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Re: ORCA et al Comments on Pacific Connector Gas Pipeline, File No. HBCU-13-04 and HBCU-13-02

On behalf of Oregon Coast Alliance, Rogue Riverkeeper, Sierra Club, Cascadia Wild, Food & Water Watch and Bob Barker, please accept these comments on the Pacific Connector gas pipeline application (File No. HBCU-13-04 and HBCU-13-02).

HBCU-13-04

The Project

Pacific Connector, the Applicant, previously applied to and received authorization from the Federal Energy Regulatory Commission (FERC) to construct, install, own, operate and maintain an interstate natural gas pipeline to transport natural gas from the Jordan Cove liquefied natural gas (LNG) terminal. Coos County approved a conditional use application in March 2012 for the pipeline. However, the Applicant has now recanted its previous proposal for importation (despite repeated assurances) and changed its request to allow for exportation of LNG.

The Applicant requests a supplement to the previously approved pipeline route (Order No. 10-08-045PL (September 8, 2010) and Order No. 12-03-018PL (March 13, 2012)). The current pipeline request is an alternate pipeline alignment. If approved, the pipeline would cross Forest Mixed Use (FMU) zone, Exclusive Farm Use (EFU) zone, and two Coos Bay Estuary Management Plan (CBEMP) Segments, including Conservation Aquatic (20-CA) and Rural Shoreland (20-RS) zones.
Currently, there is no approved FERC order for the pipeline request, and any subsequent modifications by FERC will likely require additional land use review.

**Forest Zone**

The Forest Zone protects designated forest lands for forest uses, except where findings establish that certain limited non-forest uses may be allowed. Mixed farm-forest areas include land which is currently or potentially in farm-forest uses. Typically such lands are those with soil, aspect, topographic features and present ground cover that are best suited to a combination of forest and grazing uses.

Approximately 1.7 miles of pipeline will be placed within the FMU zone.

**Exclusive Farm Use Zone**

The purpose of the EFU zone is to preserve the integrity and encourage the conservation of agricultural lands within Coos County. Non-farm uses are permitted as dependent upon or accessory to supporting agricultural or forestry productions.

Approximately 1.2 miles of pipeline will be in the EFU zone.

**CBEMP**

Primary objectives of the CBEMP zone include (1) encouraging the most appropriate use of land and natural resources; (2) facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks, and other public requirements; and (3) to secure safety from flood or other natural hazard.

Riparian protection standards in in the CBEMP provide that “riparian vegetation may be removed to provide direct access for a water-dependent use” and “riparian vegetation may be removed in order to site or properly maintain public utilities and road right-of-ways, provided that the vegetation to be removed is the minimum necessary to accomplish this purpose.” 4.5.180(1).

**Review Criteria for Conditional Uses**

Under Coos County Zoning and Land Development Ordinance (CCZLDO) §§ 4.8.400(A) and (B) and 4.9.400(A) and (B), the proposed use cannot “force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands” and cannot “significantly increase the fire hazard or significantly fire suppression costs or significantly increase risks to fire suppression and personnel.”

Pipelines, including LNG pipelines, are subject to significant risks from ruptures and accidents. In the last three years alone there have been more than 120 pipeline ruptures within the United States with varying degrees of harm to life and property. See Exhibit A (list of pipeline ruptures/accidents from 2000-2013 in the US).
Staff argues that the amount of the pipeline within the EFU and FMU zones is minimal in comparison to the entire project. However, any rupture or accident within either zone could be extensive. Given that the pipeline will be transporting significant amounts of natural gas, if there is a rupture or accident within the EFU or FMU zones, then the possibility for significant impacts is very likely.

Previously, the County allowed for mitigation for loss of income from interruption of forest practices. Also in the previous application, the Applicant submitted information stating that “the incremental increase to cost to timber operator generally amount to a range of 1 to 2 percent.” This apparent calculation fails to address the paramount issue of a rupture/accident associated with the LNG pipeline. Furthermore, it is not clear whether the applicant’s proposal to compensate landowners as part of any loss of forest production extends to ruptures/accidents, which could irreparably alter the farm/forest (and adjacent) lands at issue. Thus, staff’s categorical conclusion that “the applicant has shown that there will be no significant increased cost in accepted forest practices” fails to account for the likelihood of pipeline rupture/accident.

