November, 1, 2013

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

**Re: Open Record Response to New Evidence re Rebuttal Comments not made public until Sept 21, 2013, on Coos County Pacific Connector Gas Pipeline application file number HBCU-13-04**

Dear Hearings Officer Stamp:

Thank you for your response and consideration of my October 22nd and 24th, 2013, letters sent in response to an October 14, 2013, letter submitted by Richard Allen of Marten Law that was not made public until October 21, 2013. I am including your October 28, 2013, e-mail as an exhibit (See Exhibit 1) so that what you have stated in your decision can be found in the record for this proceeding. I agree with your understanding of this application as stated in your e-mail that; **“HBCU-13-04 only seeks approval of two alternative alignments (i.e., the so-called "Brunscheid" and "Stock Slough" routes). HBCU-13-04 does not seek a modification of the 2010 approval per se... HBCU-13-04 would be a new approval just for the two alternate alignments...”** My understanding is in compliance with the Hearings Officers understanding of the purpose and intent of the HBCU-13-04 application. The October 23, 2013, e-mail from Perkins Coie mentioned in the Hearings Officers e-mail is not posted on the county website so I have no idea what that e-mail has stated nor am I able to respond to it if the Applicant’s understanding and intent of HBCU-13-04 differs from the Hearings Officer.

It does not seem right that the final Pacific Connector Gas Pipeline route would end up having different sets of **Conditions of Approval** for different sections of the pipeline instead of a single blanket set of **Conditions of Approval** that apply to the entire final route. Breaking this LNG Export Project up even more than the Applicant already has only adds to the already confusing, fractured and convoluted process the applicant has chosen to drag us citizens through. A streamlined process with one set of rules that applies to the entire final route would seem more logical and more in line with the intent of what is stated in the applicant’s HBCU-13-04 Narrative on page 3:

> “This application does not seek to modify or amend the Prior Decisions, but references will be made to them for a number of reasons including the characterization of the use in the various zoning districts, and regarding references to interpretations and findings in the Prior Decisions that are equally applicable to this application.”

Exhibit: 30
Date: 11/1/13
The problem arises in that for some time now several attempts have been made by the applicant to undermine the *Conditions of Approval* that were agreed upon and approved by the Coos County Board of Commission in their Final Decision and Order No. 10-08-045PL., dated September 8, 2010, and in their Final Decision and Order No. 12-03-018PL., dated March 13, 2012. A previous Pacific Connector Application and Administrative Decision by the Coos County Planning Director (ACU-13-08) attempted to undermine these *Conditions of Approval* and was subsequently appealed by several groups and citizens with the Pacific Connector later pulling that application. I am concerned that the Pacific Connector may be attempting once again to try and undermine previously agreed upon *Conditions of Approval* also in this current proceeding as explained further below.

The original application in this HB-13-04 proceeding had requested “3” alternative alignment adjustments but the 3rd alternative alignment adjustment was dropped in a September 12, 2013, “Supplemental Narrative in Support of Land Use Application for the Pacific Connector Gas Pipeline” that was made public with the Coos County Planning Director’s staff report that came out on September 13, 2013. The September 12, 2013, Supplemental Narrative did not mention why the 3rd alternative alignment adjustment was dropped and at the Public Hearing on September 20th, 2013, it was made clear by the applicant’s attorney that the applicant was proposing only 2 alternative alignment adjustments. This understanding was what my testimony and that of others placed into the record was based on. There was no mention of any other alignment alterations or adjustments even though the Applicant’s supplemental narrative mentions in very small print in a footnote on page 1 the following:

> “Since the PCGP alignment was approved in the Prior Decisions, Pacific Connector has conducted a detailed analysis of that alignment. In many instances, the approved PCGP alignment has moved in minor ways to confirm to the surveyed centerline or to accommodate small project refinements, without changing the location of the alignment into different ownerships or into a different zone within the same ownership. Based upon consultation with Planning Staff, those refinements to the approved alignment do not constitute alternative segments which need additional approval with respect to applicable review criteria.”

