Department once the final plan was approved by DOT. However, the Commission finds that because the coordination with local fire suppression personnel and preparation and approval of final Public Safety Response Manual are required by and under the jurisdiction of DOT, the Applicant must comply with those requirements in order to comply with federal law and a local condition of approval is neither necessary nor appropriate.

Several written and oral comments raised concerns about limitations on fire suppression techniques near the pipeline. Specifically, one comment suggested that fire departments or land owners may need to turn over soils to release heat from soils following a fire. The Applicant responded by referring to the evidence in the record that soil is a poor conductor of heat, and concluded:

Therefore to the extent soil modification is necessary as a fire suppression technique, the depth of soil movement would not need to be very deep. So long as the fire suppression agencies and/or landowner coordinate with the Pacific Connector emergency response personnel first, there is unlikely to be a conflict.

One of the oral comments also suggested that fire personnel would be limited in where they place fires lines. The Applicant provided the following response:

Pacific Connector will work with fire response personnel to avoid any digging activities directly over the pipeline. However, that will not significantly limit the fire suppression options. Fire responders will still be able clear vegetation within the right-of-way corridor and would be able to dig a fire line near the edge of the 30 foot cleared corridor. Based upon the emergency response coordination efforts described above, the fire response personnel will be aware of the location and nature of the pipeline and can develop their fire suppression plan accordingly in the event. While the presence of the pipeline may require fire suppression personnel to take more care in designing and implementing their fire suppression plan in areas near the pipeline, that care will not equate to a significant increase in fire suppression costs. Furthermore, notice of the location, depth and nature of the pipeline will increase fire personnel safety and decrease additional fire hazards.

Based upon these combined statements, the Commission finds that there will be limits on fire suppression activities that involve digging or significant soil disturbance directly over the pipeline. However, as explained by the Applicant not all fire suppression activities will be prohibited either directly over the pipeline or within the right-of-way. The Commission agrees with, and adopts by reference, the Applicant’s analysis provided above on the impacts of the digging limitations in relation to the approval. The Commission finds that a requirement for the fire response personnel to consider the pipeline while designing and implementing their fire suppression activities is not necessary or appropriate.

258 Applicant’s Record Submission, page 14.
suppression plan will not cause a significant increase in fire suppression costs, and on balance will better meet the other elements of the review standard by increasing fire personnel safety and decreasing additional fire hazards.

Based upon all of the evidence in the record, and for the combined reasons set forth above, the Commission finds that the PCGP will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.

Article 39  Conditional Use Review

Article 39 provides the general conditional use review criteria for those uses listed as conditional uses within Douglas County. The Commission finds that the PCGP satisfies the following criteria within the relevant 7.31 miles.

Section 3.39.050  Criteria for Review

1. The proposed use is or may be made compatible with existing adjacent permitted uses and other uses permitted in the underlying zone.

The TR zoned lands along the PCGP alignment are primarily adjacent to other TR zoned lands. Existing uses on these are limited to typical forestry activities or operations, including timber production and harvesting, hauling harvested timber, and logging road construction and maintenance, reforestation, application of chemicals, and disposal of slash. Along the PCGP alignment the TR zone is also adjacent to FF zoned lands at four locations, mileposts 48.12, 48.14, 49.20, and 52.43.259 As depicted on the Alignment Sheets, the existing use on the FF zone lands at each of those markers is forestry activities or operations as well. Therefore, forestry operations is the only existing use adjacent to the portions of the PCGP located within the TR zone.

In the findings under LUDO § 3.2.150(1), the Commission provides extensive discussion of the evidence provided by both the Applicant and project opponents on the potential impacts of both the construction and operation of the PCGP on adjacent forest practices. Under the Standard in LUDO § 3.2.150(1) and LUDO § 3.5.125(3)(a), the Commission concluded that the PCGP will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on adjacent agricultural or forest lands. The Planning Commission notes that the "compatible" standard in LUDO § 3.39.050(1) is not necessarily the same as the "force a significant change in, or significantly increase the cost of" standard in LUDO Section 3.2.150(1). Therefore, the Planning Commission recognizes that there could be circumstances where a proposed use satisfies the no significant change/increase cost standard, but fails to satisfy the compatible standard.260 However, the Commission finds that the evidence and findings above concluding that the pipeline will not force a significant change in, or significantly increase the cost of, accepted forestry practices also demonstrate that the pipeline is compatible

259 Application Narrative, Table 1, page 3.
260 This would most likely occur where the adjacent use was not an accepted farm or forest practice, and therefore not considered in the significant change/increase in cost inquiry.
with forestry practices as a use category. To summarize, the evidence in the record demonstrates that: (1) once construction is complete, all temporary construction areas, as well as the outside 10 feet on each side of the permanent right-of-way, will be restored and reforested in a manner consistent with the Applicant's ECRP; (2) once construction is complete, all forestry activities will be allowed to occur up to the 50-foot permanent right-of-way; (2) logging equipment will have access across the pipeline right-of-way; (3) an invasive species control plan will be used to minimize impacts on adjacent forest uses; and (4) the pipeline will not emit any noise or odors that could be incompatible with forestry activities. Therefore, the Commission adopts and incorporates the findings under LUDO § 3.2.150(1) herein by reference and finds that, as conditioned under this approval, the PCGP is compatible with existing adjacent permitted uses.

In addition to requiring compatibility with existing adjacent uses, LUDO § 3.39.050 requires the Applicant to demonstrate compatibility with "other uses permitted in the underlying zone."

Pursuant to LUDO § 3.2.050 permitted uses within the TR zone other than forest operations include farm uses, temporary on-site structures, physical alterations to the land related to forestry practices, water impoundments, uses to conserve soil, air, water quality, local distribution lines, exploration for mineral and aggregate resources, hunting and fishing operations, fire stations and related facilities, caretaker residences, exploration for hydrocarbons and associated equipment, alteration or replacement of existing dwellings, and establishment of wildlife plans. LUDO § 3.2.075 lists additional uses that are permitted with standards including destination resorts, dwellings, and youth camps.

As the Applicant has explained, the pipeline will preclude the placement of any structures or any subsurface activities within the 50-foot right-of-way for safety purposes. Therefore, many of the permitted uses, including temporary on-site structures, physical alterations to the land related to forestry practices, water impoundments, exploration for mineral and aggregate resources, local distribution lines, fire stations and related facilities, caretaker residences, and exploration for hydrocarbons and associated equipment, destination resorts, dwellings, and youth camps would be prohibited within the 50-foot permanent right-of-way. However, the Commission finds that this standard does not require a finding that permitted uses can take place within the footprint of the proposed use. If that were the case, the standard would require denial of any conditional use with a permanent footprint or impact area, which is clearly not the intent of this standard. Instead, it requires a finding that the use, which in this case is a pipeline within a 50-foot permanent right-of-way, is or may be made compatible with other uses that may be developed on adjacent lands.

Based upon evidence in the record, the Commission finds that once construction is complete, the PCGP will be a subsurface utility with no visual, odor, vibration or noise impacts. The Applicant has also addressed fire safety issues at length, and the Commission has concluded that the PCGP will not significantly increase fire hazards. Therefore, the Commission finds that the pipeline would be compatible with any of the above-listed uses which may be placed or conducted outside of the right-of-way in the FF zone. Furthermore, the Commission finds that while not required to satisfy this standards, several of the permitted uses may continue to take place within the right-of-way, including farm uses, hunting or fishing activities, and many uses related to soil, air or water conservation and wildlife plans. Some project opponents contend that even following construction, the PCGP project will have impacts in the form of noise and traffic.
required by maintenance or repair activities. Information submitted by the Applicant indicates that once vegetation is established in the right-of-way, vegetation maintenance over the full width of the right-of-way within forested areas will not be done more frequently than every 3 years. Even if other maintenance or survey work may occur somewhat more frequently, the Commission finds that periodic maintenance activities which would include corrosion and leak surveys and vegetation maintenance, does not make the use incompatible with any of the other permitted uses within the TR zone listed above. While repair work, if necessary, may be more disruptive to surrounding future uses, they would be rare and would be temporary impacts that would not significantly affect any of the permitted uses listed above. For the reasons set forth above, the Commission finds that the PCGP is compatible with other uses permitted in the TR zone.

The Commission recognizes that one of the timber companies within the TR zone submitted a letter that claimed that they were planning on reopening an old sandstone quarry in Section 10 T29S, R9W. The letter does not explain where the quarry is in relation to the PCGP alignment. The Commission finds that because the quarry must be "reopened" it is not currently in operation, and is therefore not an existing use. However, the Commission finds that PCGP could be made compatible with a future quarry operation through coordination between the Applicant and the mine operator. If the quarry were located within 1500 feet of the pipeline, the Applicant would work with the mine operator to determine the appropriate blasting setback based upon a calculation that takes into consideration the distance to the pipeline, the depth and charge of the blast, the nature of the rock, as well as other site-specific factors. Under that approach the mine could be operated safely and the two uses would be compatible.

Finally, Staff Report findings cite OAR 660-004-0020(2)(d) for the proposition that "compatible" is not intended as an absolute term. In response to the statement in the staff report one of the project opponents includes language from Statewide Planning Goal 2 and argues that the "State Goals are not satisfied." In response the Applicant explained that Statewide Planning Goal 2 does not apply to the PCGP application, and further described LUBA case law on the use of the term "compatible" outside of the Goal 2 context. The Commission finds that Statewide Planning Goal 2 does not apply to this application because the Applicant has not requested an exception subject to Goal 2. Staff's conclusion that the term "compatible" is not an absolute term is correct for purposes of the use of that term in LUDO Section 3.39.050(1) based upon the case law cited by the Applicant.

For the reasons set forth above, the Commission finds that the PCGP is or may be made compatible with existing adjacent permitted uses and other uses permitted in the TR zone.

262 Applicant’s Record Submittal, page 11. See also, Applicant’s Record Submittal, Attachment 3, page 45.
264 Applicant’s Record Submittal, page 15.
266 Applicant’s Final Argument, page 17. See Doxan v. City of Bend, 8 Or LUBA 33, 39 n.7 (1983) (noting that a compatibility standard in the city's conditional use criteria is not absolute); Corbett/Tervilliger Neigh. Assoc. v. City of Portland, 25 Or LUBA 601, 617 (1993) ("determination of compatibility is an inherently subjective determination").
2. The proposed use complies with other development approval criteria within the applicable zone.

As discussed at length in these findings, the Commission finds that the PCGP complies with the development criteria for conditional uses in the TR zone, § 3.2.150, as well as the requirements of § 2.060.

B. TR Zone Siting and Property Development Standards

Section 3.2.160 Siting Standards for Dwellings and Structures
Section 3.2.170 Fire Siting Standards for New Dwellings and Structures

These provisions apply to "new dwellings and structures." The only element of the proposal within the TR zone is the below-ground pipeline. As the Commission found under LUDO 3.3.200(3) and finds here for the same reasons, the below-ground pipeline is not a structure. Therefore, these provisions are not applicable to the proposal. No party has objected to the non-applicability of these provisions.

Section 3.2.200 Property Development Standards

1. Property size:

The PCGP project will not create a land division or alter the property size of any of the lots it crosses. Consequently, the Commission finds that the provisions of this standard are not applicable to this application.

2. Coverage: No standard established.

There is not a coverage standard within the TR zone, and therefore a finding for this standard is not necessary.

3. Setbacks: No structure other than a fence or sign shall be located closer than 50 feet from the right-of-way of a public road and 25 feet from all other property lines.

The Commission addresses the applicability of the setback standards to the subsurface portions of the PCGP in the FG section above. As discussed at length in the findings for LUDO § 3.3.200(3), the Commission interprets the setback requirement not to apply to the below-ground elements of the pipeline. The Commission notes that the only distinction between the setback analysis and conclusion within the FG zone and that within the TR zone is that within the TR zone there are no above ground structures. The Commission finds that this merely strengthens the conclusion that that the setback standards do not apply to the subsurface pipeline within the TR zone. Therefore, the Commission adopts the findings set forth above under LUDO § 3.3.200(3) and incorporates them herein by reference.

4. Height: No standard established.
There is not a height standard within the TR zone, and therefore a finding for this standard is not necessary.

5. **Signs**
   
a. **Signs shall not extend over a public right-of-way or project beyond the property line.**
   
b. **Signs shall not be illuminated or capable of movement.**
   
c. **The total sign area of all signs on the property shall be limited to thirty-two square feet.**

The sign standard within the FG zone at LUDO § 3.3.200(5) is identical to the LUDO § 3.2.200(5). Furthermore, the use of pipeline markers will be the same in both the FG and TR zones. Therefore, the Commission incorporates the findings provided for LUDO § 3.3.200(5) above herein by reference, and finds that the PCG satisfies the sign standard within the TR zone.

6. **Parking: Off-street parking shall be provide in accordance with Article 35.**

The Applicant is not proposing any off-street parking for the pipeline within the TR zone. The Commission finds that this standard is not applicable to this application.

For the reasons set forth above, the proposed pipeline satisfies all of the relevant approval criteria and standards for pipeline development in the TR zone.

3. **Article 5 - Farm Forest Zone**

The proposed pipeline will cross approximately 1.27 miles of Farm Forest (FF) zoned lands (including both private and federal lands) within the relevant 7.31 miles of Douglas County. Specifically, the pipeline will cross FF zoned land between the following mileposts: 48.12 to 48.14, 49.20 to 49.48, 50.51 to 50.70, 51.01 to 51.27, and 51.93 to 52.43. Between mileposts 48.12 to 48.14, 49.20 to 49.48, and 51.01 to 51.27 the existing land use is forestry activities or operations, and there are no structures within 100 feet of the right-of-way. Between mileposts 50.51 and 50.70 the existing land use is also forestry activities or operations, but the area has been clearcut relatively recently, and there are no structures within this segment of the PCG. Finally, between mileposts 51.93 to 52.43 the primary use is also forestry activities or operations. There is also an existing rock quarry near milepost 52. Additionally, at milepost 51.95 there is a small structure near the northern edge of the right-of-way. During construction, 17.63 acres will be disturbed within the 1.27 miles of FF zoned lands.

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267 Application Narrative, Table 2, page 3; See also, Application Narrative, Exhibit 1 Zoning Map.
268 Application Narrative, Table 1, page 3.
269 Application Binder, Conditional Use Section, Table 1. See also, Alignment Sheets 46, 47, and 49.
270 Application Binder, Conditional Use Section, Table 1. See also, Alignment Sheets 48 and 49.
271 Application Binder, Conditional Use Section, Table 1. See also, Alignment Sheet 50.
272 Id.
273 Application Narrative, page 18.
disturbance area includes 3.1 acres of land that will be used for TEWAs and 0.1 acres that will be used as an UCSA.274

The Applicant has indicated that following construction, all disturbed areas will be restored as closely as possible to their preconstruction conditions.275 The right-of-way through forested areas within the FF will be identical to the forested areas of the TR zone described above. Therefore, while Pacific Connector will obtain a 50-foot permanent right-of-way, only 30 feet centered over the pipeline will be maintained through forested areas to protect the pipe from potential root damage and allow for ground and aerial surveillance inspections of the pipeline. As required by Conditions of Approval 9 and 10, the remaining 20 feet of the permanent right-of-way as well as the disturbed temporary construction areas will be reforested following construction in areas that were forested prior to construction.276

The ECRP provided by the Applicant describes the construction and restoration plans that the Applicant will employ within forested areas. Section 3.3.2 specifically describes the forest/timber clearing procedures that the Applicant will follow during construction.277 The ECRP also provides details on the best management practices that will be employed to prevent or minimize erosion, especially on sloped or steep terrain, at Section 4.0.278 The ECRP Section 10.0 describes the general restoration and revegetation activities, including the treatment of forest slash and revegetation on both private and federal lands, including supplemental forest plantings.279 ECRP Section 11.0 describes the procedures that the Applicant will employ while crossing steep and rugged terrain to minimize construction, geologic, and erosion hazards as well as to ensure the integrity of the pipeline.280 Finally, the ECRP describes the noxious weed, soil pests, and forest pathogens control plan that will be employed by the applicant throughout the length of the pipeline, including the forested areas.281

Section 3.5.100 Buildings and Uses Permitted Conditionally

In the FF zone, the following uses and activities and their accessory buildings and uses are permitted subject to the provisions of 2.060.1 and Article 39 of this chapter:

2. Uses listed in §3.2.100, except "Owner of Record dwellings," and subject to the additional review standards in 3.5.125.3.

"New distribution lines (e.g. electrical, gas, oil, geothermal) with rights-of-way 50 feet for less in width" is a use listed in LUDO § 3.2.100(18). The PCGP is a new natural gas line with a right-of-way width of 50 feet. Therefore, the Applicants has applied for a conditional use permit for the portions of the PCGP within the FF zone. As discussed at length under LUDO §

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274 Applicant's September 25th Letter, page 7. See also, Alignment Sheets.
275 Application Narrative, page 18.
276 Id.
277 Applicants' Record Submittal, Attachment 3, pages 6-8.
278 Id.
279 Applicants' Record Submittal, Attachment 3, pages 11-17.
280 Id.
281 Applicants' Record Submittal, Attachment 3, pages 22-38.
282 Id.
283 Applicants' Record Submittal, Attachment 3, pages 38-40.
284 Id.
285 Applicants' Record Submittal, Attachment 3, pages 41-44.
A. Conditional Use Approval Criteria

Section 3.5.125 Conditional Use Approval Standards

1. The Approving Authority may approve the application if the use would not seriously interfere with farm uses as defined and regulated by ORS 215.203 or forest practices as defined in ORS 527.610 to 527.730 on adjacent lands devoted to, or suitable for, such uses.

As defined in ORS 215.203, "farm use" means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. Further, "farm uses" include the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use, as well as the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. Finally, "farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic, bird and animal species that are under the jurisdiction of the State Fish and Wildlife Commission, to the extent allowed by the rules adopted by the commission, and the on-site construction and maintenance of equipment and facilities used for the activities described in ORS 215.203. As defined by ORS 527.610 to 527.730 "forest practices" include reforestation of forest land, road construction and maintenance, harvesting of forest tree species, application of chemicals, and disposal of slash.

As discussed above, the primary use within the FF zoned segment of the PCGP is forestry activities. The only other uses adjacent to the PCGP right-of-way within the FF zone are a rock quarry and a small structure. Those two uses are neither farm uses nor forest practices as those terms are defined above. Therefore, the Commission finds that they need not be addressed under this approval criterion.

