Coos County Planning Department  
Coos County Courthouse  
250 N. Baxter,  
Coquille, Oregon 97423

Response to Notice of Public Hearing, File Nos. HBCU-13-02 & HBCU-13-04,  
Pacific Connector Gas Pipeline, dated August 30, 2013.

I would like to preface my comments herein by stating that they will not address in any way my support of or opposition to the Jordan Cove LNG export terminal proposal, including its attendant facilities the PCGP, the South Dunes power plant, and changes to the waterway in Coos Bay. I do recognize that the project, if implemented, would have major and long-term effects on the social, economic, and environmental aspects of our area. With this in mind, I also recognize how critically important it is that the planning processes currently underway at the county, state, and federal levels be carried out in a coordinated, logical, objective, and legally sufficient manner.

I am deeply concerned that processing these two requests for amendments at the county level at this point in the on-going process is neither logical nor objective. Furthermore, doing so now would essentially aid and abet efforts by the Jordan Cove applicant and by FERC to circumvent the letter and intent of the National Environmental Policy Act (NEPA) in a manner prohibited by existing regulations.

I will detail the basis for my concerns within the following discussions of the two proposals under consideration.

PROPOSAL ONE - REQUEST TO MODIFY CONDITION OF APPROVAL

NEPA regulations require that FERC's EIS "specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action".\(^1\) The original EIS for the import terminal was based on Jordan Cove's vigorous arguments that there was an urgent need to import LNG into the region, and that even remotely considering LNG export was "a stupid idea".

In line with this orientation and documentation of need, the county BOC included

\(^1\) 40 CFR 1502.13
a condition in their approval of the PCGP that stated the pipeline "shall not be used to export gas".

Now, Jordan Cove has requested that this condition of approval be deleted from the county permit. No legally sufficient discussion of the purpose and need for a Jordan Cove LNG export terminal currently exists. The rationale used by Jordan Cove to seek this deletion is summarized in their application which states that the public interest is best served by "giving flexibility to JC + PCGP".

Currently, without a comprehensive discussion of the need for LNG exports from Coos Bay, it is completely premature for the BOC to consider the requested change.

The Draft EIS for the export terminal, currently scheduled to be released by FERC later this year, will be required to contain a viable description of the purpose and need of the proposed terminal. The U.S. Environmental Protection Agency has furnished detailed scoping comments to FERC describing what a legally sufficient EIS must contain.\(^2\)

Specifically addressing purpose and need, EPA states that "\textit{The EIS should include a clear and concise statement of the underlying purpose and need for the proposed project.........the EIS should reflect not only the FERC's purpose, but also the broader public interest and need. In supporting the statement of purpose and need, we recommend discussing the proposed project in the context of the larger energy market, including existing export capacity and export capacity under application to the Department of Energy, and clearly describe how the need for the proposed action has been determined}."\(^3\)

Absent the types of information outlined by the EPA, and relying primarily on the assertions of the applicant, it is illogical for the BOC to consider acting on this request prior to the completion of the federal EIS process. With the detailed information contained in a valid and completed EIS in hand, the BOC could proceed in a logical and rationale manner.

I ask that this matter be tabled until the Record of Decision is issued by FERC regarding the Jordan Cove LNG export terminal EIS.


\(^3\) ibid, page 3.
COOS COUNTY has previously approved a pipeline route for the PCGP. Now, Jordan Cove is requesting county approval of changes in portions of the approved route "so as to make sure both the original and the amended portions of the route have the appropriate land use approvals".

By making this request at this time, Jordan Cove apparently believes the route described in the vacated import terminal EIS will essentially be the preferred route in the export terminal EIS. Were the BOC to act on this request at this time, they would essentially be agreeing with this premise. In so doing, they would become party to a serious attempt to circumvent NEPA and thus deprive the citizens of Coos County with the information and analyses to which they are clearly entitled under federal law.

As previously mentioned, the Draft EIS for the Jordan Cove LNG export terminal has yet to be published.

NEPA is a procedural law as opposed to a substantive law. In other words, it does not dictate what the final decision should be, but it very explicitly dictates the procedures by which the decision is reached as well as how the process is to be documented.

Under NEPA, the citizens of Coos County are entitled to an EIS that:

- serves as an important contribution to decisionmaking and will not be used to rationalize or justify decisions already made. 4
- is objectively prepared and not slanted to support the choice of the agency's preferred alternative over other reasonable and feasible alternatives. 5
- examines all reasonable alternatives to the proposal, including those that are practical or feasible rather than simply desirable from the standpoint of the applicant. 6
- includes reasonable alternatives not within the jurisdiction of the lead agency. 7

Here again, EPA has addressed some of these issues in the scoping comments to FERC regarding the Jordan Cove export EIS. They state that they are concerned with "a broad range of issues that we believe to be significant and warrant treatment in the EIS. Among these issues is the range of alternatives.

4 40 CFR 1502.5
6 ibid, Question #2a.
7 40 CFR 1502.14
We encourage the FERC to consider a broad range of reasonable alternatives in the EIS that are capable of meeting the project's purpose and need...". In addition, they specifically mention a possible intertie with the Williams pipeline and go on to state that "Because such a route would be significantly shorter than the currently proposed route, we recommend that the EIS give this route alternative additional consideration." 

Thus, given the great uncertainty as to which route will flow from the completion of the EIS process, it is totally inappropriate for the BOC to rule on minor revisions to a route suggested by the applicants at this time.

It seems apparent that Jordan Cove is making serious attempts to influence and/or circumvent the NEPA process at this early date prior to the release of the Draft EIS. Furthermore, FERC does not appear to be fulfilling its duties, as spelled out in the NEPA regulations, to prevent this from happening.

FERC has the responsibility to insure that Jordan Cove does not take any action that would "limit the choice of reasonable alternatives" until after a record of decision has been promulgated, and to "promptly notify the applicant that the agency will take appropriate action to insure that the objectives and procedures of NEPA are achieved."

On April 4, 2013, Jordan Cove Energy Project, L.P. issued a press release that states unequivocally that they have signed agreements with various construction companies thus "ensuring our facility will be built by experienced union labor" and that these companies "will manage construction of the Jordan Cove and its associated power plant to be built in Coos Bay, Oregon". It goes on to state that "Jordan Cove has received all local land use approvals and is seeking construction, operation and export permits approval from the FERC".

These types of activities and announcements by the applicant have the potential to seriously compromise the upcoming EIS process.

How can the citizens of Oregon, and of the Coos Bay area in particular, be expected to take the time to understand and fully participate in the upcoming NEPA process for a project that the applicants state has already received "all local land use approvals" and for which construction contractors have already been hired?

Were the BOC to act on the request to revise the pipeline route at this time, they would be aiding and abetting FERC and Jordan Cove's efforts to circumvent NEPA, thus depriving our citizens of the unbiased and rigorous analysis to which they are entitled under the National Environmental Policy Act.

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8 EPA, op cit, page 2
9 ibid, page 3
10 40 CFR 1506.1
I ask that the BOC table action on this request until the Jordan Cove export terminal EIS process is completed and a Record of Decision has been issued by FERC.

[Signature]

9 - 9 - 2013