It is unlikely that the applicant in this case would ever have to resort to an appeal to the Secretary, however, since the OCMP does not appear to prohibit the proposed use in any event. Oregon’s Coastal Management Program recognizes that water-dependent activities (such as LNG terminals) require priority consideration, and has set up management zones in areas that are suitable for such water-dependent uses. The proposed Jordan Cove LNG terminal is located in an area which the Comprehensive Plan deems suitable for such use. A pipeline itself is generally not a water-dependent use. However, in this case there is no feasible alternative that avoids a significant water crossing in the Coastal Zone.

Another key factor to consider is that Oregon’s Coastal Management Program does not have an “alternatives analysis” requirement for evaluating the route of an interstate natural gas pipeline, unless an exception to a Goal is required. The OCMP is implemented via the Statewide Planning Goals (specifically Goals 16-19), which, in turn, have been adopted into the County’s Comprehensive Plan. In this regard, the OCMP states:

60 DLCD is the state of Oregon’s designated coastal management agency and is responsible for reviewing projects for consistency with the OCMP and issuing coastal management decisions. DLCD’s reviews involve consultation with local governments, state agencies, federal agencies, and other interested parties in determining project consistency with the OCMP. DLCD’s federal consistency decisions are called "coastal concurrences" [approvals] and "coastal objections" [denials]. Objections can be based on an inconsistency with coastal program policies or a lack of sufficient information to determine consistency. In the event of a formal DLCD objection, federal permits, licenses and financial assistance grants cannot be issued, and direct federal activities cannot proceed unless compliance with the OCMP is specifically prohibited by other federal law.

61 Under Section 307(c)(3)(A), the CZMA provides that the Secretary must override a state's objection to a proposed project that requires a federal license or permit if the project is “necessary in the interest of national security.” 16 U.S.C. § 1456c(3)(A). A project is not “necessary in the interest of national security” unless a “national security interest would be significantly impaired were the activity not permitted to go forward as proposed.” 15 C.F.R. § 930.122.
Coastal comprehensive plans have been especially considerate of the national needs for new facilities for energy development, fisheries, development, recreation, ports, and transportation. Major deep and shallow draft ports have identified shoreline areas for new port facilities to support energy resource transshipment, development of new fish processing facilities and areas for expanded marinas.

Even in the event that a pipeline would violate a comprehensive plan standard, the applicant could pursue an exception to a Statewide Planning Goal. As mentioned above, that process would trigger an alternatives analysis.

In addition to other considerations, Congress has also expressly preempted a state or local government's ability to regulate issues related to the safety of pipelines. The Natural Gas Pipeline Safety Act of 1968 originally directed the Secretary of Transportation to establish minimum federal safety standards for the design, installation, inspection, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities used for the transportation of gas. The Act's text, its legislative history, administration implementation,

For example, 49 U.S.C. Chapter 601 sets out federal safety standards for gas pipelines. 49 U.S.C. § 60104(c) states: "Preemption: A State authority that has submitted a current certification under section 60105(a) of this title may adopt additional or more stringent safety standards for intrastate pipeline facilities and intrastate pipeline transportation only if those standards are compatible with the minimum standards prescribed under this chapter. A State authority may not adopt or continue in force safety standards for interstate pipeline facilities or interstate pipeline transportation. Notwithstanding the preceding sentence, a State authority may enforce a requirement of a one-call notification program of the State if the program meets the requirements for one-call notification programs under this chapter or chapter 61.

Prior to 1994, there were two Acts controlling the area of interstate pipeline safety - the Natural Gas Pipeline Safety Act of 1968 (NGPSA) and the Hazardous Liquid Pipeline Safety Act of 1979 (HLPSA). The NGPSA and the HLPSA were combined and recodified without substantial change at 49 U.S.C. §§ 60101 to 60125 in 1994. See P.L. 103-527, 108 Stat. 1371 (July 5, 1994). The two similar provisions from each Act pertaining to preemption were consolidated into what is now 49 U.S.C. § 60104(c). Compare 49 U.S.C. § 60104(c) with 49 U.S.C. § 1672(a)(1) (NGPSA) and 49 U.S.C. § 2002(d) (HLPSA). Title 49 U.S.C. § 1672(b) (1972) originally provided for the establishment of minimum federal safety standards for the transportation of gas. The section concluded:

'Any State agency . . . may not adopt or continue in force the minimum Federal safety standards referred to in this subsection become effective any such standard applicable to interstate transmission facilities.'

The relationship of Federal-State regulatory authority created by this bill differs as between local pipelines and interstate transmission lines. In the latter area, the lines of a single transmission company may traverse a number of States and uniformity of regulation is a desirable objective. For this reason, section 3 provides for a Federal preemption in the case of interstate transmission lines. H.R.Rep.No.1390, 90th Cong., 2d Sess. (1968); 3 U.S.Code Cong. & Admin.News, 90th Cong., 2d Sess. pp. 3223, 3241 (1968).

In 1973, the Secretary of Transportation reported to Congress that the Department of Transportation through its Office of Pipeline Safety exercised exclusive authority for safety regulation of interstate gas transmission lines. See Federal-State Relations in Gas Pipeline Safety 3, 7, 10 (1973).

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and judicial interpretation, attest to federal preemption of the field of safety with respect to the establishment and enforcement of standards regulating the interstate transmission of gas by pipeline. *ANR Pipeline Co. v. Iowa State Commerce Commission*, 828 F.2d 465, 470 (8th Cir. 1987) (Iowa may not impose its own safety standards on facilities). The constitutional basis of preemption is the commerce clause, and the supremacy clause.

In addition, FERC has ruled that state agencies could not use state law to “prohibit or unreasonably delay the construction or operation of [LNG] facilities approved by this Commission.” *Weaver's Cove Energy, LLC*, 112 F.E.R.C. ¶61070, at ¶ 61,546, *on rehearing*, 114 F.E.R.C. ¶61058, at 61185-6.

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65 The 'Natural Gas Pipeline Safety Act of 1968' has entered the field of 'design, installation, inspection, testing, construction, extension, operation, replacement and maintenance of pipeline facilities.' As applied to interstate transmission pipelines, the Safety Act must prevail over and pre-empt any state law. See *United Gas Pipeline Co. v. Terrebonne Parish Police Jury*, 319 F.Supp. 1138, 1139 (E.D.La. 1970), aff’d 445 F.2d 301 (5th Cir. 1971). See also generally *Northern Border Pipeline Co. v. Jackson County*, 512 F.Supp. 1261 (D.Minn. 1981) (Natural Gas Pipeline Safety Act of 1968 barred a condition on a construction permit requiring that the gas line be buried a minimum of six feet); *Williams Pipe Line Co. v. City of Mounds View*, 651 F Supp 551 (1987).

66 U.S.Const., art. I, 8.

67 U.S.Const., art VI.

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