282 Application Narrative, page 19.
283 Id.
The potential impacts of both construction and operation of the PCGP on forest practices adjacent to the PCGP project within the TR zone are discussed at length in these findings under LUDO § 3.2.150(1). As detailed in that section, the Commission finds that the PCGP project impacts to forest practices on adjacent forest lands both during construction and after construction will be limited. Therefore, the Commission finds that the PCGP will not force a significant change in, or significantly increase the cost of, accepted forest practices on adjacent forest lands within the TR zone. The Commission acknowledges that the review standard at LUDO § 3.2.150(1) is worded differently than the conditional use approval standard at LUDO § 3.5.125(1). Specifically, LUDO § 3.2.150(1) requires a finding that "the proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on adjacent agricultural or forest lands." As noted above, LUDO § 3.5.125(1) states that the Commission "may approve the application if the use would not seriously interfere with farm uses as defined in ORS 215.203 or forest practices as defined and regulated by ORS 527.610 to 527.730 on adjacent lands devoted to, or suitable for, such uses." As a matter of local interpretation, the Commission finds LUDO § 3.5.125(1) to mean the same as LUDO § 3.5.125(3)(a)\(^2\), which is addressed below. However, if LUDO § 3.5.125(1) were considered to be a separate approval criteria, the relevant difference for purposes of impacts of the PCGP on forest practices between LUDO § 3.5.125(1) and LUDO § 3.2.150(1)/§ 3.5.125(3) a & b. is that the core standard under LUDO § 3.2.150(1)/§ 3.5.125(3)(a) is essentially a prohibition on a "significant change in," or significant increase in the cost of, forest practices on adjacent forest lands, while the core standard under LUDO § 3.5.125(1) is that the use cannot "seriously interfere with" forest practices on adjacent forest land.

For purposes of considering the specific PCGP impacts addressed under LUDO § 3.2.150(1), the Commission finds no practical difference between "significant change in" and "seriously interfere with." In other words, any PCGP activity or impacts that would seriously interfere with forest practices on adjacent lands would also force a significant change in those forest practices and vice versa. The Commission acknowledges that there could be a situation where a use could seriously interfere with forest practices, but not force a significant change in, or significantly increase the costs of, those same forest practices, or vice versa. However, the Commission has reviewed each of the impacts addressed by these findings under LUDO § 3.2.150(1) and concludes that is not the case here. The Commission finds that the evidence and findings above concluding that the pipeline will not force a significant change in, or significantly increase the cost of, accepted forestry practices also demonstrates that the pipeline would not seriously interfere with forestry practices on adjacent lands. To summarize, the evidence in the record demonstrates that: (1) once construction is complete, all temporary construction areas, as well as the outside 10 feet on each side of the permanent right-of-way, will be restored and reforested in a manner consistent with the Applicant's ECRP; (2) once construction is complete, all forestry activities will be allowed to occur up to the 50-foot permanent right-of-way; (2) logging equipment will have access across the pipeline right-of-way; (3) an invasive species control plan will be used to minimize impacts on adjacent forest uses; and (4) the pipeline will not emit any noise or odors that could be incompatible with forestry activities. Therefore, the Commission incorporates the findings provided by the Commission under LUDO § 3.2.150(1) herein by reference. Based upon the evidence and analysis contained in those findings, the Commission finds that the PCGP project would not seriously interfere with forest practices as

\(^2\) The Commission recognizes that the wording of LUDO § 3.5.125(3)(a) and LUDO § 3.2.150(1) is identical.
defined and regulated by ORS 527.610 to 527.730 on adjacent lands devoted to, or suitable for, such uses.

With the two exceptions noted above, the sole existing use of land within the FF zone that is adjacent to the PCGP project is forestry practices. However, the Commission recognizes that farming practices are occurring on FG zoned properties adjacent to FF zoned lands crossed by the pipeline.\(^{2b}\) Specifically, along the pipeline route the FF zone abuts agricultural lands at mileposts 49.48, 50.51, 50.70, 51.27, and 51.91.\(^{2b}\) Additionally, the FF zone is a mixed farm-forest use. Therefore, while the portions of the FF zone crossed by the PCGP project are currently devoted to forest practices, the Commission finds that it is possible that some of that land may be suitable for future farm use. Therefore, for purposes of this approval criterion, the Commission has also considered the impacts of the PCGP on farming uses as that term is defined in ORS 215.203.

The direct impacts on those adjacent farming operations are addressed at length in these findings under LUDO § 3.3.170(5). As discussed in that section, the Commission finds that impacts of the PCGP project on adjacent farm lands is limited. The Commission further finds that the application approval includes conditions of approval that will mitigate and minimize the impacts of the PCGP project on lands surrounding the pipeline alignment devoted to farm use in order to prevent a significant change in accepted farming practices or a significant increase in cost of farm practices on the adjacent farm lands. Consistent with the forest practices above, the Commission finds no practical difference between "significant change in" and "seriously interfere with" as those standards relate to PCGP impacts on farm uses on adjacent farm lands.

Once again, the Commission acknowledges that there could be a situation where a use could seriously interfere with farm uses, but not force a significant change, or significantly increase the costs of, those same farm uses, or visa versa. However, the Commission has reviewed each of the potential impacts on farm uses addressed by these findings under LUDO § 3.3.170(5) and concludes that is not the case here. To summarize, the evidence in the record demonstrates that:

1. once construction is complete all land disturbed during construction must be restored to its pre-construction condition in a manner consistent with the Applicant’s ECRP;
2. once construction is complete, typical farming activities will be allowed within the permanent right-of-way;
3. an invasive species control plan will be used to minimize impacts on adjacent farm uses; and
4. the pipeline will not emit any noise or odors that could be incompatible with surrounding farming activities.

Therefore, the Commission incorporates the LUDO § 3.3.170(5) findings on farm use impacts and conditions of approval herein by reference. Based upon the evidence and analysis contained in those findings and discussed above, the Commission finds that the PCGP project would not seriously interfere with farm uses as defined in ORS 215.203 on adjacent lands devoted to or suitable for such uses.

2. The Approving Authority shall impose any conditions necessary to meet the applicable criteria and preserve lands in this district for farm and forest uses. Nothing herein shall be construed to require the granting of a conditional use permit.

\(^{2b}\) Applicant’s Final Argument, page 11: See also, Alignment Sheets.
\(^{2b}\) Application Narrative, Table 1, page 3; See also, Alignment Sheets.
Through this approval the Commission has imposed multiple conditions that satisfy the approval criteria applicable within the FF zone. Specific conditions include:

**Condition 4:** Pursuant to Condition 4, pipeline construction will be limited to the hours of 7:00 a.m. to 8:00 p.m. between mileposts 49 and 52, which includes much of the FF zone land. The stated purpose of the condition is to minimize impacts on farm dwellings and activities. Therefore, it will help to satisfy LUDO § 3.5.125(1), as well as § 3.5.125(3)(a) and § 3.39.050(1).

**Condition 6:** Condition 6 requires the Applicant to execute an agreement for improvements and performance bond prior to construction to assure compliance with conditions requiring a post-construction certification, which would include conditions 9, 10 and 11. This condition ensures that there are sufficient funds for the restoration work required by those conditions, which as discussed below help satisfy several of the applicable approval criteria.

**Condition 8:** Pursuant to Condition 8, the permanent pipeline right-of-way may be no wider than 50 feet at any point within the relevant 7.31 miles, and therefore includes the FF zoned areas. This condition ensures that the PCGP will not exceed the right-of-way width limitation of LUDO § 3.5.100(2) and § 3.2.100(18). This condition also ensures that areas directly adjacent to the 50-foot right-of-way are preserved for farm and/or forest use.

**Condition 9:** Condition 9 requires the Applicant to provide an independent certification that all temporary construction areas have been abandoned and replanted and restored to timber production. This condition ensures that the temporary construction areas are in fact temporary. When combined with Condition 11 discussed below, it also ensures that all the work is done in compliance with the requirements of the ECRP submitted by the Applicant. As addressed under each particular approval criterion, this condition helps satisfy LUDO § 3.5.125(1), §3.5.125.(3)(a), and § 3.39.050(1). This condition also ensures that temporary construction areas will be restored to their previous forest uses, so that forest activities may continue once construction is complete.

**Condition 10:** Pursuant to Condition 10, the Applicant must provide an independent certification that the outside 10 feet of the permanent right-of-way has been reforested in those areas that were forested before construction. Therefore, the condition ensures that the Applicant's cleared corridor is limited to 30 feet as represented in the Application Narrative. When combined with Condition 11 discussed below, it also ensures that all the work is done in compliance with the requirements of the ECRP submitted by the Applicant. As addressed under each particular approval criterion, this condition helps satisfy LUDO § 3.5.125(1), §3.5.125.(3)(a), and §3.39.050(1). This condition limits the cleared corridor in forest areas to the minimum area necessary for pipeline safety, which will in turn maximize the area preserved for forest use.

**Condition 11:** Condition 11 requires a certification from an independent consultant that all restoration actions required by Conditions 9 and 10, as well as 3, were consistent with the requirements of the ECRP submitted to this Commission by the Applicant. As discussed in detail under each relevant approval criterion, this condition helps satisfy LUDO § 3.5.125(1), § 3.5.125.(3)(a), and §3.39.050(1). This condition works in conjunction with conditions 9 and 10 to ensure that all of the restoration work in areas that will be returned to forest production is
conducted in a manner that is consistent with the ECRP. For purpose of the FF lands impacted by the pipeline, which are predominantly forest lands, that includes best management practices to prevent and minimize erosion, the restoration/revegetation requirements, the steep and rugged terrain procedures, and the noxious weed, soil pest, and forest pathogen control plan.

Taken as a whole, and as discussed under each of the specific approval criteria, the Commission finds that these conditions allow the PCGP project to satisfy the applicable approval criteria within the FF zone. The Commission further finds that these conditions will preserve lands in the FF zone that are outside of the 30-foot cleared corridor for forest uses.

There are currently no lands devoted to farm uses within the relevant FF zoned areas surrounding the PCGP alignment. However, the Commission finds that as discussed at length under the FG zone, if any portion of the FF zone were converted to farm use in the future, typical farming activities could continue both adjacent to and over the permanent right-of-way. Therefore, both the permanent right-of-way and the adjacent areas would be preserved for farm uses pursuant to the conditions of approval addressed at LUDO § 3.170(5) which are incorporated here by reference.

3. The uses provided for in § 3.100.2 shall be subject to the following additional standards:

   a. The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on adjacent agriculture or forest lands; and

As described above, the predominant existing land use adjacent to the PCGP alignment within the FF zone is forestry activities or practices. Under LUDO § 3.150(1) the Commission finds that the PCGP project will not force a significant change in, or significantly increase the cost of, accepted forest practices on adjacent forest lands. The standards under LUDO § 3.150(1) and LUDO § 3.125(3)(a) are identical. Therefore, the Commission incorporates the findings under LUDO § 3.150(1) herein. Based upon those findings, the Commission further finds that the PCGP project will not force a significant change in, or significantly increase the cost of, accepted forest practices on adjacent forest lands within the FF zone.

The Commission recognizes that farming practices are occurring on FG zoned properties adjacent to FF zoned lands crossed by the pipeline.\textsuperscript{287} Specifically, along the pipeline route the FF zone abuts agricultural lands at mileposts 49.48, 50.51, 50.70, 51.27, and 51.91.\textsuperscript{288} The direct potential impacts on those adjacent farming operations are addressed in detail in the Exclusive Farm Use – Grazing Zone section of these findings. As discussed under LUDO § 3.170.5 the Commission finds that the application approval includes conditions of approval that will mitigate and minimize the impacts of the PCGP project on lands surrounding the pipeline alignment devoted to farm use in order to prevent a significant change in accepted farming practices or a significant increase in cost of farm practices on the adjacent farm lands. The Commission finds that the indirect impacts from pipeline construction and operation on the FF zoned lands on those

\textsuperscript{287} Applicant's Final Argument, page 11. See also, Alignment Sheets.

\textsuperscript{288} Application Narrative, Table 1. page 3; See also, Alignment Sheets.
farming practices that are located on FG zoned lands, but are adjacent to the FF zone, are equal to or less than the impacts addressed in the findings for LUDO 3.3.170(5). Therefore, the Commission incorporates the findings on farming impacts from the FG section herein by reference, and finds that construction and operation of the PCGP project within the FF zone will not force a significant change in, or significantly increase the cost of, accepted farming practices on agricultural lands that are adjacent to the FF zone.

b. The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.

The potential fire hazards with forest lands, as well as fire suppression costs and risks to fire suppression personnel are discussed at length under LUDO § 3.2.150(2) earlier in these findings. Therefore, the Commission incorporates the findings under LUDO § 3.2.150(2) herein, and finds that the proposed PCGP project will not significantly increase fire hazard or significantly increase costs to fire suppression personnel.

Article 39 Conditional Use Review

Article 39 provides the general conditional use review criteria for those uses listed as conditional uses within Douglas County. The gas pipeline satisfies the following criteria:

Section 3.39.050 Criteria for Review

1. The proposed use is or may be made compatible with existing adjacent permitted uses and other uses permitted in the underlying zone.

There are three existing use types adjacent to the pipeline within the FF zoned segments. First, the primary use adjacent to the pipeline for the vast majority of the FF segments is forestry operations. In the findings under LUDO § 3.2.150(1), the Commission provides extensive discussion of the evidence provided by both the Applicant and project opponents on the potential impacts of both the construction and operation of the PCGP on adjacent forest practices. Under the Standard in LUDO § 3.2.150(1) and LUDO § 3.5.125(3)(a), the Commission concluded that the PCGP will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on adjacent agricultural or forest lands. Next, for the forest uses adjacent to the TR zoned sections of the pipeline, the Commission found that the evidence and findings concluding that the pipeline will not force a significant change in, or significantly increase the cost of, accepted forestry practices also demonstrates that the pipeline is compatible with forestry practices as a use category under LUDO § 3.39.050.

Here, the Commission finds that the evidence and findings above concluding that the pipeline will not force a significant change in, or significantly increase the cost of, accepted forestry practices, along with the findings above under LUDO § 3.39.050 for the forest uses adjacent to the TR zoned sections of the pipeline also demonstrate that the pipeline is compatible with forestry practices as a use category for the FF zoned sections of the pipeline. The Commission finds that, for purposes of determining compatibility, there is no difference between the forestry uses adjacent to TR zoned sections of the pipeline and the forestry uses adjacent to...
the FF zoned sections of the pipeline. Nor is the pipeline in the TR zoned sections different, for compatibility purposes, than the portions of the pipeline in the FF zone. For all adjacent forestry activities, regardless of the underlying zoning designation, the evidence in the record demonstrates that: (1) once construction is complete, all temporary construction areas, as well as the outside 10 feet on each side of the permanent right-of-way, will be restored and reforested in a manner consistent with the Applicant’s ECRP; (2) once construction is complete, all forestry activities will be allowed to occur up to the 50-foot permanent right-of-way; (2) logging equipment will have access across the pipeline right-of-way; (3) an invasive species control plan will be used to minimize impacts on adjacent forest uses; and (4) the pipeline will not emit any noise or odors that could be incompatible with forestry activities. Therefore, the Commission adopts and incorporates the findings under LUDO § 3.2.150(1) and LUDO § 3.39.050 (TR zone) herein by reference and finds that, as conditioned under this approval, the PCGP is compatible with existing adjacent permitted uses.

Second, near milepost 52 the PCGP alignment is adjacent to a rock quarry. It is undisputed in the record that the quarry is not identified as a significant Goal 5 resource site on the Douglas County Mineral Resources Inventory, and is not included in the Mineral Resources Overlay (MO) zone. The Applicant has indicated that it has met with the property owners where the rock quarry is located, and an agreement was reached to make a 20-foot adjustment of the pipeline route such that future use of the rock quarry will not be affected by the new location of the pipeline and will allow the quarry to be mined in the future as intended. The affected property owner submitted a letter to the Commission and testified at the hearing as a neutral party. The letter from the land owner’s legal representative, states that the property owners “do not object to the Pacific Connector Gas Pipeline project in concept or its general location across their property, so long as just compensation is paid.” In response to the letter, the Applicant provided the following response:

Pacific Connector recognizes that blasting associated with rock mining may have a detrimental impact on the pipeline. Therefore, Pacific Connector has been working with this particular landowner to make sure the two uses are compatible, which the landowner confirmed in her oral testimony before the Planning Commission. The letter requests a “no blasting zone” easement. However, determining the mining limitations near the pipeline is a complex calculation that must take into effect the distance to the pipeline, the depth of the [sic] charge of the blast, the nature of the rock, as well as other factors that will require coordination with the landowner and mining professionals. Therefore, it is not possible to establish a no blasting zone easement at this time.

Instead of an easement, the Applicant proposed a condition of approval which would require the Applicant to work with the owner of a legally authorized mine or quarry operation within a set

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290 Application Narrative, page 21.
292 Applicant’s Record Submittal, page 15.
distance from the pipeline. The condition would further obligate Pacific Connector to compensate the mine operator for the operational loss created by the pipeline. The Supplemental Staff Report addressed the proposed condition that compensation for any losses to mining activities is a civil matter outside of the scope of the County's review. The Commission agrees with staff that compensation for limitations on mining activities, if any, is an issue that must either be negotiated between the Applicant and the property owner or decided through a formal condemnation process. Therefore, the Commission finds it is not appropriate to impose a condition of approval that describes when compensation is necessary. Furthermore, the Commission finds that such a condition is not necessary in order to satisfy LUDO § 3.39.050(1). First, because the mine is not identified as a significant Goal 5 resource site on the Douglas County Mineral Resources Inventory, and is not included in the Mineral Resources Overlay (MO) zone the County has not expressly limited conflicting uses. Second, based upon the evidence in the record the Applicant has been working in good faith with the land owner to resolve any potential conflicts between the mining operation and the pipeline, and minimize the area of the mine that could be impacted. To the extent the existing mining operation is limited because of the pipeline, the pipeline will be responsible for compensating the mine operator either through a negotiated agreement or through the condemnation process. Therefore, the Commission finds that to the extent the pipeline presence limits mining activities, if at all, the two uses would be compatible.

Finally, according to the Applicant, there is a small, non-residential structure on the northern edge of the temporary construction easement at MP 51.95, which appears to be a type of outbuilding. In the Application Narrative, the Applicant indicated that it will ensure the structure is protected during construction through the use of safety fencing, and stated that use of the outbuilding will not be disturbed following construction. However, the legal representative of the property owners at milepost 51.95 submitted a letter stating that they understand that the current alignment may require the destruction of barns and other structures, but that "these matters can be dealt with by the payment of fair compensation and do not require Douglas County's attention or concern." Based upon the record it appears that the Applicant intends on preserving the structure at milepost 51.95, but that in the event the structure is damaged or demolished that the property owner has no objections so long as compensation is paid. As discussed elsewhere in these findings, the matter of compensation is a private matter between the applicant and the underlying property owner. However, it is the Commission's understanding based upon information in the record that property owners will be compensated for any damages to structures either through a private agreement between the Applicant and the landowner or through a formal legal proceeding. Therefore, the Commission finds that the PCGP is compatible with the adjacent structure because of the described construction protections and underground nature of the pipeline. Alternatively, the property owner has agreed to removal of the structure with compensation, and therefore the pipeline is compatible even if the structure is damaged or removed during the construction process.

