United States Department of Agriculture

August 30, 2012

RE: Jordan Cove Energy Project LP
FERC Docket No. PF12-7-000;
and
Pacific Connector Gas Pipeline LP
FERC Docket No. PF12-17-000

USDA-Natural Resources Conservation Service (NRCS) appreciates the opportunity to comment on the proposed project docket numbers PF12-7-000 and PF12-17-000 during this application phase. The draft maps NRCS staff has reviewed indicate that the proposed route would be through the Brunschmid WRP easement, located in the valley just before milepost 11 on the Notice of Intent map (dated August 2, 2012). The major NRCS concerns regarding this project are the potential negative impacts to the operation and function of the 13.41 acres enrolled in permanent conservation easements pursuant to the United States of America Wetlands Reserve Program (WRP). The intent of WRP is to protect, enhance, and restore wetland habitat for migratory birds under the WRP, 16 U.S. C 3837-3837F, 7 CFR Part 1467 (CFDA 10.072).

Taxpayer dollars have been spent to purchase and implement restoration on the Brunschmid WRP easement that the Pacific Connector Gas Pipeline proposes to bisect. This would have substantial negative impacts to the resources and values for which this easement was purchased. NRCS strongly discourages the applicant from pursuing this route through the easement.

NRCS policy regarding WRP easements is that proposed projects must seek to avoid the WRP easement. The Brunschmid WRP easement was recently restored and the potential negative impacts are great. Restoration plans concentrated on recreating a natural tidal marsh and hydrologic regime by planting native plants and encouraging a naturally meandering channel down the valley. These efforts allowed the wetland to rebound after decades of altered hydrology that favored livestock grazing. NRCS and partner organizations such as Coos Watershed Association have helped restore the site using grant and cost-share funds. Activities included hydro-seeding the area with salt-tolerant native species and installing exclosure fencing for selected plots of trees in the upper, freshwater portion of the easement. Tidal flows frequently flood the area now and the change in vegetation is apparent due to the high salinity levels in the tidal flux. A site visit by NRCS’ State Geologist and State Hydraulic Engineer was just completed on May 24th of 2012. Their report was positive, noting that the restoration effort “looks very successful.”

The NRCS Wetlands Reserve Program policy manual governing Infrastructure projects (WRP manual 440_514_F Subpart 514.54) requires NRCS to respond to infrastructure requests proposing to cross WRP easements that first the applicant must avoid the easement. “As the easement holder, NRCS must ensure that lands subject to WRP easements support the intended
conservation purposes for which the easements were purchased.” In this case, the Warranty Easement Deed indicates that the purpose of the WRP easement is to “restore, protect, manage, maintain, and enhance the functional values” of the wetlands.

Under the WRP statute (16 U.S.C. 3837 et seq.) and regulations (7 CFR Part 1467), the NRCS has limited authority to modify these easements once acquired. In particular, modification actions must meet several threshold tests as easement modifications will only be approved to facilitate the practical administration and management of the easement area or the program and to address a compelling public need, as determined by the Director of the Easement Programs Division (EPD), when no reasonable alternatives exist, so long as the modification will not adversely affect the wetland functions and values for which the easement was acquired. Additionally, any adverse impacts to the easement resulting from the modification must be mitigated by enrollment and restoration of other lands that provide greater wetland functions and values at no additional cost to the Government. Modifications must result in equal or greater environmental and economic values to the United States. Additional information on NRCS policy related to easement modification can be found in the WRP Manual at 440 CPM 514, Subpart F, 514.54(C).

Finally, to make FERC and the applicant aware, according to NRCS WRP policy [NRCS WRP manual 440_514_F Subpart 514.54 section C. Modifications to Easements Item (3) vi], Warranty Easement Deeds “generally give NRCS authority to restrict projects from and on easement lands.” In addition, NRCS WRP manual 440_514_F Subpart 514.54 section C. Modifications to Easements Item (3) v indicates that easement lands are not subject to condemnation through eminent domain proceedings, except Federal transportation projects.