I am concerned that the applicant has potentially not really drop the 3rd alternative alignment adjustment and may be trying to sneak that route adjustment change through as being a minor change in the route, which it is not. Although not very detailed or very clear, several maps that were included in the Applicant’s October 14, 2013, rebuttal comments seem to indicate that there may be a change from the original pipeline alignment of the Pacific Connector Gas Pipeline on Jordan Point. (See Coos County HBCU-13-04 File Exhibit 21, page 5 and Exhibit 22, page 108) The original 2010 approved pipeline alignment on Jordan Point is attached as Exhibit 2. A recent (September 6, 2013) pipeline alignment map submitted to the Federal Energy Regulatory Commission by the Pacific Connector is attached as Exhibit 3.

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2 [http://www.co.coos.or.us/Portals/0/Planning/HBCU-13-04/exhibit%2021.pdf](http://www.co.coos.or.us/Portals/0/Planning/HBCU-13-04/exhibit%2021.pdf)
3 [http://www.co.coos.or.us/Portals/0/Planning/HBCU-13-04/exhibit%2022.pdf](http://www.co.coos.or.us/Portals/0/Planning/HBCU-13-04/exhibit%2022.pdf)
Mr. Allen’s October 14, 2013, letter concerning suggested Conditions of Approval only mentions the pipeline alternative alignments in general. My understanding is that this ONLY involves two alternative alignments (i.e., the so-called “Brunscheid” and “Stock Slough” routes) and would not involve any pipeline route adjustments anywhere else including a potential alternative alignment adjustment on Jordan Point.

If this is not the understanding and if the Planning Director has by some chance informed Pacific Connector that their proposed pipeline alignment change on Jordan Point is minor and does not constitute alternative segments which need additional approval, this should have been mentioned and made clear by the Planning Director and the Applicant in this proceeding. Any change in the pipeline alignment at Jordan Point as indicated in Pacific Connector’s recent submittal to FERC⁴ (See Exhibit 3) would involve impacts to the Coos Estuary and Haynes Inlet and all the Conditions of Approval that are on file under the Coos County Board of Commissioners Final Decision and Order No. 10-08-045PL., dated September 8, 2010, and Final Decision and Order No. 12-03-018PL., dated March 13, 2012, would apply.

In addition, the potential pipeline alignment change that was submitted to FERC in September and what seems to possibly be in the applicant’s Oct 14, 2013, rebuttal comments would “not” constitute a minor pipeline alignment and would therefore need additional approvals before that specific alternative alignment change should be made. This would be due to those potential alignment changes occurring in the Coastal Shoreland boundary zoning districts that require extra protections (See Exhibit 4), and in an area that also involves impacts in FEMA’s preliminary special flood hazard areas (See Exhibit 5), and in an area noted by Jordan Cove in July 2013 via GRI to contain fill and transite siding pieces (See Exhibit 6).

I agree with the Hearings Officer’s understanding that Mr. Allen’s October 14, 2013, letter and the HBCU-13-04 application concerns ONLY the two alternative alignments (i.e., the so-called “Brunscheid” and “Stock Slough” routes) and Mr. Allen’s letter does not apply to any minor pipeline adjustments nor to a potential pipeline alignment adjustment on Jordan Point which would require additional approvals from Coos County.

Sincerely,

Jody McCaffree

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⁴ Pacific Connector Gas Pipeline LP submits responses to the Information Request in the Office of Energy Projects August 16, 2013 letter at Docket No. CP13-492-000:
http://elibrary.FERC.gov/idmws/file_list.asp?accession_num=20130906-5158
Exhibit 1
Dear Ms. Rolfe and Ms. Dibble:

Please forward the following to the parties:


In her October 22, 2013 letter, Ms. McCaffree has requested the opportunity to respond to the letter from Richard Allan, dated October 14, 2013. It is my understanding that Mr. Allan’s letter was timely submitted during the rebuttal period for case number HBCU-13-04. I have been informed that although the letter was timely submitted via email, it was not posted on the County’s website until October 21, 2013. Apparently, this was due to the fact that the letter was submitted by email to Ms. Rolfe and the specific email account at issue was not checked in a timely manner. As a result, Ms. McCaffree and other parties did not have an opportunity to respond within the one week period allotted for responses.