293 See Carl v. City of Bend, 56 Or LUBA 583 (2008) (holding that a condition of approval is not required to ensure that an applicant meet standards that are required in any event, such as radio frequency non-interference standards established by the FCC).
294 See, LUDO § 3.32.100.
For the reasons stated above, the Commission finds the PCGP project is compatible with existing permitted uses adjacent to the FF segments of the pipeline.

LUDO § 3.39.050 also requires the Applicant to demonstrate that the PCGP is compatible with "other uses permitted in the underlying zone. Pursuant to LUDO § 3.5.050, permitted uses with the FF zone other than forest operations include farm uses, buildings and uses accessory to farm uses, limited home occupations. LUDO § 3.5.075 lists additional uses that are permitted with standards including specific dwelling types, destination resorts, and youth camps.

As the Applicant has explained, the pipeline will preclude the placement of any structures or any subsurface activities within the 50-foot right-of-way for safety purposes. Therefore, many of the permitted uses, including farm buildings, destination resorts, dwellings, and youth camps would be prohibited within the 50-foot permanent right-of-way. However, the Commission finds that this standard does not require a finding that permitted uses can take place within the footprint of the proposed use. If that were the case, the standard would require denial of any conditional use with a permanent footprint or impact area, which is clearly not the intent of this standard. Instead, it requires a finding that the use, which in this case is a pipeline within a 50-foot permanent right-of-way, is or may be made compatible with other uses that may be developed on adjacent lands.

Based upon evidence in the record, the Commission finds that once construction is complete, the PCGP will be a subsurface utility with no visual, odor, vibration or noise impacts. The Applicant has also addressed fire safety issues at length, and the Commission has concluded that the PCGP will not significantly increase fire hazards. All of the permitted uses in the FF zone can be developed adjacent to the PCGP without restrictions or significant risk of harm. Therefore, the Commission finds that the pipeline would be compatible with any of the above-listed uses which may be placed or conducted outside of the right-of-way in the FF zone. Furthermore, the Commission finds that typical farm uses could continue over the permanent right-of-way. Some project opponents contend that even following construction, the PCGP project will have impacts in the form of noise and traffic required by maintenance or repair activities. Information submitted by the Applicant indicates that once vegetation is established in the right-of-way, vegetation maintenance over the full width of the right-of-way within forested areas will not be done more frequently than every 3 years. Even if other maintenance or survey work may occur somewhat more frequently, the Commission finds that periodic maintenance activities which would include corrosion and leak surveys and vegetation maintenance, does not make the use incompatible with any of the other permitted uses within the FF zone listed above. This is especially true considering many of the outright permitted uses within the FF zone, such as farm uses, destination resorts, and youth camps, also have traffic and noise from their operations. There is no evidence that the traffic and noise from maintaining the PCGP would be any greater than operating a commercial farm. In fact, maintenance activities on lands devoted to farm uses, such as crop production or grazing, would be even less frequent because the Applicant would not be required to maintain a cleared corridor. While repair work, if necessary, may be more disruptive to surrounding future uses, they would be rare and

297 Applicant’s Record Submittal, page 11. See also, Applicant’s Record Submittal, Attachment 3, page 45.
temporary impacts, that would not significantly affect any of the permitted uses listed above. For the reasons set forth above, the Commission finds that the PCGP is compatible with other uses permitted in the FF zone.

2. The proposed use complies with other development approval criteria within the applicable zone.

As demonstrated through these findings, the Commission finds that the pipeline complies with the development criteria for conditional uses in the FF zone, § 3.5.125, as well as the requirements of § 2.060.

B. FF Zone Siting and Property Development Standards

Section 3.5.160 Siting Standards for Dwellings and Structures
Section 3.5.170 Fire Siting Standards for New Dwellings and Structures

These provisions apply to "new dwellings and structures." The only element of the proposal within the FF zone is the below-ground pipeline. As the Commission found under LUDO 3.3.200(3) and finds here for the same reasons, the below-ground pipeline is not a structure. Therefore, these provisions are not applicable to the proposal. No party has objected to the non-applicability of these provisions.

Section 3.5.200 Property Development Standards

1. Property size:

The PCGP will not create a land division or alter the property size of any of the lots it crosses. Consequently, the provisions of this standard are not applicable to this application.

3. Setbacks: No structure other than a fence or sign shall be located closer than 30 feet from the right-of-way of a public road and 10 feet from all other property lines.

The Commission addresses the applicability of the setback standards to the subsurface portions of the PCGP in the FG section above. As discussed at length in the findings for LUDO § 3.3.200(3), the Commission interprets the setback requirement not to apply to the below-ground elements of the pipeline. The Commission notes that the only distinction between the setback analysis and conclusion with in the FG zone and that within the FF zone is that within the FF zone there are no above ground structures. The Commission finds that this merely strengthens the conclusion that that the setback standards do not apply to the subsurface pipeline within the FF zone. Therefore, the Commission adopts the findings set forth above under LUDO § 3.3.200(3) and incorporates them herein by reference.

5. Signs

a. Signs shall not extend over a public right-of-way or project beyond the property line.
b. Signs shall not be illuminated or capable of movement.

The sign standard within the FG zone at LUDO § 3.3.200(5) is identical to the LUDO § 3.5.200(5). Furthermore, the use of pipeline markers will be the same in both the FG and FF zones. Therefore, the Commission incorporates the findings provide for LUDO § 3.3.200(5) above herein by reference, and finds that the PCGP satisfied the sign standard within the FF zone.

6. Parking: Off-street parking shall be provide in accordance with Article 35.

Pacific Connector is not proposing any off-street parking for the pipeline within the FG zone. Therefore, this standard is not applicable to this application.

For the reasons set forth above, the proposed pipeline satisfies all of the relevant approval criteria and standards for pipeline development in the FF zone.

4. Article 32 - Natural Resource Areas

Section 3.32.200 Riparian Vegetation Corridor Overlay (RVCO)

3. Setback Requirements for Structural Development

A building setback of fifty (50) feet horizontally from the bank of all identified perennial and intermittent water courses shall be maintained unless the Director finds, after consultation with the Oregon Department of Fish and Wildlife, that such setback is unnecessary as a mitigation measure for the protection of wildlife. If agreement cannot be reached, a Variance, pursuant to Article 40, shall be required to reduce the setback, and reduction of the setback will not jeopardize streambank stability or water quality.

LUDO § 3.32.200(1) states that the “Riparian Vegetation Corridor Overlay shall apply to all properties and land use designations located within 50 feet of the bank-line of all perennial and intermittent water courses in Douglas County as identified on the Plan map.” LUDO § 3.32.200(3) requires a building setback from the bank of all “identified perennial and intermittent water courses.” Therefore to determine which perennial and intermittent water courses have been identified by the County, it is necessary to look at Section 24 of the Natural Features Element of the Douglas County Comprehensive Plan, entitled Riparian Vegetation Corridors Along Rivers and Streams. Section 24(a)(1) describes the location of the riparian vegetation resources and states, “At the present time a map of specific riparian vegetation corridors in Douglas County is not available. Upon consulting with the Oregon Department of Fish and Wildlife, all riparian vegetation located within 50’ of the streambank adjacent to identified perennial and intermittent streams has been classified as important. The location of important perennial and intermittent streams in Douglas County is shown in the State Water Resources Maps for the Umpqua, South Coast, Rogue, Klamath, Willamette and Mid Coast drainage basins.” Therefore, in order for a water course to be an “identified” perennial or intermittent water course that is surrounded by the Douglas County Riparian Vegetation Corridor Overlay
The Applicant argues that the pipeline is not subject to the structural development setback because below-ground elements that do not permanently alter riparian vegetation are excluded. First, the Applicant repeats its argument that a below-ground pipeline is not a structure under LUDO § 1.090 for the reasons given above. (Above, the Commission agreed with the Applicant and adopted an interpretation that excludes the below-ground elements of the pipeline from the definition of structure.) Second, the Applicant points out that the scope of this provision can best be understood from the Goal 5 protection of riparian vegetation. See Douglas County Comprehensive Plan, Natural Resources, Section 24 (ESEE analysis for riparian vegetation).

While the Commission finds that the pipeline will not cross through the RVCO based upon the adopted Umpqua Drainage Basin map, the record indicates that the pipeline will cross several perennial or intermittent watercourses. In the event any of those watercourses were subject to the (RVCO, the Commission finds that the PCGP Project is not subject to the structural development setback of LUDO § 3.32.200(3). The Applicant and opponents have disputed the applicability of the 50-foot structural development setback requirement of LUDO § 3.32.200(3), which implements the County's Goal 5 protection of riparian vegetation. See Douglas County Comprehensive Plan, Natural Resources, Section 24 (ESEE analysis for riparian vegetation).

Opponents argue that the 50-foot setback from waterways applies because the pipeline is a structure, and that the setback can only be waived if ODFW agrees. Opponents interpret ODFW's comments to FERC as a conclusion by ODFW that the setback applies and is not satisfied or waivable.

The Applicant argues that the pipeline is not subject to this "structural development" setback because below-ground elements that do not permanently alter riparian vegetation are excluded. First, the Applicant repeats its argument that a below-ground pipeline is not a structure under LUDO § 1.090 for the reasons given above. (Above, the Commission agreed with the Applicant and adopted an interpretation that excludes the below-ground elements of the pipeline from the definition of structure.) Second, the Applicant points out that the scope of this provision can best be understood from the Goal 5 Comprehensive Plan provisions that it implements:

The Riparian Overlay requirements of LUDO § 3.32.200 implement the Natural Resource Section of the Douglas County Comprehensive Plan. Section 24 of the Natural Resources Section describes the uses that could conflict with the riparian overlay as uses and activities that "could permanently alter riparian vegetation." (emphasis added). The Comprehensive Plan then explains that "such activities include structural development such as single-family dwellings, commercial and industrial buildings, churches, public and private schools, community centers, kennels, roadside stands, and accessory buildings." Therefore the

Comprehensive Plan defines "structural development" for purposes of the riparian overlay as uses that permanently alter riparian vegetation and includes an example list that is limited to structures with permanent building footprints. In this case, the PCGP will not permanently alter riparian vegetation. As detailed in the FERC Wetland and Waterbody Construction Mitigation Procedures, attached as Exhibit 5 in the original application packet, Pacific Connector must revegetate disturbed riparian areas with riparian species. Additionally, the pipeline is a subsurface, linear facility and therefore will not have a permanent building footprint within the riparian overlay. Consequently, the pipeline is not a "structural development" and the pipeline is not subject to the Riparian Overlay setback requirements for structural development at LUDO § 3.32.200(3).  

The Applicant further elaborates its interpretation as follows:

In the September 11th letter, FLOW also seemingly confuses the concept of yard setbacks applicable to "structures" in each zone with the Riparian Vegetation Corridor Overlay (Riparian Overlay) setback requirement for "structural development" referenced in LUDO § 3.32.200. As detailed in earlier letters submitted by Pacific Connector, the Riparian Overlay setback requirement only applies to "structural development." While "structural development" is not a defined term in the LUDO, the proper context for interpretation of that term comes from the Natural Resources section of the Douglas County Comprehensive Plan, Section 24. The Natural Resources section of the Comprehensive Plan makes it clear that "structural development" for purposes of the Riparian Overlay setback only includes those uses and activities that could permanently alter riparian vegetation. Pacific Connector must revegetate disturbed riparian areas pursuant to the Wetland and Waterbody Construction Mitigation Procedures that are included in the Erosion Control and Revegetation Plan (ECRP). Therefore, the PCGP will not permanently alter riparian vegetation, and is not a "structural development" subject to the Riparian Overlay setback requirements at LUDO § 3.32.200(3).  

Opponents do not address the significance of the Comprehensive Plan to the interpretation of "structural development," and instead repeat their argument that the setback is applicable because the pipeline is a structure under LUDO § 1.090.  

Finally, the Applicant disputes the significance of ODFW's comments to FERC. First, the Applicant notes that LUDO § 3.32.200(3) is for the County to interpret, and that it requires ODFW consultation only if the setback is triggered and not met. Second, the Applicant disputes

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300 Applicant's Record Submittal, page 19.
301 Applicant's September 25 Letter, page 2.
Opponents' interpretation of ODFW's comments to FERC, arguing that they relate only to the size of the vegetation area that must be restored, not to the pipeline's setback from the stream.

Several of the opponents cite Oregon Department of Fish and Wildlife ("ODFW") comments to FERC that mention the Douglas County Riparian Overlay to try to support the opinion that the PCGP must comply with the Riparian Overlay setback requirements. However, the ODFW comments misstate the County requirements. ODFW contends that pursuant to LUDO § 3.32.200 ODFW inspection is required for "any land use action." However, LUDO § 3.32.200(3) only requires ODFW consultation if the structural setback requirements are not satisfied. As discussed above, the structural development setbacks do not apply to the temporary impacts to riparian vegetation during pipeline construction. Therefore, ODFW consultation is not triggered.

Significantly, it is the County, rather than ODFW, that has the authority to interpret the requirements of LUDO § 3.32.200. Furthermore, at most the ODFW comments merely recommend to FERC that the riparian vegetation maintenance area be increased from 25 feet to 50 feet. The ODFW comments do not suggest that the pipeline must be setback 50 feet from the waterway.

Opponents do not respond to the Applicant's interpretation of ODFW's comments, except to reiterate their view that ODFW believes the structural development setback applies to the pipeline.

After considering the parties' arguments, the Commission concludes that the pipeline is not required to maintain a 50-foot setback from waterways because the pipeline is not "structural development" to which the LUDO § 3.32.200(3) setback is applicable. The Commission agrees with the Applicant that, absent a definition of "structural development," the Commission must rely on the definition of structure (equivalent to the definition of building, per LUDO § 1.090) and the Goal 5 ESEE listing of conflicting uses in Natural Resources Section 24 of the Comprehensive Plan. The Commission has already concluded that the below-ground pipeline is not a structure, and it further adopts and incorporates by reference the Applicant's arguments set forth above that the Goal 5 analysis in the Comprehensive Plan further limits the intended scope of the riparian vegetation setback.

The Commission is responsible to interpret LUDO § 3.32.200, not ODFW, and the Commission has done so here. It is worth pointing out that ODFW has not submitted comments in the County's proceeding, despite its arguments to FERC. ODFW could have submitted similar comments to the County had it wanted them considered. Instead, the comments pertain to the FERC proceedings and were developed for that proceeding.

Even if ODFW's comments to FERC were binding guidance for the Commission, ODFW did not argue to FERC that the pipeline is prohibited from coming within 50 feet of a waterway. As Natural Resources Section 24 of the Comprehensive Plan makes clear, the relevant Goal 5

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 Applicant's Record Submitted, page 19.

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A significant number of comments provided to the Commission through both written and oral testimony were directed at impacts and issues that are unrelated to applicable approval criteria. Some examples include claims of potential impacts to the following: waterbodies, wetlands, riparian vegetation corridors, not rivers or steep slopes generally. This fact not only supports the conclusion that the structural development setback applies only to above-ground development—i.e., that which permanently affects vegetation—but also helps to show why the Applicant is correct about the scope of ODFW’s comments. ODFW merely argued to FERC that LUDO § 3.32.200 required the Applicant to create new 50-foot riparian vegetation corridors where the pipeline crosses waterways, rather than the 25-foot riparian vegetation maintenance area required by FERC. ODFW’s comments do not support the opponents’ view that the pipeline cannot cross, or come within 50 feet of, a waterway. The clear focus of ODFW’s comments is on restoration of riparian vegetation, which is not required by LUDO § 3.32.200.

In sum, the Commission interprets the “structural development” setback of LUDO § 3.32.200(3) not to apply to the below-ground pipeline, because it is not a structure and does not resemble the conflicting uses sought to be limited by the RVCO—i.e., those developments that permanently alter vegetation corridors.

Section 3.32.300 Peripheral Big Game Habitat Overlay (BGHO)

The Application Narrative states that the proposed pipeline passes through Peripheral Big Game Habitat Overlay (BGHO) areas. However, pursuant to LUDO § 3.32.300, all uses permitted within the underlying zone are permitted or conditionally permitted within the BGHO. Additionally, the review provisions at § 3.32.300.3 only apply to requests for dwellings and land divisions. Therefore, the Commission finds that the proposed pipeline is consistent with the BGHO requirements.

D. Response to Comments Outside the Scope of the Approval Criteria

The Commission received many public comments both in favor of and opposed to the application that were simply unrelated to any of the applicable approval criteria. While very few of the comments were expressly directed at any one approval criterion, through these findings the Commission has tried to identify evidence and argument submitted by the project opponents that could relate to an applicable approval criterion, and those are addressed above. The following addresses certain categories of comments that the Commission finds completely unrelated to the applicable approval criteria.

1. State and Federal Permits

A significant number of comments provided to the Commission through both written and oral testimony were directed at impacts and issues that are unrelated to applicable approval criteria, and are instead issues that are under the jurisdiction of other state or federal agencies. Some examples include claims of potential impacts to the following: waterbodies, wetlands.

303 While several project opponents raised wetland impacts generally, none of the project opponents suggested that LUDO § 3.32.700, Significant Wetlands Overlay, contains applicable approval criteria for this land use application. Nonetheless, the Commission expressly finds that LUDO § 3.32.700 is not applicable. LUDO § 3.32.700 only applies to wetlands “designated on the Significant Wetlands maps of the Comprehensive Plan.” Table 6-1 of the Natural Features Element of the Comprehensive Plan lists 17 significant wetlands, and the table is followed by maps of each of the 17 wetlands. Douglas County Comprehensive Plan, pages 6-21 to 6-30. It is clear from a comparison...
archeological resources, aquatic life, and wildlife habitat. The Commission finds that while important, these and other impacts are regulated by other state and federal agencies, and are outside of the jurisdiction of Douglas County for purposes of this land use application.

Several public comments also suggested that Douglas County needs to require compliance with federal and state laws and regulations, including for example, the Endangered Species Act, the Coastal Zone Management Act, and the Clean Water Act. The Applicant noted that these laws and regulations are not within the County's land use jurisdiction, but provided the following explanation of the appropriate federal and state agency jurisdiction:

For example, it is FERC's responsibility to consult with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service under the Endangered Species Act. It is the responsibility of these agencies to protect threatened and endangered species (i.e., northern spotted owl, marbled murrelet, coho, etc.). Additionally, Pacific Connector must submit a certification application to the Oregon Department of Land Conservation and Development and receive certification that the PCGP complies with Oregon's Coastal Management Program. DCD must in turn consult with other state and local agencies to confirm consistency.

Pacific Connector must also apply for and obtain permits under the Clean Water Act (Sections 404, 401, and 402) from the U.S. Army Corps of Engineers and the Oregon Department of Environmental Quality. These permits will regulate activities within and near all waterbodies and wetlands potentially impacted by the PCGP. These permits will include the appropriate TMDL restrictions.

The Applicant also included an excerpt from FEIS Section 1.5 that details all of the permits/approvals required for the PCGP and the corresponding permitting authority. The Commission finds that the cited federal and state laws are outside of its land use jurisdiction.