In addition, staff’s categorical conclusion that “[t]he only impact will be at the time of construction” fails to account for the likelihood of ruptures/accidents, which can cause far more extensive impacts than just the footprint of the pipeline itself. Significantly, the Applicant has not demonstrated how it would be able to identify a leak or rupture in the pipeline if it is not evident on the surface.

While the Applicant in its previous application was required to submit a project-specific Public Safety Response Manual to the County, comply with federal safety regulations, coordinate with local emergency response groups, and so forth, the County has not required the applicant to account for the full spectrum of impacts possible from a ruptured pipeline. Thus, the County must require sufficient disclosure about the potential impacts from the pipeline beyond just the footprint of the pipeline in order to adequately assess impacts under the criteria for conditional uses.

**CBEMP Policy 17**

The 20-RS zone management objective requires that areas be managed for rural uses along with recreational access, enhancement of riparian vegetation for water quality, bankline stabilization, and wildlife habitat will be encouraged, particularly for purposes of salmonid protection. Table 20-RS sets forth the uses and activities that are permitted. Specifically, the County must protect significant wildlife habitats included on areas identified on the Shoreland Values Inventory. Here, although the linkage matrix identifies that the 20-RS zoning District contains significant wildlife habitat, the plan maps for the plan area containing the proposed alternate pipeline omit identification of the acknowledged significant wildlife habitat. Based on this apparent error, staff recommends that this particular criterion does not apply. ORCA believes that this criterion still applies to the area identified as significant wildlife habitat and...
that special protective considerations must be given to the key resources in coastal shorelands over and above the protection afforded such resources in the CBEMP. ORCA also observes that the potential impact area associated with the pipeline is not limited solely to the footprint of the pipeline itself. Instead, the pipeline’s impacts could be far more extensive in the event of a rupture/accident.

CBEMP Policy 18

The Applicant has not demonstrated that the riparian vegetation that will be removed to install the pipeline will be the minimum necessary. Therefore, the applicant has not demonstrated compliance with the CBEMP policy 18.

CBEMP Policy 28

Under CBEMP Policy 28, the County must manage all rural lands designated within the Coastal Shorelands Boundary as being suitable for Exclusive Farm Use. Portions of the property are identified as EFU zoned land. Staff acknowledges that EFU uses may be impacted during the construction phase of the project, and that construction will not be complete for roughly 3 years. Staff concludes that “[i]t is not clear that the property will continue to be managed as agricultural land,” and therefore the criterion has been met.

Again, the impacts associated with a rupture/accident have not been assessed. While construction of the pipeline has been addressed, the useful life of the pipeline (and the likelihood and risk of problems associated with an aging pipeline) has not been addressed. In the event of a rupture/accident, it is not clear that the property could continue to be managed as agricultural land. Therefore, the Applicant has not carried its burden in satisfying this criterion.

Request for Stay

Because there is no approved FERC order for the pipeline request, any subsequent modifications by FERC will require additional land use review of the pipeline request. ORCA respectfully requests that the current application be stayed pending approval/denial by FERC. ORCA is concerned that subsequent changes may implicate certain land use issues and environmental issues, and the County may not require further land use approvals.

HBCU-13-02

The applicant proposes to modify or amend condition of approval # 25 for the Pacific Connector Gas Pipeline (No. 10-08-045PL, No. 12-03-018PL) to change to allow for the export of natural gas. Though the Applicant may only propose to modify a condition of approval to change the flow of LNG in the pipeline, the context of this proposal is far different than what was initially set forth. Because the direction of the natural gas has changed to export, the Applicant had to site a power plant that was not anticipated in the original application to change the gas to a liquid state. This power plant changes the calculus, and the new application has not
considered this sea change in the Applicant’s proposal. Thus, the condition of approval is more substantive than just changing the flow of the pipeline; instead, it alters the application significantly given that a new, large-scale power plant must also be included to make the overall project feasible.

**Request to Leave Record Open**

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

Sincerely,

[Signature]

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