Note: This was an avoidable error, and it would be helpful to all involved if, in the future, staff can develop contingency plans to address this situation.

In light of the error discussed above, the hearings officers agrees to reopen the record for an additional 7 days, until close of business on Nov. 1, 2013, for the sole purpose of responding to Mr. Allan’s October 14 letter. The record shall not be reopened to respond to or rebut any other information previously submitted. The applicant shall be granted 7 days (i.e., close of business on Nov 8, 2013) to submit final written argument. Presumably, the applicant can use its final argument to rebut comments submitted during this final “ad-hoc” rebuttal period.

With regard to Ms. McCaffree’s October 24th letter, it is important to understand the following: I clarified at the hearing for HBCU-13-04, via questioning, that the applicant does not seek to make any changes to the conditions of approval for the 2010 decision. Although HBCU-13-02, if approved, would result in the modification of one condition of approval of the 2010 decision related to the “import vs. export” issue, HBCU-13-04 only seeks approval of two alternative alignments (i.e., the so-called “Brunschmid” and “Stock Slough” routes). HBCU-13-04 does not seek a modification of the 2010 approval per se. Nonetheless, because HBCU-13-04 would be a new approval just for the two alternate alignments, that approval will need its own set of conditions of approval. Obviously, the prior approval would provide a good template on which to build a set of conditions for the new route.

At the hearing on Sept. 20, I asked the parties whether all or only some of the conditions in the 2010 approval should be used when formulating the conditions for the two alternate alignments. I asked that question because I sensed that some of the conditions were “geographic specific” or “zone specific” and would not therefore apply to the two re-alignment areas. On the other hand, other conditions previously
imposed were, due to their global nature, equally applicable to the alternative routes. Applicant’s counsel said that they would look at that issue and provide a recommendation. Certainly, other parties could have just as easily addressed the issue as well.

As reflected in Mr. Allan’s letter dated October 14, 2013, the applicant believes, not surprisingly, that some of the conditions of approval are not applicable because those conditions relate to geographic areas or zones outside of the boundaries of the realignment area. Mr. Allan’s letter sets forth the applicant’s proposal regarding which conditions should apply to the two alternate alignments.

To the extent that Ms. McCaffree or other parties believe that the applicant incorrectly seeks to exclude other specific conditions that were previously imposed by the County in Order No. 10-08-045PL and 12-03-018PL, then the hearings officer would value that input. Likewise, since the applicant has proposed to modify some of the language of prior conditions for use as new conditions related only for the alternative alignment, a critique of those modifications is also fair game. However, this is undoubtedly a very narrow topic, and it does not seem that new evidence is required to rebut the specifics of Mr. Allan’s letter.

Lastly, in Ms. McCaffrey’s October 24, 2013 letter, she seeks to have the hearings officer exclude Mr. Allan’s letter on the grounds that it contains “new evidence.” I understand Ms. McCaffree’s confusion, as this topic is inherently difficult to articulate. However, the Allan letter does not contain new “evidence” as that term is defined in state law. See ORS 197.763. Rather, the letter is responsive to my request made at the hearing, to ferret through the prior conditions of approval and opine on which conditions have relevance to the alternative alignments. If anything, I was simply asking the applicant (and other parties) to do some of the “grunt” work in developing appropriate conditions of approval for this specific application. Typically, this sort of “grunt” work could be included in the staff report and perhaps, given the circumstances, even in the land use application. Nonetheless, that did not occur in this case, as far as I have been able to tell. By seeking input from the applicant and others, I was seeking to avoid the situation where the County imposed conditions that had no relevance of the alternative alignment or were worded in a manner that created unnecessary ambiguity or controversy down the road.

Thank you for your attention to this matter.

Andrew

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11/1/2013
Exhibit 2
Exhibit 4
Coos County Shoreland Values Requiring Mandatory Protection Map Sections

Jordan Cove – Jordan Point Area

SHORELAND VALUES REQUIRING MANDATORY PROTECTION

LEGEND:

[Diagram showing various symbols for significant wildlife habitat, freshwater wetlands, snowy plover habitat, heron rookery, major marsh, archaeological sites, historical sites, coastal headlands, and coastal shoreland boundary.]
Exhibit 5
Exhibit 6