Finally, several public comments claim that any local land use decision must be conditioned upon issuance of all required state and federal permits. However, none of these
comments explain why such a condition is necessary to comply with the applicable land use approval criteria. Condition of Approval 2 requires that prior to any construction activity, the applicant must provide the County with proof that FERC has issued a "Certificate of Public Convenience and Necessity" as well as a "Notice to Proceed." In response to claims that just requiring issuance of the Certificate is not enough to, the Applicant offered the following explanation of the Notice to Proceed requirement:

Before Pacific Connector could begin any construction activity, FERC must issue a Notice to Proceed (NTP) authorizing construction to commence. To receive an NTP, an applicant must demonstrate that all conditions of the FERC Certificate have been satisfied. These conditions typically include demonstrating that all applicable federal permits and approvals have been obtained including, but not limited to, Biological Opinions from the U.S. Fish and Wildlife Service and the National Marine Fisheries Service, wetland removal-fill permits from the US Corps of Engineers, as well as concurrence regarding historic and cultural resources and a Coastal Zone Consistency determination from the Oregon Department of Land Conservation and Development, which typically requires a finding that the PCGP is consistent with the adopted Oregon Coastal Management Program. 307

After considering the arguments and information above, the Commission agrees that the issues and laws cited above are not within the jurisdiction of this Commission. As the Applicant explained, FERC will not issue a Notice to Proceed until all legally required federal and state authorizations have been obtained. None of the project opponents challenged the effect of the Notice to Proceed requirement.

2. Zoning Purpose Statements

In a letter addressing the staff report, a project opponent claims that "the staff report does not adequately explain why the pipeline is compatible with the purpose of the TR and FF designations." 308 The opponent then cites the purpose statements for both the TR zone, at LUDO § 3.2.000, and the FF zone, at LUDO § 3.5.000, and argues that the pipeline cannot satisfy the purpose statements. 309 The Applicant offers the following response:

[P]urpose statements are not approval criteria to be applied in the County's decision. The County is responsible for implementing

307 Applicant's Final Argument, page 20. Once again Table 1.5-1 of the FEIS includes a complete list of all major permits, approvals, and consultations under the FERC process. Applicant's Record Submittal, Attachment 10.

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those purpose statements through objective approval criteria, including its list of permitted uses and subsequent review and development standards. In this case, the FG zone lists utility facilities necessary for public service as an allowed use, while new distribution lines with rights of way of 50 feet or less in width are conditional uses within the TR zone. The commission recognizes that purpose statements can be relied upon as context to determine legislative intent when interpreting an ambiguous provision. However, in this case the commission finds that the opponent's position was that the purpose statements themselves were approval criterion upon which the commission should base its decision, rather than context for an interpretation. The commission rejects FLOW's application of the purpose statements and finds that the TR, FG, and FF purpose statements do not constitute applicable approval criteria for this application. Furthermore, as provided under each separate zone in the findings above, the commission also finds that the PCGP is an allowed use in each of the relevant zones and that the applicable approval criteria in each zone have been satisfied.

The commission agrees with the applicant's assessment of the role of the purpose statement and adopts it by reference. The commission also agrees with the applicant that as written the TR, FF, and FG purpose statements, are aspirational in nature and do not constitute applicable approval criteria. The commission recognizes that purpose statements can be relied upon as context to determine legislative intent when interpreting an ambiguous provision. However, in this case the commission finds that the opponent's position was that the purpose statements themselves were approval criterion upon which the commission should base its decision, rather than context for an interpretation. The commission rejects FLOW's application of the purpose statements and finds that the TR, FG, and FF purpose statements do not constitute applicable approval criteria for this application. Furthermore, as provided under each separate zone in the findings above, the commission also finds that the PCGP is an allowed use in each of the relevant zones and that the applicable approval criteria in each zone have been satisfied.

310 The commission recognizes that the same use category applies to the FF zone.
311 The TR Purpose at LUDO § 3.2.000 states, "The Timberland Resource classification is intended to conserve and protect lands for continued timber production, harvesting and related uses, conserve and protect watersheds, wildlife habitats and other such uses associated with forests and to provide for the orderly development of both public and private recreational uses as appropriate and not in conflict with the primary intent of the zone, which is sustained production of forest products. Uses of land not associated with the management and development of forests shall be discouraged to minimize the potential hazards of damage from fire, pollution and conflict caused by nonforest related residential, commercial and industrial activities."
312 The FF Purpose at LUDO § 3.5.000 states, "The Farm Forest Classification is intended to promote management, utilization, and conservation of forested grazing lands, lands which might not be forested but have such potential, and non-tiltable grazing lands adjacent to forested lands. The purpose of this classification is to encourage sound management practices on such lands for agricultural or forest resource uses, including but not limited to: watershed management; recreation; fish and wildlife management; and agricultural activities consistent with sound forest and agricultural management practices, to retain lands within this district for farm and forest use, protecting such land from nonresource use and conflicts."
313 The FG Purpose at LUDO § 3.3.000 states, "The purpose and intent of the Exclusive Farm Use-Grazing zone is to provide areas for the continued practice of agriculture and permit the establishment of only those new uses which are compatible with agricultural activities. The minimum property size established by this zone is intended to promote commercial agricultural pursuits, such as grazing, rangeland and other less intensive agricultural uses. It is the purpose of this zone classification to provide the automatic farm use valuation for farms which automatically qualify under the provisions of ORS 308. Therefore, the Exclusive Farm Use Zone is to be applied to all lands designated "Agriculture" in the Comprehensive Plan in accordance with LCDC Goal No. 3 and the Douglas County Agricultural Element."

The Exclusive Farm Use Zone is intended to guarantee the preservation and maintenance of the areas so classified for farm use free from conflicting nonfarm uses and influences.
3. **Board Resolution**

Several project opponents cite a Resolution passed by the Douglas County Board of County Commissioners on July 25, 2007 that is entitled “In the Matter of Opposing the LNG (Liquid Natural Gas) Pipeline and Protecting the Private Property Rights of Douglas County Residents” to argue that the Commission should deny the subject application. The Applicant addressed the impact of the Resolution on the current land use application in the Narrative Addendum by providing the following:

The Resolution expresses general concerns about the rights of private property owners potentially affected by the pipeline, and includes the following statement, “we, the Douglas County Board of Commissioners, recommend the pipeline not be constructed unless and until the contractor negotiates with property owners and all concerns have been addressed to their satisfaction.” While the Resolution contains a general, aspirational policy statement related to future construction of an LNG pipeline, the language contained in the Resolution was not adopted as an amendment to the Douglas County Comprehensive Plan, nor was it adopted as an amendment to the Douglas County Land Use and Development Ordinance. Therefore, the Resolution is not itself a land use regulation, and does not contain any land use regulations. Because the Resolution is not a land use regulation and does not contain land use regulations, the Resolution is not an approval criterion for the PCGP land use application, and cannot be used by the County decision making body as the basis for either approval or denial. Instead, approval or denial of the requested land use decision must be based solely on the applicable approval criteria identified in the original narrative statement.\(^{314}\)

The Commission finds that while several public comments referred to the Resolution and urged the Commission to comply with the policy statement contained in the Resolution, none of those citing the Resolution adequately challenged the Applicant’s Narrative Addendum, nor provided evidence that the Resolution was adopted as part of the Douglas County Comprehensive Plan, or adopted as an amendment to the Douglas County Land Use and Development Ordinance. The Commission finds that the Resolution is not a land use regulation, does not contain any land use regulations, and is not an applicable approval criterion for this land use application.

4. **Issues with Other Pipelines**

The Planning Commission received written testimony from project opponents identifying issues and problems with other pipelines, including pipelines in the region\(^{315}\) and pipelines in other countries.\(^{316}\) The Planning Commission understands these comments to identify potential

\(^{314}\) *Narrative Addendum*, page 1.


\(^{316}\) See, e.g., Citizens Against LNG Letter, August 6, 2009, Page 13.
types of impacts caused by pipelines generally—e.g. erosion, water quality, flooding, etc.—rather than specific impacts that will be caused by the PCGP based on the materials submitted by the Applicant. For example, one of the letters claims that a pipeline developed in Russia by Shell Oil caused significant environmental degradation and that the Applicant is proposing to use many of the same construction methods. The Planning Commission disagrees that a Russian pipeline that was not approved by FERC or subject to any Oregon land use standards necessarily means that the PCGP will have the same impacts. Similarly, with respect to the regional pipelines, the opponents point out that the Grants Lateral caused erosion when Cow Creek changed direction and uncovered the lateral, and that the Mastec Pipeline in Coos County had problems related to erosion, stream impacts, and water table. These comments are not tied to any particular approval criterion applicable to the PCGP. Further, these comments do not explain why the PCGP will cause the same impact as the other pipelines. Therefore, the Planning Commission considers them only to the extent that they identify potential types of general impacts that could be caused by the PCGP. As discussed throughout these findings, and incorporated herein by reference, the Planning Commission finds that the evidence submitted by the Applicant, including the ECRP, demonstrates that the risk of these impacts will be minimized and mitigated sufficient to meet all applicable approval criteria for the pipeline. Therefore, the Commission finds that issues caused by other pipelines do not need to be further addressed.

5. WOPR Withdrawal

The Commission received several comments both orally and in writing claiming that the application is flawed and should be denied because the Western Oregon Plan Revisions (WOPR), which related to land allocations on BLM lands, was withdrawn by the Department of the Interior after issuance of the FEIS. Project opponents essentially claim that because of the WOPR withdrawal the FEIS is incomplete and cannot be referenced in the application. In response the Applicant provide the following clarification about the reference to the FEIS in the application:

The application packet included an electronic copy of the Final Environmental Impact Statement (FEIS) and incorporated the document by reference. The purpose of this incorporation was to allow the applicant to reference information in the FEIS that is directly applicable to the Douglas County approval criteria for the relevant 7.31 miles within the CZMA.

Both written and oral comments noted that the Western Oregon Plan Revision (WOPR), which related to land allocations on BLM lands, was withdrawn by the Department of the Interior. The public comments suggest that because of that withdrawal the FEIS may be modified and therefore cannot be referenced in the application. Once again the purpose of including the FEIS was to allow the applicant to reference information and facts in the FEIS that are relevant to the approval criteria. In this case the portion of the FEIS affected by the WOPR withdrawal is limited to Sections 317 Umpqua Watersheds Letter, July 22, 2009, page 4.
4.6.1.2 (Threatened and Endangered Species/Birds) and 4.7.4.2 (Federal Land Use Plans and Land Allocations). Neither of those sections are referenced in the narrative or this submittal. Furthermore, potential changes to those sections would not alter any of the responses to the approval criteria for this application. Therefore, the withdrawal of the WOPR is irrelevant to the County’s land use decision.\footnote{Applicant’s Record Submittal, page 23.}

The project opponent responded to this explanation by again claiming the FEIS is faulty and claiming that the WOPR, and therefore the FEIS, failed to consider all of streamside reserves and critical habitat that has been reinstated in the CZMA.\footnote{Umpqua Watersheds Letter, September 11, 2009, page 3.} The Applicant offered the following final response on the issue:

The Umpqua Watersheds letter correctly points out that the Final Environmental Impact Statement (FEIS) incorporates the Western Oregon Plan Revisions (WOPR), and further that the WOPR was withdrawn after issuance of the FEIS and is no longer being used by the Bureau of Land Management (BLM). It is also true that the PCGP alignment crosses federal lands managed by BLM within the 7.31 mile segment.\footnote{However, as noted in Pacific Connector’s original application narrative, local governments in Oregon do not have direct land use permitting authority over projects located on lands owned and controlled by the federal government. Furthermore, federal lands are excluded from the CZMA boundary definition under both state and federal law.} However, the Umpqua Watersheds letter utterly fails to explain how the WOPR withdrawal relates to the land use approval criteria applicable to the application currently pending before Douglas County. That is because the issues raised by Umpqua Watersheds regarding the deficiency of the FEIS based on its inclusion of the WOPR are completely irrelevant to Douglas County’s applicable LUDO criteria. As noted in Pacific Connector’s earlier submittal, the substantive portions of the FEIS affected by the WOPR withdrawal are limited to Sections 4.6.1.2 (Threatened and Endangered Species/Birds) and 4.7.4.2 (Federal Land Use Plans and Land Allocations). Pacific Connector has not referenced either of these sections of the FEIS in support of the current land use application. Furthermore, the FEIS correctly evaluated the project within the regulatory framework that was in force at the time the FEIS was issued. Therefore, the WOPR withdrawal has no impact on Pacific Connector’s Douglas County land use application, nor does it invalidate the evidence Pacific Connector has relied upon to demonstrate compliance with the applicable approval criteria.\footnote{Applicant’s September 25th Letter, page 6.}
Whether or not FERC issues a revised FEIS as a result of the WOPR withdrawal is not within the jurisdiction of this Commission. What is within the jurisdiction of this Commission is whether the segment of the PCGP within the relevant 7.31 miles of Douglas County is consistent with the applicable approval criteria for that use. The Applicant has submitted information explaining why the WOPR withdrawal is unrelated to the FEIS sections that were referenced by the Applicant in support of the application. The Commission agrees with the Applicant that in contrast, the project opponents have failed to demonstrate how the WOPR withdrawal relates to the LUDO approval criteria upon which this Commission must base its decision. In other words, the project opponents have failed to make any connection between the FEIS sections that were cited by the Applicant to satisfy the applicable approval criteria and the FEIS sections impacted in any way by the WOPR withdrawal. Specifically, the Commission finds that the Applicant submitted evidence that it had neither cited nor relied upon either FEIS Section 4.6.1.2 or Section 4.7.4.2 to support its land use application. The opponents did not challenge the Applicant’s claim that these were the only two FEIS sections impacted by the withdrawal, nor did they specifically cite any additional FEIS section that was affected.

Instead, the opponents described two general categories of impacts they claimed were affected by the withdrawal, wildlife reserves and wildlife habitat on BLM lands. The Commission finds that critical habitat on BLM lands and federal management of impacts to wildlife reserves, including stream-side buffers are not relevant to the applicable approval criteria for this application. The County’s riparian vegetation overlay requirements at LUDO § 3.32.200 are addressed in detail in the findings above, and the Commission finds that based upon the information in the record, there is no connection between the federal stream side buffers under the WOPR and the local riparian overlay zone.

In summary, based upon the information in the record, the Commission finds that to the extent there are any necessary changes to the FEIS as a result of the WOPR withdrawal, those changes are wholly unrelated to the sections of the FEIS the Applicant has relied upon to demonstrate that the PCGP use satisfies the applicable local approval criteria, and are wholly unrelated to the applicable approval criteria themselves. For the reasons set forth above, the Commission finds that the withdrawal of the WOPR does not invalidate the Applicant’s references to sections of the FEIS, and is not otherwise relevant to this Commission’s decision on the PCGP projects consistency with the applicable approval criteria. The Commission further finds that there is no need to wait for a FERC resolution to the WOPR withdrawal issue before issuing a decision, nor is there a need to condition the decision on a resolution.

6. **Impacts on Property Outside of the relevant 7.31 miles**

Several project opponents offered both written and oral testimony about impact of the segments of the PCGP that are outside of the 7.31-mile segment that is located within the Douglas County CZMA. However, the land use application that this decision is based upon is strictly limited to that 7.31-mile segment. Therefore, this Commission cannot base its decision on any impacts outside of the relevant 7.31-mile segment, and finds all comments about specific impacts on property outside of the 7.31-mile segment are not applicable to this decision.

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322 See, e.g., Citizens Against LNG, August 6, 2009, page 6; Milepost 69.98 Letter.
7. Roads/open cut

One project opponent claimed that the Douglas County Public Works Department does not permit open cutting of highways under its maintenance jurisdiction.\textsuperscript{323} The Applicant submitted a letter, dated November 17, 2008, from the Public Works Department to the Applicant that states that Douglas County does not permit open cutting of highways under its maintenance jurisdiction "unless boring attempts have failed or if we deem it to be unfeasible to bore."\textsuperscript{324} The letter goes on to say that prior to commencement of the project the Applicant must submit an Application for Permit for each proposed crossing. Consistent with this letter, Condition of Approval 1 requires the Applicant to "provide the Planning Director with a copy of an approved Public Works utility permit for each County road crossing located within the 7.31 mile section of the pipeline in the CZMA."

III. CONDITIONS OF APPROVAL

The final motion approved by the Commission at the July 30\textsuperscript{th} hearing approved the Applicant's requested land use approval subject to amended conditions included in the Supplemental Staff Report and an additional condition prohibiting the use of the pipeline for the export of natural gas. Therefore the Commission adopts Conditions of Approval 1 through 11 included on pages 5 and 6 of the Supplemental Staff Report dated October 8, 2009 as the following post-construction Condition of Approval:

12. This Conditional Use Permit/Utility Facility authorization is limited to the import of natural gas only.

IV. DECISION

Based upon the Findings of Fact, the Commission finds that the proposed natural gas pipeline is consistent with all of the applicable approval criteria. Therefore, the Commission hereby approves the application for a Conditional Use Permit and a Utility Facility Necessary for Public Service to allow a new natural gas pipeline and associated accessory uses to be constructed, operated, and maintained through a 7.31 mile section of Douglas County within the CZMA, subject to the following conditions of approval:

Pre-Construction Conditions:

1. The applicant shall provide the Planning Department with a copy of an approved Public Works utility permit for each County road crossing located within the 7.31 mile section of pipeline in the CZMA.

2. The applicant shall provide the County with proof that FERC has issued a "Certificate of Public Convenience and Necessity" and a "Notice to Proceed" that includes the 7.31 miles of pipeline within the CZMA.

\textsuperscript{324} Application Binder, Conditional Use Permit Section.
3. The owner of the utility facility shall submit an agreement which establishes the utility facility as the responsible party for restoring to its former condition those agricultural lands and associated improvements that are damaged or otherwise disturbed by the siting (to include any temporary additional right-of-way easements and staging areas), maintenance, repair or reconstruction of the facility. The agreement shall apply to all those lands which are the subject of this request for a Utility Facility Necessary for Public Service.

4. Between Mile Post 49 and 52 of the pipeline, it travels through an agricultural area and in proximity to farm dwellings. In order to minimize the impact to farm dwellings and activities, pipeline construction activities shall be limited to the hours of 7:00 a.m. through 8:00 p.m., in this area.

5. The applicant shall provide an independent consulting engineer's, or independent consulting forester's pre-construction certification to identify those forested areas within any temporary additional right-of-way easements and staging areas.

6. Pursuant to LUDO §3.35.200.10, the applicant shall execute an agreement for improvements and performance bond to assure compliance with any conditions of this approval requiring post-construction certification.

7. After the appeal period has expired and the pre-construction performance conditions have been met, the applicant shall obtain a Planning Clearance Worksheet for the placement of the block valve.

Post Construction Conditions:

8. The permanent pipeline right-of-way shall be no wider than 50 feet at any point along the 7.31 miles of pipeline within the CZMA.

9. The applicant shall provide an independent consulting engineer's, or independent consulting forester's post-construction certification that all temporary additional right-of-way easements and staging areas created for the construction of the pipeline have been abandoned and those forested areas that existed prior to construction have been replanted and restored to timber production.

10. The applicant shall provide an independent consulting engineer's, or independent consulting forester's, post-construction certification that the 10 foot corridors on either side of the 50 foot wide permanent right-of-way easement, that were forested prior to construction, have been replanted and restored to timber production, leaving only an unplanted 30 foot wide corridor centered on the pipeline.

11. The consultant's certification of the restoration actions required in Condition Nos. 3, 9 and 10 shall also certify that the actions are consistent with the applicant's Erosion Control & Revegetation Plan required by FERC.

12. This Conditional Use Permit/Utility Facility authorization is limited to the import of natural gas only.
Dated this 10th day of December, 2009.

DOUGLAS COUNTY PLANNING COMMISSION

By [Signature]
Chairman
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<td>Certificate and Order re Division 6 - Goal 4 Forest Lands</td>
<td>September 1, 1982</td>
<td>Section 025 of rule not adopted but considered; Public hearing on the section postponed until November 19, 1992 meeting</td>
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<td>(3) examples of nonforest uses that may be allowed include</td>
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<td>(c) utility facilities</td>
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<td>2.</td>
<td>Memorandum from James F. Ross, Director Oregon Department of Land</td>
<td>February 17, 1983</td>
<td>Commission hearing postponed again, subcommittee appointed to review final draft of rule and recommend changes</td>
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<td>Conservation and Development re Goal 4: Forest Lands Rule</td>
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<td>(3) “other uses” that may be conditionally allowed include</td>
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<td>(c) “utility facilities other than new rights-of-way for electrical transmission lines, parks and small electric generation facilities.”</td>
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<td></td>
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<td></td>
<td>No reference to distribution</td>
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| 3.  | Materials for Agenda Item 5.0 Goal 4 Rule – Subcommittee Draft | March 3, 1983 | Comments pertaining to Section 3 include –  
Pacific Power and Light, Portland General Electric and Oregon Department of Energy all recommend that new rights-of-way for transmission line be allowed in Section (3) as an "other use." PP&L notes that the Energy Facilities Siting Council has jurisdiction for all transmission lines over 230 kilovolts.  
Northwest Natural Gas comments that utility facilities should be allowed outright in this subsection. |
| 4.  | Minutes from Land Conservation and Development Commission March 10-11, 1983 | Approved as amended April 22, 1983 | Did not adopt section 025 of the rule |
| 5.  | Index to Record re Forest Lands | | |
| 6.  | Materials pertaining to Agenda Item 6.1 Proposed Goal and Rule Changes | October 13, 1988 | October 14, 1988 draft rules re Goals 3 & 4 - Section 025 is all new –  
(3) uses allowed outright include  
(c) Local electric distribution lines within existing rights-of-way or which provide service hook-ups.  
(4) uses that may be allowed conditionally including  
(m) Electric power distribution lines with rights-of-way 50 feet or less in width not authorized in OAR 660-06-025(2)(c). appears to be incorrectly numbered, should be (3)(c) |
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| 7.  | Letter from Mike Byers, Oregon Department of Energy re Proposed Amendments | November 17, 1988 | Requests amendment to 660-06-025(3)(m) to added bolded text -
(m) Electric power distribution lines and gas, oil, or geothermal lines with rights-of-way 50 feet or less in width not authorized in OAR 660-06-025(2)(c) - appears to be incorrectly numbered, should be (3)(c)
“ok” is notation in margin |
(3) uses that may be allowed include
(c) Local distribution lines (e.g. electric, telephone, natural gas, etc. and accessory equipment (e.g. electric distribution transformers, meter cabinets, terminal boxes, pedestals)) lines within existing rights-of-way or which provide service hook ups.
(4) uses that may be conditionally allowed include
(m) Distribution lines (e.g. electrical, gas, oil, geothermal) with rights-of-way 50 feet or less in width not authorized under 660-060-025(2)(c) appears to be incorrectly numbered, should be (3)(c) |
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| 10  | Memorandum re DLCD’s Land Division Requirements in Forest Zone Memorandum re DLCD’s Consideration of Amendments to Farm and Forest Land Goals and Rules (“Secondary Lands”) | February 10, 1989 | Item 1.D(2) in the record – February 10, 1989 draft rules attached  
(3) uses that may be allowed outright include  
(c) Local distribution lines (e.g. electric, telephone, natural gas, etc.) and accessory equipment (e.g. electric distribution transformers, meter cabinets, terminal boxes, pedestals), lines within existing rights-of-way or which provide service hook ups.  
(4) uses that may be conditionally allowed include  
(1) – again, appear to be problems with numbering – Distribution lines (e.g. electrical, gas, oil, geothermal) with rights-of-way 50 feet or less in width not authorized in OAR 660-06-025(3)(c). appears to be incorrectly numbered, should be (m) |
<p>| 11  | Minutes from Land Conservation and Development Commission February 22, 1989 | February 22, 1989 | No discussion re transmission, distribution or utilities |</p>
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<td>12</td>
<td>Minutes from Land Conservation and Development Commission April 27, 1989</td>
<td>April 27, 1989</td>
<td>Recommendation to move forward with rule adoption April 27, 1989 version of the rules attached. Voted to leave record open for written comments and to postpone action until July 21. “Commissioner Saxon suggested anyone who is concerned about the list under the uses authorized section of the rules, as being permitted outright or conditionally, contact the commission.”</td>
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<td>13</td>
<td>April 27, 1989 version of rule with summary of testimony and staff recommendation</td>
<td>April 27, 1989</td>
<td>(4) uses that may be conditionally allowed include (1) -- again, appear to be problems with numbering -- Distribution lines (e.g. electrical, gas, oil, geothermal) with rights-of-way 50 feet or less in width not authorized in OAR 660-06-025(3)(c). appears to be incorrectly numbered, should be (m). No testimony or recommendation pertaining to distribution</td>
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<td>16</td>
<td>Summary of Testimony and Discussion of Amendments to Goal 4 and OAR 660, Division 6</td>
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<td>Item 1.B(9) in the record Comments include: &quot;Some uses need to transverse through forest land to provide direct service links to developed areas. An example of this kind of use is new distribution lines (e.g. electrical, gas, oil, geothermal) with rights-of-way 50 feet or less in width.&quot;</td>
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<td>17</td>
<td>Certificate and Order adopting new rules and amending rules pertaining to Goal 4: Forest Lands</td>
<td>January 25, 1990</td>
<td>(4) uses that may be conditionally allowed include (p) New distribution lines (e.g. electrical, gas, oil, geothermal) with rights-of-way 50 feet or less in width;</td>
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<td>18</td>
<td>Certificate and Order amending rules</td>
<td>December 3, 1992</td>
<td>(p) New electric transmission line with right of way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (e.g. gas, oil, geothermal) with rights-of-way 50 feet or less in width;</td>
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BEFORE THE ENERGY FACILITY SITING COUNCIL
OF THE
STATE OF OREGON

IN THE MATTER OF THE APPLICATION
FOR A SITE CERTIFICATE FOR THE
COB ENERGY FACILITY

Issued by
Oregon Department of Energy
625 Marion Street NE
Salem Oregon 97301-3742

503.378.4040 voice
503.373.7806 fax
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COB ENERGY FACILITY

LAND USE STANDARD ANALYSIS
OAR 345-022-0030

I. INTRODUCTION AND OVERVIEW

ORS 469.504 sets out the land use standard for proposed energy facilities. Under this statute, an applicant has the option of obtaining local land use approval and using that approval to satisfy the Council’s land use standard, ORS 469.504(1)(a), or requesting the Council to make the land use determination. ORS 469.504(1)(b). In this case, COB has elected to pursue “path (b),” asking the Council to make the land use determination. See also OAR 345-021-0010(k).

Under “path b,” local governments with land use jurisdiction over part or all of a proposed facility still have a role in the siting process and the land use determination by the Council. ORS 469.480(1) provides that “the Energy Facility Siting Council shall designate a special advisory group the governing body of any local government within whose jurisdiction the facility is proposed to be located.” And, under ORS 469.504(5):

Upon request by the Office of Energy, the special advisory group established under ORS 469.480 shall recommend to the council, within the time stated in the request, the applicable substantive criteria under subsection (1)(b)(A) of this section. If the special advisory group does not recommend applicable substantive criteria within the time established in the Office of Energy’s request, the council may either determine and apply the applicable substantive criteria under subsection (1)(b) of this section or determine compliance with the statewide planning goals under subsection (1)(b)(B) or (C) of this section. * * * * * 

On January 23, 2002, the Council appointed the Klamath County Board of Commissioners as the special advisory group for the COB Energy Facility. Order dated January 23, 2003. Pursuant to ORS 469.504(5), the Department requested that the special advisory group recommend applicable substantive criteria to be applied in this review of the COB Energy Facility. As called for in the statute, the Department set a deadline for recommendations from the County Board of Commissioners. The Board did not make recommendations to the Department concerning the

33 The remaining sentences of ORS 469.504(5) establish the Council’s analytical path if the special advisory group makes a timely recommendation of applicable substantive criteria. These sentences are not relevant to the present analysis.
In conformance with its normal practice, the Department recommended that the Council evaluate the proposed facility for compliance with its land use standard using ORS 469.504(1)(b)(A) and (B). This means that the Council first evaluates the proposed facility under the applicable substantive criteria of Klamath County's land use regulations and comprehensive plan, and the directly applicable provisions of land use statutes, LCDC goals and rules. Where the proposed facility does not comply with those criteria, the Council determines whether the facility otherwise complies with the statewide land use planning goals or an exception to any applicable statewide planning goal is justified. ORS 469.504(1)(b)(B). Under this approach, which is the Council's normal practice, the statewide land use planning goals apply to the evaluation of a proposed facility under the Council's land use standard only in three circumstances: (a) where they apply directly by their own terms and through 197.646(3); (b) where they apply because a local code provision says they apply as a standard; or (c) where they apply because a proposed facility does not comply with an applicable local code provision, and the facility is therefore evaluated under the goal, or through an exception to the goal under ORS 469.504(1)(b)(B).

In short, the Council is applying the land use standard under ORS 469.504(1)(b)(A) and (B). The Council must make the following ultimate findings under this statute to determine that the proposed facility complies with the land use standard:

• That the proposed facility complies with the applicable substantive criteria from the affected local government's acknowledged comprehensive plan and land use regulations that are required by the statewide planning goals and in effect on the date the application is submitted, and with any LCDC rules and goals and any land use statutes directly applicable to the facility under ORS 197.646(3); or

• Where the proposed facility does not comply with one or more of the applicable substantive criteria, that the proposed facility otherwise complies with the

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24 The Department received comments from the Klamath County planning director, dated May 15, 2003. These comments were received after the deadline set by the Department, and did not purport to be comments of the special advisory group. The comments were helpful to the Department in determining whether COB had identified and analyzed all of the applicable local substantive criteria, and were reviewed by staff along with other materials from the county.

25 In its comments on the draft proposed order, Save Our Rural Oregon stated that it was uncertain whether the Department was applying ORS 469.504(1)(b)(A), (B) or (C). (Save Our Rural Oregon Comments, page 2.) The Department noted that under ORS 469.504(5), when the local special advisory group does not determine which local land use criteria apply, the Council may use any of the three approaches set forth in ORS 469.504(1)(b)(A), (B) or (C). In addition, under ORS 469.504(1)(b)(B), the Council evaluates the facility against the applicable substantive criteria (local criteria and directly applicable state criteria), and where the facility does not comply with one or more of those criteria the Council evaluates the facility against the applicable statewide land use planning goal, or if the facility does not comply with the goal it evaluates whether a goal exception is justified under ORS 469.304(2). This is the practice of the Council, and the Department recommended that the Council continue its practice. In addition, the Department noted that even under the applicable substantive (local) criteria, in this case Klamath County's code, in certain circumstances the local criteria direct that if particular standards are not met that the use may be allowed if a goal exception is justified.
The Hearing Officer made the following general finding and recommendation in the Recommended Order.

* * * For an energy facility or related or supporting facility that must be evaluated against the applicable substantive criteria pursuant to subsection (5) of this section, that the proposed facility does not comply with one or more of the applicable substantive criteria but does otherwise comply with the applicable statewide planning goals, or that an exception to any applicable statewide planning goal is justified under subsection (2) of this section.

The proposed facility evaluated in this Final Order is described in the materials submitted by COB in its Application for Site Certificate (as modified through Amendments 1 and 2) (the "ASC"). The proposed facility is located entirely on lands within the land use jurisdiction of Klamath County ("County").

As described in the body of this Final Order, the Council conducted a contested case on the COB application. The Hearing Officer issued a Recommended Order on September 15, 2004 followed by a Supplemental Recommended Order on October 11, 2004. All parties were given an opportunity to file exceptions and responses to the Recommended Order and Supplemental Order. Parties were allowed an opportunity to argue to the Council at its meeting on November 3 and 4, 2004. This Final Order incorporates the Department's Proposed Order, as modified and supplemented by the Supplement to Proposed Order, portions of the Recommended Order as modified by the Supplemental Recommended Order and the findings of the Council at the November meeting. In the event of any internal conflict in this Final Order between text drawn from these documents, the portions of this Final Order drawn from the findings and conclusions of the Council at its meeting on November 3 and 4, 2004, shall take first priority followed by the Supplemental Recommended Order, Recommended Order, and Supplement to Proposed Order, with the Department's Proposed Order having last priority in any construction.

Recommended Order – General Findings

The Hearing Officer made the following general finding and recommendation in the Recommended Order.

"Attachment B of the Proposed Order explains, in substantial detail, how the proposed facility satisfies each requirement of the Land Use Standard. Numerous challenges to the Proposed Order appear to challenge the applicant's compliance with various statutory, rule and ordinance requirements, without regard to the Proposed Order's exhaustive analyses of the ASC as applied to those requirements. A reiteration of every issue discussed in Attachment B of the Proposed Order would be not be productive, particularly in cases where parties have ignored the in-depth evaluation of the Proposed Order in order to pursue factual or legal arguments that are premised on the failure of COB (or ODOE) to address them. Except for minor modifications discussed here, the Hearings Officer recommends that the Council adopt Attachment B of the Proposed Order, establishing compliance with the statutory requirements of the Land Use Standard. The following discussion addresses substantive issues raised by parties regarding the
applicability and application of specific land use standard factors to the ASC.\(^{10}\)

(Recommended Order, page 8)

The Supplemental Recommended Order did not make any changes to these general findings.

The Recommended Order discussed the issues raised during the contested case in the order in which they were raised by Save Our Rural Oregon ("SORO"), the principal opponent in the contested case. This Final Order will follow that format by discussing each issue as it occurred in the Proposed Order.

II. DESCRIPTION OF THE PROPOSED FACILITY

The proposed facility includes an energy facility (the proposed power plant and ancillary facilities), and related or supporting facilities (the proposed water supply system, water reuse/disposal systems, natural gas pipeline connection, and electric transmission interconnection). The facility is described in detail in Exhibit B of the Application for Site Certificate ("ASC"), and the following description is based on that exhibit, as modified by the two amendments submitted by COB. The energy facility includes four combustion turbine, combined cycle, natural gas-fired electrical generators. The energy facility may be constructed and operated in one or two stages, with two generators and associated equipment for each stage.

Associated aspects of the energy facility include:

- Air-cooled condensers;
- Generator step-up transformers;
- A switchyard and electrical distribution gear;
- A water demineralization system;
- Fuel type and air pollution control device technologies;
- An administrative/control building;
- A warehouse/maintenance building;
- Parking areas;
- Water treatment facilities (intake);
- Water storage facilities;
- A system for collecting, detaining and disposing of storm water;
- A sanitary waste system and septic tank/leach field;
- Natural gas metering and regulation facilities; and
- Other associated ancillary equipment, structures, roads and areas, all as described and shown in Exhibit B, Figure B-1 of the ASC.

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\(^{25}\) References to the Application for Site Certificate are given based on the exhibit number, and based on whether the reference is to the original application, the first amendment, or the second amendment. ASC is used to refer to the original application; ASC-1 is the first amendment; and ASC-2 is the second amendment.
The proposed transmission line is consistent with Goal 8 and its policies. The transmission line would be located more than five miles from any recreational trail and would not adversely impact any existing recreational trails. See also, discussion of the Council's Recreation Standard, at section D.12 of this Final Order.

5. Goal 11, Public Facilities and Services

"To plan and develop a timely, orderly, and proven efficient arrangement of public facilities and services as a framework for urban and rural development."

Policy 4: "During the planning of utility lines and facilities, the County shall encourage their location on or adjacent to existing public or private rights of way to avoid dividing existing farm units, and attempt to avoid residential areas."

COB evaluated a transmission line route along the existing BPA, PGE, and PacifiCorp transmission line right-of-way, the "ROW alternative." The ROW alternative would have been 7.9 miles long and run parallel to the existing electric transmission corridor for the BPA/PGE/PacifiCorp Intertie, 250 feet from that facility in order to allow for its future expansion. DEIS, at 2-20. The ROW alternative would require the clearing of substantially more lands containing merchantable timber; would have required disturbance of culturally sensitive areas; and would be substantially closer to occupied dwellings. DEIS, Table 2-2. The proposed transmission line route was selected to avoid potential impacts to cultural resources; minimize impacts to natural resources; have minimal, if any, impact on residences; and be less disruptive to farmland and forest land. Further, COB has committed to work with landowners to minimize disruption to ongoing activities and resources in surrounding areas. In this way, COB would minimize the isolation of parcels, maximize continued access, and avoid significant merchantable timber stands. Based on the foregoing, the Council finds that the proposed transmission line is consistent with Goal 11, Policy 4.

VI. RELATED OR SUPPORTING FACILITIES: NATURAL GAS PIPELINE

A. Klamath County LDC (Gas Pipeline)

The proposed natural gas pipeline would be located within three base land use zones in Klamath County. The pipeline would begin at its interconnection to the existing PG&; E GTN natural gas transmission system and compressor station, on land zoned light industrial. The vast majority of the remainder of the pipeline would be located on land zoned for exclusive farm use, with a small portion of the natural gas pipeline on land zoned for forest uses. The 4.1-mile long pipeline would permanently impact approximately 3.9 acres of forestry-regulated land, 15.2 acres of EFU land, and 0.7 acres of light industrial land. ASC Amendment No. 2, Exhibit K, Table K-1.82

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82 3.88 acres would be impacted by the 40-foot operations corridor. However, the natural gas pipeline would actually preclude cultivation of trees only within a 10-foot corridor centered on the pipeline.
The interconnection between the natural gas pipeline and compressor station would occur on land zoned 11.

1. Klamath County LDC Article 53 (Gas Pipeline)

The standards for establishing a new use on IL zoned land are found in Klamath County LDC Article 53.

a. Klamath County LDC § 53.230

"The following uses may be permitted subject to standards listed in this article and if the provisions of Article 44 are satisfied:

"A. Extensive Impact Services and Utilities."

The gas pipeline interconnection is part of the "extensive impact service and utility" conditionally permitted under this section.8

(i) Klamath County LDC § 53.240.A

"No parcel planned and zoned for industrial use as of November 15, 1990 shall be further partitioned or subdivided * * *."

The interconnection for the natural gas pipeline would be located within an easement. No partition or subdivision of an existing parcel is necessary for the proposed use.

(ii) Klamath County LDC § 53.240.B

"Lot Size and Shape – See Article 61."

The gas pipeline interconnection would not alter the lot size or shape.

(iii) Klamath County LDC § 53.240.C

"Building Heights and Setbacks – See Article 62."

The gas pipeline interconnection would not involve the construction of any new buildings.

(iv) Klamath County LDC § 53.240.D

"Fences, Walls and Screening – See Article 64."

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8 Klamath County LDC § 11.030 defines "extensive impact service and utilities" to include the following: "Any public or private facilities, services and utilities which may have a substantial impact on surrounding land uses. Typical uses include, but are not limited to: * * * commercial generating facilities, * * * electrical transmission towers over 200 feet in height, [and] * * * natural gas or petroleum transmission pipelines." (Emphasis added.)
The gas pipeline interconnection would not alter existing fences, walls, or screening. To the extent that construction disturbs any of the above, disturbed areas would be rehabilitated to preconstruction conditions.

(v) Klamath County LDC § 53.240.E

"Landscaping – See Article 65."

The gas pipeline interconnection would not alter existing landscaping. To the extent that construction disturbs any of the above, disturbed areas would be rehabilitated to preconstruction conditions.

(vi) Klamath County LDC § 53.240.F

"Signs – See Article 66."

The gas pipeline interconnection would not involve the installation of any signs.

(vii) Klamath County LDC § 53.240.G

"Parking – See Article 68."

The gas pipeline interconnection would not involve the alteration or construction of parking.

(viii) Klamath County LDC § 53.240.H

"Access – See Article 71."

The gas pipeline interconnection would not alter existing access.

2. Klamath County LDC, Article 54 (Natural Gas Pipeline)

As noted in section IV.A.1 of this land use standard analysis, Klamath County has not adopted amendments to its land use regulations to implement state law provisions for "utility facilities necessary for public service." The proposed natural gas pipeline is such a use. For the same reasons that state statutes and regulations apply to the proposed transmission line in place of Article 54, they apply to the proposed natural gas pipeline. The directly applicable provisions of ORS 215.283(1)(d), 215.275 and OAR 660-033 are addressed in section VIII of this land use standard analysis.

3. Klamath County LDC Article 55, Forest Zones (Gas Pipeline)

As noted above, a short portion of the proposed natural gas pipeline is located on lands zoned Forestry. The standards for establishing a new use on forest-regulated land are found in Klamath County LDC Article 55.
Klamath County LDC §§ 55.030 and 55.040 provide as follows:

"55.030 – Permitted Uses. The following uses are permitted subject to site plan review of Article 41, and all other applicable standards, criteria, rules and statutes governing such uses:

* * *

"G. Widening of public roads within existing rights-of-way in conformance with the transportation element of the County Comprehensive Plan, including public road and highway projects as described in * * * ORS 215.283(1)(k)-(n).

* * *

"55.040 Conditional Uses. The following uses may be established subject to the criteria within each subsection in addition to the general criteria listed in Section 54.050 and the provisions of Article 44:

* * *

"Q. New distribution lines for gas, oil, or geothermal with rights-of-way 50 feet or less in width."

Approximately 3,600 feet of the proposed natural gas pipeline would be located on land zoned Forest-Range (FR). ASC Amendment No. 2, Exhibit K, Figure K-1a. The pipeline is allowed within this zone as a public road project under LDC § 55.030.G, as long as it is located within existing rights-of-way. ORS 215.283(1)(L) allows utilities along public rights-of-way, as well as road improvements. Further, to the extent that this portion of the proposed natural gas pipeline requires new right-of-way outside of the existing road right-of-way, it is allowed under LDC § 55.040.Q, so long as the right of way is 50 feet or less in width. To ensure that this code section is complied with, the Council adopts a condition to limit the right-of-way width of the natural gas pipeline to no more than fifty feet on lands zoned for forest use.

(22) The certificate holder shall limit the width of the permanent/operations easement for the natural gas pipeline to no more than fifty feet on lands zoned FR as of September 5, 2002.

The portion of the pipeline on lands zoned for forest use would not create conditions or circumstances that are contrary to the purposes or intent of the County's comprehensive plan, policies or land use regulations. The comprehensive plan and its policies are discussed in detail in section V.B of this land use standard analysis. As further described in this section, the natural gas pipeline would comply with the applicable regulations and is consistent with all applicable KCCP provisions.
b. Klamath County LDC § 55.050

(i) Klamath County LDC § 55.050.A

"The proposed use is in conformance with all standards and criteria of this Code, notably Article 57."

As detailed below, the portions of the proposed natural gas pipeline conform to all applicable standards, including the SRO standards in Klamath County LDC Article 57. Articles 44 and 55 are discussed in this section. The SRO standards are addressed separately in Section V.A.4 of this land use standard analysis. The other generally applicable local code provisions are addressed in this section V.A. of this land use standard analysis.

(ii) Klamath County LDC § 55.050.C

"The location, size, design, and operating characteristics of the proposed use will not force a significant change in, or significantly increase the cost of, accepted farm or forestry practices on nearby agricultural or forest lands."

As explained in section V.A.2 of this land use standard analysis, the natural gas pipeline would not force a significant change in or significantly increase the cost of farm practices on nearby land. For the same or similar reasons, the portion of the natural gas pipeline located on F-regulated land would not force a significant change in or significantly increase the cost of forest practices.

Less than one mile of the natural gas pipeline would pass through F-regulated land. Due to local topography (side slopes), construction of this segment of the pipeline would require a 120-foot-wide corridor. COB has however, committed to undertake all appropriate mitigation and minimization measures as outlined in the Plan, including segregation of topsoil, working with landowners to coordinate activities, and compensating landowners when economic impacts cannot be avoided. The pipeline would be buried and the area otherwise rehabilitated in accordance with the Plan. Thus, construction would not permanently impact these lands. The 40 foot-wide operations corridor would occupy 3.88 acres, however, the actual impact to F-regulated land would substantially less. Tree cultivation would be precluded only within a ten-foot corridor centered on the pipeline. Moreover, as a practical matter, none of this land is managed for commercial timber production and this restriction would not alter any current forest practices.

The natural gas pipeline would not impact any F-regulated land outside the immediate easement areas and would not preclude ongoing resource activities. As noted above, landowners would be precluded from planting invasive root vegetation within a 10-foot-wide area over the pipeline, but because the area is not currently engaged in commercial timber production, this accommodation would not affect ongoing forest practices. Given COB's commitment to allow
continued resource use and the minimal amount of F-regulated land crossed, the natural gas pipeline would have nominal, if any, impact on the cost of forest practices in the area.

(iii) Klamath County LDC § 55.050.D

"A written statement will be recorded with the deed which recognizes the rights of adjacent and nearby landowners to conduct farm or forest operations consistent with accepted farming practices and the Forest Practices Act, ORS 30.090 and Rules for uses authorized by this Code."

COB has committed to record a statement in compliance with this provision, and the Council adopts the following condition in the site certificate:

(23) The certificate holder shall record a written statement conforming with Klamath County LDC 55.050.D in effect as of September 5, 2002 in the Klamath County deed records for the facility site. Where the certificate holder is using the site under an easement, the easement will contain the required statement on behalf of the certificate holder.

(iv) Klamath County LDC § 55.050.E

"The proposed use will not significantly increase fire hazards or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel."

The natural gas pipeline would be designed, installed, and operated in conformance with federal pipeline safety standards (49 CFR § 192) and in accordance with industry safety standards. The pipeline would have a shutoff system and PG&E GTN would have remote shutdown capability from its 24-hour attended gas-control center.

(v) Klamath County LDC § 55.050.F.

"The use complies with other conditions as the review authority considers necessary."

The Council has not identified any other conditions as necessary at this time.

4. Klamath County LDC Article 44, General Conditional Use Criteria (Gas Pipeline)

The Klamath County LDC regulations for conditional uses apply to the portions of the natural gas pipeline that would be located on lands zoned Forestry and Industrial (and do not apply to the portion on lands zoned EFU). The Forestry-zoned portion of the proposed route is on the lands immediately Northwest of the proposed energy facility, involving approximately one-half mile and 3.9 acres of land. ASC Amendment No. 2, Exhibit K, Figure K-1a and Table K-1.
a. Klamath County LDC § 44.030

(i) Klamath County LDC § 44.030.A

"The use complies with policies of the Comprehensive Plan."

See section V.B of this land use standard analysis.

(ii) Klamath County LDC § 44.030.B

"The use is in conformance with all other required standards and criteria of this code."

As described above, the interconnection would comply with the conditional use criteria of Klamath County LDC § 53.240 and the other required standards and criteria of the Klamath County LDC incorporated therein.

(iii) Klamath County LDC § 44.030.C

"The location, size, design, and operating characteristics of the proposed use will not have a significant adverse impact on the livability, value or appropriate development of abutting properties and the surrounding area."

The interconnection point would be largely buried and located on a property dedicated to the existing compressor station. The interconnection would not create noise, odor, or dust that would affect abutting properties, and it would not create an increased risk of fire or other hazards. The interconnection equipment would be minimally visible and would be compatible with the existing industrial facilities onsite. For the reasons outlined in section V.A.2 of this land use standard analysis, the location, size, design, and operating characteristics of those portions of the natural gas pipeline located on forest-regulated lands would not have a significant adverse impact on the livability, value or appropriate development of abutting properties and the surrounding area.

(iv) Klamath County LDC § 44.030.D

"Conditions – The review body may grant a Conditional Use Permit subject to such reasonable conditions based on findings of fact that it deems necessary to ensure compliance with the Klamath County Comprehensive Plan, Land Development code, and sound land use planning principles."

No conditions other than those identified elsewhere in this Final Order have been identified at this time.
5. Klamath County LDC Article 57, Significant Resource Overlay Zone
   (Gas Pipeline)

Portions of the proposed natural gas pipeline (totaling approximately 5.4 acres of permanent
disturbance and 13.1 acres of temporary (construction) disturbance) are within the SRO zone.
ASC Amendment No. 2, Exhibit K, Tables K-1 and K-2. Those facilities are within the area
mapped for Deer Winter Range that has been designated "3-C." Such resources are "considered
to be significant, and conflicting uses to the resource shall be limited to protect the resource from
irreparable harm" (Klamath County LDC § 57.020). Klamath County LDC § 57.040(D)(7)
identifies "extensive impact facilities" as a conflicting use with "Big Game Winter Range." The
proposed facility is regulated as "extensive impact services and utilities." Klamath County LDC
§ 11.030.4

a. Klamath County LDC § 57.050

(i) Klamath County LDC § 57.050.C

With respect to resources designated "3-C," Klamath County LDC § 57.050(C) provides for
review by certain resource management agencies of applications for development permits.
Pursuant to Klamath County LDC § 57.090, applications in big game resource areas are to be
reviewed by the Oregon Department of Fish and Wildlife (ODFW) and by the Klamath Tribes.
Although the local procedure is superseded by the Council's process, the Council's process
provides for consultation on the Application for Site Certificate (including the wildlife and
habitat impacts thereof) with both ODFW and the Klamath Tribes. This is consistent with
Klamath County LDC § 57.050(C).

b. Klamath County LDC § 57.060, General
   Criteria

   (i) Klamath County LDC § 57.060.A

   "The resource site will not be altered or impacted to a degree that
   destroys its significance."

   The proposed natural gas pipeline would be located adjacent to existing public road right-of-way,
   and would be buried. As a result, the principal effects on deer winter range would be during
   construction of the pipeline, a two to four month period. ASC, Exhibit P, page P-14. Following
   construction, normal use patterns are expected to return. As a result, the Council finds that the
   proposed pipeline would not destroy the significance of the resource site and that the proposed
   pipeline complies with Klamath LDC § 57.060.A.

(ii) Klamath County LDC § 57.060.B

4 Klamath County LDC § 11.030 defines "extensive impact services and utilities" to include, among other things,
   commercial power generating facilities and natural gas pipelines.
5 The Specific Development Criteria and Standards in Klamath County LDC § 57.070.C. relate to land divisions
   and residential development and are not applicable to the proposed use.
"The proposed development will not result in the loss of habitat for threatened or endangered species of animals or plants as identified by the U.S. Fish and Wildlife Service, Oregon Department of Fish and Wildlife or other appropriate state or federal agency."

Based on the proposed findings for the Council's Threatened and Endangered Species Standard, at section D.9 of this Final Order, the Council finds that the proposed natural gas pipeline, as mitigated, would not result in the loss of habitat for identified threatened or endangered species.

(iii) Klamath County LDC § 57.060.C

"All feasible alternatives to the development have been considered and rejected which would not result in a substantial adverse impact on an identified resource value."

COB considered and rejected an alternative route for the proposed natural gas pipeline, which would have resulted in more extensive adverse effects on deer winter range. Response to RAI #8, page 1-3, and Figure K-6.1. The proposed pipeline would cause only temporary impacts and would not result in a substantial adverse impact on an identified resource value. Overall, COB would comply with ODFW's policy of allowing no net loss of habitat quantity or quality and requiring a net benefit to habitat quantity or quality. It would restore 90 acres of currently fallow agricultural land to high quality deer habitat and enhance and restore an additional 150 acres to improve habitat values. For these reasons, the Council finds that the proposed development complies with Klamath LDC § 57.060.C.

(iv) Klamath County LDC § 57.060.D

"The development is sited on the property in such a manner that minimizes adverse impacts on the identified resource."

The proposed natural gas pipeline must connect the proposed energy facility with the existing Bonanza compressor station. As a result, its location is highly constrained. The proposed site along exiting road right-of-way minimizes adverse impacts on identified resources. Further, as noted in section III.A.3 of this land use standard analysis, COB has proposed mitigation that would improve the overall quality and quantity of habitat available for deer winter range use. Finally, the natural gas pipeline would be buried and the ground rehabilitated and available for wildlife forage. As a result, the Council finds that the proposed development complies with Klamath § 57.060.D.

(v) Klamath County LDC § 57.060.E

"Documentation has been provided to the County regarding requirements for state or federal permits or licenses, and that appropriate resource management agencies have reviewed the development proposal against its plans, policies and programs."
The application for site certificate and the DEIS have been provided to the County and circulated to and reviewed by all state and federal resource management agencies. Mitigation measures to ensure that the proposed pipeline is consistent with the plans, policies and programs of these agencies have been included in the ASC. COB would be required to carry out these mitigation measures through conditions imposed under this Final Order. In addition, COB would obtain all necessary state and federal permits or licenses through the Council process or as identified in Exhibit E of the ASC. The Council's process also provides for review by the appropriate resource management agencies. See discussion of Klamath County LDC § 57.050, above. For all these reasons, the Council finds that proposed pipeline complies with this requirement.

6. Klamath County LDC Article 61, Lot Size and Shape

These provisions are not applicable to the proposed natural gas pipeline, because no subdivision or partition is proposed.

7. Klamath County LDC Article 69, Rural/Wildland Fire Safety Standards

The requirements of Article 69 apply to new dwellings and structures within the F and FR zones. Article 69 requires that all structural developments have an emergency water supply. The proposed development would have its own fire prevention, detection and protection system, including a dedicated water storage system, hose stations, and fire pumps. Water storage dedicated to fire protection would be provided on the energy facility site in accordance with or exceeding code requirements. ASC, Exhibit U, page U-21; DEIS-3.12-9. Based on the foregoing, the Council finds that the proposed development complies with the applicable provisions of Klamath LDC Article 69.

8. Klamath County LDC Article 86, Archaeological Resources

Chapter 80 establishes additional standards relating to special characteristics of the proposed use. Only Article 86 is applicable to the proposed gas pipeline.

COB has conducted an archaeological resources survey. Several significant sites have been identified. The natural gas pipeline will comply with Klamath County LDC § 86.060 because it would avoid all identified significant sites. As a condition of approval, COB is required to report to the Klamath County Planning Department any archaeological object, deposit, or artifact discovered during development and to comply with Oregon law, including ORS 358.905 (archaeological objects and sites), ORS 273.705 (removal of historic and other valuable material), and ORS 97.740 (protection of Native American graves), as required by Klamath County LDC §§ 86.070.A and D. Based on the foregoing, the Council finds that the proposed development complies with the applicable provisions of Klamath LDC Article 86.

9. Klamath County LDC Article 41, Site Plan Review

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66 Articles 81-85, 87, and 88 are not applicable to the proposed use.
Under Klamath County LDC § 41.060, review of a site plan is required for issuance of a building permit for any construction and for any development. Klamath County LDC § 41.060 sets forth the required format for and contents of a site plan, and § 41.060 sets forth the criteria for approval. Under § 41.060, a site plan will be approved if it meets all applicable review standards and criteria of the Klamath LDC. Those standards and criteria are addressed in this section of the Final Order. Based on those findings, the Council finds that the requirements of Klamath LDC § 41.040 will be met for the proposed natural gas pipeline, and the Council adopts the following condition in the site certificate to ensure compliance:

(24) Before beginning construction of the facility, the certificate holder shall submit to Klamath County an application for Site Plan Review of the proposed natural gas pipeline. The application shall meet the requirements of Klamath LDC § 41.050 and 41.060 in effect as of September 5, 2002.

Under ORS 469.401(3) and ORS 469.504(1)(b), once the Council issues a site certificate for a facility, local governments are required to issue any and all permits, certificates or licenses that are necessary for construction or operation of the facility and that are addressed in the site certificate. The site certificate requires Klamath County, upon receipt of an application, to approve the site plan review without additional public process or notification.

10. Klamath County LDC Article 42, Temporary Use Permits

Under Klamath County LDC Article 42, temporary use permits provide for the establishment of uses on a short-term basis. The construction of the proposed natural gas pipeline would require the temporary disturbance of a number of areas along the transmission line route, as shown in ASC, Exhibit C, Figure C-4c. In addition to regular construction activities, the areas shown in green in the ASC, Exhibit C, Figure C-4c, would involve subsurface boring to avoid irrigation facilities and roads. Under Klamath County LDC § 42.040, an application for a temporary use permit is required along with site plan review. As with the site plan review, the criteria and standards for a temporary use permit are all applicable standards and criteria of the Klamath LDC. Klamath County LDC § 42.050(A). In addition, however, a temporary use permit requires a finding that the temporary use, its location, size, design and operating characteristics will not have a significant adverse impact on the livability, value or appropriate development of abutting properties and the surrounding area. This standard is the same as the county’s conditional use standard, at Klamath County LDC § 44.030.C. That standard is addressed at length, above, at section V.A.3 of this land use standard analysis. No additional impacts specific to the temporary use of the areas shown in ASC, Exhibit C, Figure C-4c, have been identified. Based on the foregoing, the Council adopts the following condition and finds that the proposed natural gas pipeline complies with Klamath LDC Article 42.

(25) Before beginning construction of the facility, the certificate holder shall submit to Klamath County an application for Site Plan Review and for a Temporary Use Permit for the temporary, construction-related uses of the areas shown on ASC, Exhibit C, Figure C-4c. The application must meet the requirements of Klamath LDC § 42.040 in effect as of September 5, 2002.
Under ORS 469.401(3) and ORS 469.504(1)(b), once the Council issues a site certificate for a facility, local governments are required to issue any and all permits, certificates or licenses that are necessary for construction or operation of the facility and that are addressed in the site certificate. The site certificate requires Klamath County, upon receipt of an application, to approve the temporary use permit without additional public process or notification.

B. Klamath County Comprehensive Plan (Gas Pipeline)

1. Goal 4, Forest Lands

"To encourage conservation of forest lands in Klamath County for forest uses."

Policy 3: "Existing forest uses shall be protected unless proposed land use changes are in conformance with the Klamath County Comprehensive Plan."

Policy 4: "The County shall regulate development of non-forest uses in forested areas.

Policy 6: "The County shall encourage optimum utilization of existing utility rights of way and, whenever possible, shall design all rights of way so as not to preclude forest growth."

Goal 4 is relevant to the short segment of the gas pipeline proposed to be located on forest-regulated land. This portion of the gas pipeline would not interfere with existing forest operations because, as described in section V.A.3 of this land use standard analysis, the lands in question are used primarily for low-intensity ranching. The Klamath County LDC expressly provides for the location of non-forest uses (including gas pipelines) within the forest zone.

The natural gas pipeline would be located along existing rights-of-way. None of the land through which the natural gas pipeline passes is managed for commercial timber production. The disturbed area would be fully rehabilitated and revegetated in accordance with the Mitigation Plan, however, cultivation of trees would be restricted only within the 10-foot-wide area immediately over the pipeline.

2. Goal 5, Open Spaces and Scenic, Historic, and Natural Resources

"To preserve open space and protect natural and scenic resources in Klamath County."

As is relevant to the proposed natural gas pipeline, deer winter range had been identified as a significant resource. This Goal 5 resource (deer winter range) is protected through the application of the Klamath LDC significant resource overlay zone. As discussed in section V.A.4 of this land use standard analysis, the proposed pipeline would comply with the SRO criteria.
Policy 3: "The County will encourage the protection and management of its significant resources in mutual cooperation with the appropriate Federal or State agency."

The Council's siting process provides an opportunity for federal and state agencies with an interest in deer winter range to cooperate in developing specific management proscriptions to ensure protection of this resource. The measures set forth in section D.8, Fish and Wildlife Habitat, of this Final Order for the protection of deer winter range are consistent with this policy.

Policy 5: "Cultural areas, historic sites, and archaeological resources shall be considered when proposing a change in land use."

The proposed natural gas pipeline would avoid impacts on all such areas and resources identified within the study area. Further, COB would comply with Klamath County LDC Article 86, Archaeological Resources. See also, section D.11, Historic, Cultural and Archaeological Resources, of this Final Order.

Policy 9: "The County shall promote through Goal 5 Significant Overlay Zone Ordinances the prudent management of significant fish and wildlife habitats in mutual cooperation with appropriate State and Federal agencies."

As is relevant to the proposed energy facility, the County implements this policy through its SRO Zone. The proposed natural gas pipeline would comply with the SRO criteria and policy as discussed in section V.A.4 of this land use standard analysis. Further, the Council's process provides for review and comment by the appropriate state and federal agencies.

Policy 12: "The County shall protect significant big game winter ranges and other significant wildlife habitat."

The County implements this policy through its SRO Zone. The proposed natural gas pipeline would comply with the SRO criteria and policy, as further discussed in section V.A. of this land use standard analysis.

Policy 16: "The County shall protect riparian areas."

The proposed pipeline has been sited to avoid adverse effects on riparian areas. The natural gas pipeline would cross irrigation canals; however, all impacts would be avoided by using subsurface boring to go underneath these canals.

3. Goal 7, Areas Subject to Natural Disasters and Hazards

"To protect life and property from natural disasters and hazards."

FINAL ORDER, COB ENERGY FACILITY
KCCP Goal 7 is implemented through Article 59 (Flood Hazard Overlay) and other specific provisions of the Klamath County Code. The proposed natural gas pipeline would not result in significant increased risks to life or property from natural disasters and hazards, as set forth in section V.A.3 of this land use standard analysis.

Policy 1: "The County shall consider site constraints in evaluating land use in fire hazard areas. Within designated areas where population or building densities may be inappropriate to the hazards present, measures will be developed to mitigate risk to life and property loss."

The proposed natural gas pipeline would not be located in areas of high population or building densities. The proposed natural gas pipeline would not significantly increase the risks or costs of fire hazards. (See, discussion in section V.A.3 of this land use standard analysis.)

Policy 3: "New development shall be kept off of slopes greater than 25 percent, unless engineering plans are approved by the County Department of Public Works."

The proposed route of the natural gas pipeline does not contain areas with slopes greater than twenty five percent. ASC, Exhibit C, Figure C-4c.

4. Goal 11, Public Facilities and Services

"To plan and develop a timely, orderly, and proven efficient arrangement of public facilities and services as a framework for urban and rural development."

Policy 4: "During the planning of utility lines and facilities, the County shall encourage their location on or adjacent to existing public or private rights of way to avoid dividing existing farm units, and attempt to avoid residential areas."

COB has planned the proposed natural gas pipeline to be located adjacent to existing public road rights of way. As a result, the proposed pipeline complies with Goal 11, Policy 4.

VII. RELATED OR SUPPORTING FACILITIES: WATER SUPPLY SYSTEM

A. Klamath County LDC (Water Supply System)

The proposed water supply system would be located within one base land use zone in Klamath County -- EFU (portions of the system are also within the SRO zone for deer winter range). The water supply system would permanently impact approximately 20.7 acres of EFU land. ASC Amendment No. 2, Exhibit K, Table K-1.\(^\text{17}\)

\(^{17}\) 3.88 acres would be impacted by the 40-foot operations corridor. However, the natural gas pipeline would actually preclude cultivation of trees only within a 10-foot corridor centered on the pipeline.
SORO again asserted in oral argument that the application had not adequately specified the
nature, extent and location of the proposed use.\footnote{This issue is related to SORO's arguments regarding the correct classification of the facility and its accessory uses under ORS 215.283(1)(d) or (2)(g). Because the determination of the exact size of the facility depended on the Council's decision on the underlying legal issue, this issue was not explicitly discussed in SORO's exceptions to the Recommended Order. However, this issue was brought to the Council during oral argument and was not objected to at that time.} Transcript, p. 260.

During oral argument, the Council's counsel identified two exhibits that specifically identified
the boundaries of the facility subject to this standard: (1) Figure E-1.2 from the request for
additional information regarding land application of waste water; and (2) Figure K-3 from
Amendment No. 2 to the application. Transcript, pp. 261-262. Based on those exhibits, 50.6
acres were identified, not including the land application area and the laterals. During oral
argument SORO requested clarification whether the 50.6 acres included the storm water basin;
the irrigation area, or the wastewater evaporation pond that is included as a contingency for
failure of the land application system. The Council's counsel stated that the contingent
wastewater evaporation pond, measuring 40.2 acres was analyzed as part of the energy facility
under the exceptions analysis and ORS 215.283(2)(g), but was not included in the 50.6 acres.
Transcript, p. 266, p. 270. The Council agrees.

The Council's counsel advised, however, that the proposed site certificate conditions were not
clarity about the boundary of the facility in the event that the contingent wastewater evaporation
pond is required in the future. Transcript, p. 268. The Council's counsel noted that the Council's
rules contain a mandatory condition, included in the proposed site certificate, requiring a legal
description of the facility before beginning construction. The Council's counsel advised that the
Council should adopt a further condition that would require COB to submit to the Council an
amended legal description of the property that would include the backup evaporation pond if and
when the backup evaporation pond was built.\footnote{See discussion of compliance with requirements for WPCF permit and proposed WPCF permit above. See also colloquy during oral argument, Transcript, pp. 271-277.} The Council finds that the following condition
will be added to the site certificate:

\begin{verbatim}
(31) Before beginning construction of the contingent waste water evaporation
     pond required by Schedule C of the Water Pollution Control Facilities
     Permit, the certificate holder shall submit to the Council a legal description
     of the site, including the waste water evaporation pond.
\end{verbatim}

XI. CONCLUSION

The Hearing Officer recommended that the Council find that the Department has evaluated the
proposed facility for compliance with each applicable land use approval criterion, and that there
is a preponderance of evidence in the record to establish that the ASC fully complies with the
Land Use Standard. The Hearing Officer recommended that the Council adopt Attachment B of
the Proposed Order, with the minor modifications, as establishing compliance with OAR 345-022-0030. Recommended Order, p. 52 and Supplemental Recommended Order, p. 4.

Based on the foregoing findings of fact, reasoning and conclusions, and subject to conditions adopted in this Final Order, the Council finds that an exception to Goal 3 is justified for the amount of land required for the energy facility, that an exception to Goal 4 is justified for the amount of land required for the transmission line, and that COB has demonstrated compliance with all other applicable criteria in the County’s acknowledged comprehensive plan and land use regulations that are required by the statewide planning goals and were in effect on the date the application was submitted, as well as any statutes, goals and rules directly applicable to the facility under ORS 197.646(3). In sum, the Council concludes that the proposed facility complies with ORS 469.504.
§ 717. Regulation of natural gas companies

(a) Necessity of regulation in public interest
As disclosed in reports of the Federal Trade Commission made pursuant to S. Res. 83 (Seventieth Congress, First session) and other reports made pursuant to the authority of Congress, it is declared that the business of transporting and selling natural gas for ultimate distribution to the public is affected with a public interest, and that Federal regulation in matters relating to the transportation of natural gas and the sale thereof in interstate and foreign commerce is necessary in the public interest.

(b) Transactions to which provisions of chapter applicable
The provisions of this chapter shall apply to the transportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, and to natural-gas companies engaged in such transportation or sale, and to the importation or exportation of natural gas in foreign commerce and to persons engaged in such importation or exportation, but shall not apply to any other transportation or sale of natural gas or to the local distribution of natural gas or to the facilities used for such distribution or to the production or gathering of natural gas.

(c) Intrastate transactions exempt from provisions of chapter; certification from State commission as conclusive evidence
The provisions of this chapter shall not apply to any person engaged in or legally authorized to engage in the transportation in interstate commerce or the sale in interstate commerce for resale, of natural gas received by such person from another person within or at the boundary of a State if all the natural gas so received is ultimately consumed within such State, or to any facilities used by such person for such transportation or sale, provided that the rates and service of such person and facilities be subject to regulation by a State commission. The matters exempted from the provisions of this chapter by this subsection are declared to be matters primarily of local concern and subject to regulation by the several States. A certification from such State commission to the Federal Power Commission that such State commission has regulatory jurisdiction over rates and service of such person and facilities and is exercising such jurisdiction shall constitute conclusive evidence of such regulatory power or jurisdiction.

(d) Vehicular natural gas jurisdiction
The provisions of this chapter shall not apply to any person solely by reason of, or with respect to, any sale or transportation of vehicular natural gas if such person is—

(1) not otherwise a natural-gas company; or

(2) subject primarily to regulation by a State commission, whether or not such State commission has, or is exercising, jurisdiction over the sale, sale for resale, or transportation of vehicular natural gas.
June 1, 2010

Ms. Patty Evernden
Planning Director
Coos County Planning Department
225 N. Adams Street
Coquille, OR 97423

Re: Pacific Connector Gas Pipeline / HBCU-10-01
Responses to Horizontal Direction Drill across Haynes Inlet

Dear Ms. Evernden:

This letter is written in response to the issue raised during the Coos County Conditional Use Permit hearing on May 20, 2010 regarding the feasibility of the Horizontal Direction Drill (HDD) across Haynes Inlet. An HDD feasibility study was completed by Pacific Connector's geotechnical consultant GeoEngineers during the pipeline routing phase of the project. Attached with this letter is the GeoEngineers report which includes the following analysis of the proposed HDD crossing:

- Geotechnical Analysis of Subsurface Conditions
- Geometric Evaluation
- Site Feasibility
- Conclusions
- Bore Logs and Maps

Based on the results of the study completed by GeoEngineers, the Haynes Inlet HDD crossing was determined “non-feasible” due to the cumulative effects of the geotechnical conditions, construction capabilities, and workspace constraints.

Because the HDD was determined to have a low probability of success, Pacific Connector was required to research and look for other potential pipeline routes to cross Coos Bay. A high level pipeline routing history presentation was presented at the Coos County CUP hearing on the 20th.
The presentation slides were provided to the county as part of the record detailing the route investigation work completed by the applicant prior to FERC determining the best route for the pipeline to go.

PACIFIC CONNECTOR GAS
PIPELINE COMPANY, LP

By: [Signature]

Derrick Welling P.E., Project Manager

Enclosure: GeoEngineer’s Haynes Inlet Feasibility Study
INTRODUCTION

This technical memorandum presents our preliminary evaluation of the proposed pipeline crossing of Haynes Inlet approximately 5 miles north of Coos Bay in Coos County, Oregon. This preliminary evaluation is based on a site visit and preliminary information acquired from the subsurface explorations.

PRELIMINARY FEASIBILITY ANALYSIS

GEOTECHNICAL EVALUATION

The subsurface soil and groundwater conditions at the proposed Haynes Inlet HDD crossing were evaluated by completing six borings to depths up to 110 feet below existing ground surface elevation. Borings B-1 and HIB-2 were drilled on the west side (exit) of the inlet while borings B-5, HIB-7, HIB-8, and HIB-9 were completed on the east side (entry), as shown on the attached figure of exploration locations (Figure 1). At this time, three additional over-water borings are planned to better define the subsurface conditions along the crossing alignment. The additional borings are currently scheduled for the third week of November.

Based on the observed subsurface conditions prior to completing the additional borings, the soils encountered on the west side of the crossing in boring B-1 generally consist of approximately 45 feet of medium dense to dense sand with the sand becoming very dense below a depth of 45 feet. The soils encountered in boring HIB-2 consisted of approximately 28 feet of very loose to medium dense sand overlying dense to very dense sand to the bottom of the boring at 90 feet. After leaving the boring overnight, the drillers discovered the borehole collapsed with approximately 80 feet of drill rod in the hole. The drill rod had to be abandoned in place. This suggests a potential unstable sand condition in the area of the design profile.

The subsurface conditions encountered in boring B-5 on the east side of the crossing consist of approximately 46 feet of soil overburden overlying siltstone bedrock. The overburden soils generally consist of approximately 7 feet of medium stiff silt overlying medium dense to very dense sands. The underlying bedrock consisted of slightly weathered, slightly weak siltstone with very close to close fracture patterns. Rock Quality Designation (RQD) values in the siltstone typically ranged from 60 to 90 percent. The subsurface explorations observed in boring B-5 suggest that the design profile intersects the top of sandstone bedrock directly beneath Highway 101.

The soils conditions observed in boring HIB-7 consisted of very stiff to hard silts and clay to a depth of approximately 22 feet overlying dense to very dense sands with varying amounts of silt and clay to the bottom of the boring at a depth of 75 feet. Boring HIB-8 encounters stiff silt and clay to an approximate depth of 38 feet where very dense silty and clayey sand was encountered to a depth of 110 feet where the boring was terminated. The subsurface conditions encountered in boring HIB-9 consisted of stiff silt and medium dense...
silty sand to a depth of approximately 34 feet where hard clay was observed to a depth of 65 feet where the boring was terminated.

**GEOMETRIC EVALUATION**

Based on our preliminary design, the design length of the Haynes Inlet HDD crossing is approximately 5,820 feet. The proposed entry point is located on a natural terrace east of Highway 101 on the east side of the inlet. The exit point is located in a relatively flat open area on the west side of the crossing. The entry and exit angles are 14 degrees and 10 degrees, respectively, with a radius of curvature 3,600 feet. The bottom tangent elevation of the preliminary design is approximately Elevation -85 feet. The preliminary design provides approximately 60 feet of cover beneath the channel of the inlet and approximately 35 feet of cover beneath Highway 101. The overall elevation difference between entry and exit is approximately 166 feet.

The length, diameter, and geometry of the crossing approach the limits of successfully completed HDD crossings. Pullback of the product pipe will require high pull load forces that are approaching the maximum pull force capabilities of the largest HDD drill rigs currently in use. Pull forces of this magnitude are also approaching the practical load limit of the commonly used tooling such as swivels, shackles, tool joints, and drill pipe. In our opinion, the geometric and mechanical requirements for this crossing reduce the potential for successfully completing the crossing.

**SITE FEASIBILITY**

The HDD entry workspace may be accessed via a temporary access road from a private drive off North Bay Drive. The exit workspace and stringing area may be accessed via existing private roads off of Jordan Cove Road. The private roads on the exit side are located on property currently owned by Weyerhaeuser. These roads should be adequate for the mobilization of equipment into and out of the site. The proposed crossing alignment puts the pipe stringing area across Jordan Cove where the product pipe will have to be floated across the cove. The tidal portion of the cove may have to be dredged to allow for floating the product pipe string. Having to string the product pipe across the tidal flat and shallow water of Jordan Cove is feasible but will introduce additional difficulties and permitting requirements to the project. Construction of the Haynes Inlet HDD crossing is considered likely feasible from a land use perspective assuming the required land use permissions and permits are granted for the workspaces and stringing area.

**CONCLUSIONS**

From a geotechnical perspective, the design profile intersects the top of sandstone bedrock directly beneath Highway 101. Given the topographic relief from entry to exit, the fluid equilibrium point of the proposed profile is also directly beneath Highway 101. Depending on how the subsurface conditions react during the drilling process, the dry portion of the hole above the equilibrium point may be more susceptible to mining than the flooded portion of the hole below the equilibrium point. Mining of the formation could lead to surface settlements and/or subgrade failure along the highway alignment. The potentially unstable sands observed in boring HIB-2, near the exit location, may increase the chances for failure during the installation process.

With regard to construction capabilities, the combination of length, diameter, and topographic relief of the proposed crossing approach the limits of current HDD technology. A crossing of this magnitude would not be considered routine and the potential for failure would be substantial.
Based on our preliminary evaluation, it is our opinion that the construction of the Haynes Inlet HDD crossing is not feasible due to the cumulative effects of geotechnical conditions, construction capabilities, and workspace constraints.
Looking east across Haynes Inlet near small drainage on pipeside

Looking east across Haynes Inlet near alignment on pipeside
Looking west from stringing area toward the exit point

Looking west through stringing area across Jordan Cove
PCGP Haynes Inlet-Submittal

Entry Angle = 14°
Exit Angle = 10°
L₁ = 635 ft
L₂ = 3437 ft
Radius₁ = 3600 ft
Radius₂ = 3600 ft
Entry Station = 62+10
Exit Station = 85+20
Entry Elevation = 180.1 ft
Exit Elevation = 14.0 ft
Crossing Length = 5120.00 ft
Pipe Length = 5855.24 ft

Station Elevation (ft) Delta Elev.(ft)
Entry 62+10.00 189.17 0.00
PC₁ 55+75.00 21.85 158.32
PT₁ 47+04.00 -85.00 265.26
PC₂ 12+07.05 -85.09 265.26
PT₂ 6+41.93 -30.40 210.87
Exit 3+99.00 14.03 186.15

Pipe Diameter = 36 in.
Wall Thickness = 0.750 in.
Pipe Grade = X-70
MAOP = 1440 psi

NOT TO SCALE
Brown poorly graded fine sand (medium dense, moist)

becomes very loose and wet at 10 feet

becomes medium dense to dense

1/2" layer of peat at 25.6 feet

occasional shell fragments

Note: See Figure A-1 for explanation of symbols.
### MATERIAL DESCRIPTION

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<th>Interval (ft)</th>
<th>Blows (100's)</th>
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<th>Water Level</th>
<th>Group Symbol</th>
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- Fine sand with occasional broken shells
- Dark gray poorly graded fine to medium sand, trace shell fragments
- Becomes very dense
- Gray poorly graded fine to medium sand (very dense, wet)
- Trace shell fragments

Other Tests and Notes:

\[ \%F = 7, SA \]
SAMPLES

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<tr>
<th>Interval</th>
<th>Recovered (ft)</th>
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Other Tests and Notes:
- %F=6, SA

MATERIAL DESCRIPTION
- Gray poorly graded fine to medium sand, trace shell fragments (very dense, wet)
- Bottom of hole at 100 feet
- Groundwater encountered 6 feet below surface

LOG OF BORING B-1 (continued)
### MATERIAL DESCRIPTION

**SAMPLES**

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**Group Symbol Rock Classification**

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<td>ML</td>
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<tr>
<td>SM</td>
<td>Mottled yellow with orange silty fine sand (medium dense, moist)</td>
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<td>SM</td>
<td>Yellow silty fine sand (weakly cemented relict rock matrix) (very dense, moist)</td>
</tr>
<tr>
<td>SP</td>
<td>Yellow poorly graded fine to medium sand with trace silt (very dense, wet)</td>
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**LOG OF BORING B-5**

Project: Williams Northwest Pipeline

Project Location: Haynes Inlet

Project Number: 8169-021-00

Figure: A-3  Sheet 1 of 3

Note: See Figure A-1 for explanation of symbols.
**LOG OF BORING B-5 (continued)**

**GEOENGINEERS**

**Project:** Williams Northwest Pipeline  
**Project Location:** Haynes Inlet  
**Project Number:** 8169-021-00  
**Figure:** A-3  
**Sheet:** 2 of 3

### MATERIAL DESCRIPTION

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<th>ROD %</th>
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<td>35</td>
<td>30</td>
<td>1</td>
<td>87</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>SM</td>
</tr>
<tr>
<td>30</td>
<td>25</td>
<td>2</td>
<td>86</td>
<td>83</td>
<td>&lt;1</td>
<td></td>
<td></td>
<td></td>
<td>Dark gray silty fine to coarse sand (highly weathered sandstone) (very dense, moist)</td>
</tr>
<tr>
<td>25</td>
<td>20</td>
<td>3</td>
<td>100</td>
<td>100</td>
<td>0</td>
<td></td>
<td></td>
<td></td>
<td>SLST</td>
</tr>
<tr>
<td>20</td>
<td>15</td>
<td>4</td>
<td>100</td>
<td>100</td>
<td>0</td>
<td></td>
<td></td>
<td></td>
<td>Dark gray-green silty sandstone, moderately weathered, moderately weak, medium fractured</td>
</tr>
<tr>
<td>15</td>
<td>10</td>
<td>5</td>
<td>100</td>
<td>75</td>
<td>&lt;1</td>
<td></td>
<td></td>
<td></td>
<td>SSTN</td>
</tr>
</tbody>
</table>
| 10             | 5          | 6          | 100          | 68    | <1            |              |             |              | Dark green sandstone, slightly weathered weak to moderately weak, massive  
|                |            |            |              |       |               |              |             |              | Becomes gray-green, slightly weathered, weak to moderately weak, medium fractured |
|                |            |            |              |       |               |              |             |              | Very closely fractured zone between 53.6-54 feet |
|                |            |            |              |       |               |              |             |              | Highly fractured zone at 57.1-59 feet; 1/2" wide open fractures with green sand infilling at 59 feet |
|                |            |            |              |       |               |              |             |              | Shattered zone with gray clay infilling at 61.6-61.9 feet |
|                |            |            |              |       |               |              |             |              | Becomes closely to very closely fractured |
|                |            |            |              |       |               |              |             |              | close to medium fractured from 71.2 to 76.2 feet |

**OTHER TESTS AND NOTES**

Intersecting 30°-45° fractures
## Material Description

<table>
<thead>
<tr>
<th>Sample Run</th>
<th>Recovered (%)</th>
<th>RQD %</th>
<th>Fracture Cnt</th>
<th>Blows/foot</th>
<th>Water Level</th>
<th>Blow Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>12</td>
<td>100</td>
<td>95</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>11</td>
<td>100</td>
<td>90.2</td>
<td>2.3</td>
<td>3</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>10</td>
<td>100</td>
<td>96</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>9</td>
<td>100</td>
<td>96</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>8</td>
<td>100</td>
<td>96</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>7</td>
<td>100</td>
<td>96</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>6</td>
<td>100</td>
<td>96</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>5</td>
<td>100</td>
<td>96</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>4</td>
<td>100</td>
<td>96</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>3</td>
<td>100</td>
<td>96</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>2</td>
<td>100</td>
<td>96</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>1</td>
<td>100</td>
<td>96</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
</tbody>
</table>

**Group Symbol**
- Rock Classification

**Other Tests and Notes**
- Material Description:
  - Closely fractured between 84 to 86.2 feet
  - Closely fractured at 95 to 96 feet
  - Closely fractured between 86 to 89 feet (high angle)
  - Closely fractured between 89-91.2 feet

**Bottom of Project**
- Modified condition due to drilling fluid

**Material**
- Light gray poorly graded sand with slight silt (very dense, wet)
- Gray-green sandstone, slightly weathered to moderately weathered, medium fractured

**Geological**
- Project: Williams Northwest Pipeline
- Project Location: Haynes Inlet
- Sheet: 3 of 3
<table>
<thead>
<tr>
<th>Depth (ft)</th>
<th>Description</th>
<th>Material Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>125</td>
<td><strong>Grey silt and sand (loose, wet)</strong></td>
<td>40</td>
</tr>
<tr>
<td>124.5</td>
<td>Same</td>
<td>40</td>
</tr>
<tr>
<td>124</td>
<td>Same</td>
<td>40</td>
</tr>
<tr>
<td>123.5</td>
<td>Same</td>
<td>40</td>
</tr>
<tr>
<td>123</td>
<td>Same</td>
<td>40</td>
</tr>
<tr>
<td>122.5</td>
<td>Same</td>
<td>40</td>
</tr>
<tr>
<td>122</td>
<td>Same</td>
<td>40</td>
</tr>
<tr>
<td>121.5</td>
<td>Same</td>
<td>40</td>
</tr>
<tr>
<td>121</td>
<td>Same</td>
<td>40</td>
</tr>
</tbody>
</table>

**LOG OF ROCK CORE**

**MATERIAL DESCRIPTION**

**OTHER TESTS AND NOTES**

_Draft_
<table>
<thead>
<tr>
<th>Depth (ft)</th>
<th>Material Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>50</td>
<td>Dense below 35'</td>
</tr>
<tr>
<td>48</td>
<td>Dense below 40'</td>
</tr>
<tr>
<td>40</td>
<td>Dense, Dense</td>
</tr>
<tr>
<td>30</td>
<td>Woody, Dense</td>
</tr>
<tr>
<td>20</td>
<td>Woody, Dense</td>
</tr>
<tr>
<td>12</td>
<td>Woody, Dense</td>
</tr>
<tr>
<td>12</td>
<td>Woody, Dense</td>
</tr>
<tr>
<td>0</td>
<td></td>
</tr>
</tbody>
</table>

**Project:** Pacific Connector Gas Pipeline  
**Borehole Location:**  
**Project Number:** Williams Pipeline Co. 8189-021-00
<table>
<thead>
<tr>
<th>Depth (ft)</th>
<th>Material Description</th>
<th>Other Tests and Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>Boring Asbestos 2 90'</td>
<td>Sande casing? Rising HP &amp; Boring location Beginning to invert and TANK.</td>
</tr>
<tr>
<td>Depth (ft)</td>
<td>Material Description</td>
<td></td>
</tr>
<tr>
<td>-----------</td>
<td>----------------------</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Clay with some sand</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Clay with some sand</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Clay with some sand</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Sand with some clay</td>
<td></td>
</tr>
</tbody>
</table>

Other Tests and Notes:
- Found to 21 ft and some sand below 20 ft.
<table>
<thead>
<tr>
<th>Depth (ft)</th>
<th>Material Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.0</td>
<td>Grey sand (V. dense, moist)</td>
</tr>
<tr>
<td>7</td>
<td>Grey sand and gray clay (V. dense, moist)</td>
</tr>
<tr>
<td>9.8</td>
<td>Becomes grey w/ some gray streaks</td>
</tr>
<tr>
<td>10.2</td>
<td>Becomes grey and clayey below 55</td>
</tr>
</tbody>
</table>

**Notes:**
- Some notes appear to be handwritten, possibly indicating further details or remarks on the materials at these depths.
<table>
<thead>
<tr>
<th>Depth (F)</th>
<th>Material Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>12 5/8&quot;</td>
<td>Sand</td>
</tr>
<tr>
<td>13 5/8&quot;</td>
<td>Same but with some 5/8&quot; v. hard layers.</td>
</tr>
<tr>
<td>14 17/17</td>
<td>Became very clean material</td>
</tr>
<tr>
<td>15 17/17</td>
<td>Etcetera</td>
</tr>
</tbody>
</table>

---

**Draft**

*Notes:*
- Borehole Location: H18 Yards, 400' S/R
- Project Number: Williams Pipeline Co., 818-021-00
**LOG OF ROCK CORE**

**MATERIAL DESCRIPTION**

| Depth | Material Description
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Bore core water sandy till w/ some gravel (silt, marl)</td>
</tr>
<tr>
<td>2</td>
<td>Bore core water saturated sand (loose, marl)</td>
</tr>
<tr>
<td>3</td>
<td>Bore core water saturated clayey sandy clay (loose, marl)</td>
</tr>
<tr>
<td>4</td>
<td>Oliver gravel below 30</td>
</tr>
<tr>
<td>5</td>
<td>Grey sandy clay (silt w/ sand)</td>
</tr>
</tbody>
</table>

---

**Other Tests and Notes**

- PI, Attorneys

---

**Project:** Pacific Connector Gas Pipeline

**Borehole Location:** HAYNES 1467

**Project Number:** Williams Pipeline Co., 8169-021-90
<table>
<thead>
<tr>
<th>Depth (ft)</th>
<th>Material Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.0 - 8.0</td>
<td>Limestone, hornblende, feldspar, calcite, sand, clay, silt clay, silt, rock matrix</td>
</tr>
<tr>
<td>8.0 - 10.0</td>
<td>Limestone, hornblende, feldspar, calcite, sand, clay, silt clay, silt, rock matrix</td>
</tr>
<tr>
<td>10.0 - 11.0</td>
<td>Limestone, hornblende, feldspar, calcite, sand, clay, silt clay, silt, rock matrix</td>
</tr>
<tr>
<td>11.0 - 11.5</td>
<td>Limestone, hornblende, feldspar, calcite, sand, clay, silt clay, silt, rock matrix</td>
</tr>
</tbody>
</table>

**Notes:**
- Beaching layer occurring below 29' and 31'.
- Waves, noise, wind.
- Water sand / silt clay.
- Silt clay / silt sand.
- Waves, noise, wind.
- Limestone, hornblende, feldspar, calcite, sand, clay, silt clay, silt, rock matrix.
<table>
<thead>
<tr>
<th>Depth (ft)</th>
<th>Description</th>
<th>Other Tests and Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>12</td>
<td>25.75&quot; Gley, Clayey Fine Sand (U, dense, dev.-wet)</td>
<td>FECD</td>
</tr>
<tr>
<td>13</td>
<td>2&quot; Gis 2&quot;</td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>3&quot; Gis 1&quot;</td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>17 42/32 60 13&quot;</td>
<td></td>
</tr>
<tr>
<td>16</td>
<td>28 1/2 60 34&quot;</td>
<td></td>
</tr>
<tr>
<td>17</td>
<td>69 1/5</td>
<td></td>
</tr>
</tbody>
</table>

**Note:**
- GEOLogINgEERS
- **Project:** Pacific Connector Gas Pipeline
- **Borehole Location:** HAYES JUJUET
- **Project Number:** Williams Pipeline Co., 8169-021-09

1113
| Depth (ft) | Log
| --- | --- |
| 11 | Sand
| 12 | B used
| 21 | Fused
| 10 | Used
| 9 | Used
| 8 | Used
| 7.5 | Used
| 7 | Used
| 6.5 | Used
| 6 | Used
| 5.5 | Used
| 5 | Used
| 4.5 | Used
| 4 | Used

**Log of Rock Core**

**Material Description**

**Other Tests and Notes**
<table>
<thead>
<tr>
<th>LOG OF ROCK CORE</th>
</tr>
</thead>
<tbody>
<tr>
<td>MATERIAL DESCRIPTION</td>
</tr>
<tr>
<td>Strong gray veined sandy silt</td>
</tr>
<tr>
<td>(sand mixed)</td>
</tr>
<tr>
<td>Lay was wool 115'</td>
</tr>
<tr>
<td>Lay mixed brownish silt clay</td>
</tr>
<tr>
<td>Hard</td>
</tr>
<tr>
<td>Clay</td>
</tr>
</tbody>
</table>

**Project:** Pacific Connector Gas Pipeline

**Boring Location:** Haynes, IL

**Project Number:** Williams Pipeline Co., 5166-921-00
<table>
<thead>
<tr>
<th>Depth (ft)</th>
<th>Description</th>
<th>Other Tests and Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>Clay</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Clay</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Clay</td>
<td></td>
</tr>
<tr>
<td>13.5</td>
<td>Clay</td>
<td></td>
</tr>
<tr>
<td>16.5</td>
<td>Clay</td>
<td></td>
</tr>
<tr>
<td>19</td>
<td>Clay</td>
<td></td>
</tr>
<tr>
<td>22</td>
<td>Clay</td>
<td></td>
</tr>
<tr>
<td>25.5</td>
<td>Clay</td>
<td></td>
</tr>
<tr>
<td>30</td>
<td>Clay</td>
<td></td>
</tr>
<tr>
<td>35</td>
<td>Clay</td>
<td></td>
</tr>
</tbody>
</table>

**Notes:**
- Clay appears consistently throughout the log.
- No significant changes in material description noted.

**Project:** Pacific Connector Gas Pipeline

**Borehole Location:** [Coordinates] (redacted)

**Project Number:** [Number] (redacted)
June 3, 2010

Ms. Patty Evernden
Planning Director
Coos County Planning Department
225 N. Adams Street
Coquille, OR 97423

Re: Pacific Connector Gas Pipeline / HBCU-10-01
Responses to Groundwater Disruption / Contamination Issue

Dear Ms. Evernden:

This letter is written in response to the issue raised during the Coos County Conditional Use Permit hearing on May 20, 2010 regarding groundwater quality and shallow wells and seeps potentially affected by the construction of the Pacific Connector Gas Pipeline (PCGP) Project.

Pacific Connector created a Groundwater Supply Monitoring and Mitigation Plan dated September 2007, which was submitted to the Federal Energy Regulatory Commission (a copy of the Plan is attached to the April 14, 2010 Application Narrative as Exhibit 3). The purpose of this Plan is to address potential susceptibility of impacts to groundwater supplies and to identify monitoring and mitigation measures to prevent and/or minimize impacts. This letter attempts to summarize the information in the Groundwater Supply Monitoring and Mitigation Plan as it pertains to the concerns raised during the Conditional Use Permit hearing. Additional information is available in the full text of the plan.

The Groundwater Supply Monitoring and Mitigation Plan outlines various activities Pacific Connector will complete to minimize impacts to groundwater. These activities include: (1) identification of Groundwater Supplies, (2) Determination of Susceptibility, (3) Monitoring, (4) Measures to Prevent Impacts to Groundwater Resources and (5) Mitigation for Construction.
Impacts. Please see related Condition No. 43 b. in the FERC Order, which is attached to the Applicant’s May 12, 2010 Pre-Hearing Evidentiary Submittal.

1) Identification of Groundwater Supplies

No public groundwater supply wells or springs exist within 400 feet of the proposed construction disturbance according to the Oregon Department of Environmental Quality (DEQ) public water supply database (DEQ, 2007). However, groundwater wells, springs, and seeps that are not public water supplies (under the federal definition) and those that do not have an associated groundwater right may exist near the proposed construction disturbance. There is the potential for these groundwater supplies to be impacted by pipeline construction.

Final identification and confirmation of the location of groundwater supplies will be conducted through field investigations and contacts with landowners within and adjacent to the proposed pipeline right-of-way prior to construction. Landowners will be supplied with documentation that explains the proposed pipeline construction project and outlines the field investigation for identification of groundwater supplies. During the field investigation, landowners will be requested to identify groundwater supply wells, springs, and seeps located on their property. Landowners will also be asked to identify the use of the water (i.e., municipal, irrigation, industrial, livestock, or other).

2) Determination of Susceptibility

Public groundwater supply wells and springs within 400 feet of the proposed construction disturbance are considered to be potentially susceptible to impacts; however, none have been identified (DEQ, 2007). All other groundwater wells, springs, and seeps within 200 feet of the proposed construction disturbance will be considered potentially susceptible to impacts from pipeline construction and will be included in a monitoring program.

During construction, landowners with groundwater supplies located outside of the 200-foot monitoring area may request pre and/or post-construction water sampling. In these cases, sampling would follow the same schedule and methods for groundwater supplies within the 200-foot monitoring area.

3) Monitoring

Monitoring (including yield testing and water quality sampling) will be conducted prior to pipeline construction, subject to landowner approval, to obtain baseline yield and water quality data for each groundwater supply identified. Upon completion of preconstruction monitoring, the landowner will be provided with a point of contact with Pacific Connector in order to report potential problems with wells, springs, and seeps believed to be the result of construction.

Pacific Connector will conduct post-construction sampling if requested by the landowner or in disputed situations to determine the effects of construction, if any, on the groundwater supply.