

Testimony Received by December 1, 2011

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December 1, 2011

Andrew H. Stamp  
Coos County Hearings Officer  
c/o Coos County Planning Dept.  
225 N. Adams Street  
Coquille, OR 97423

VIA FIRST CLASS MAIL  
AND E-MAIL

Re: *Citizens Against LNG, Inc. v. Coos County*, LUBA No. 2010-086  
Coos County Remand Proceeding; County File # REM-11-01  
Request for Opportunity to Respond to New Evidence

Dear Mr. Stamp:

This request for an opportunity to respond to new evidence from applicant Pacific Connector Gas Pipeline, L.P. (PCGP), is submitted on behalf of Citizens Against LNG, Inc., and Jody McCaffree (collectively "Opponents"). On November 28, 2011, PCGP submitted as "Exhibit 1" a letter from Dr. Robert H. Ellis, dated November 23, 2011. That letter contains a new Figure 1 ("Contour map showing the pipeline route in relation to the proposed Olympia oyster relocation area") not previously included in the record of this proceeding, and on page 2 of the Ellis letter, textual analysis based on that new figure.

Pursuant to ORS 197.763(6)(c), Opponents request that the record be reopened to allow us to respond to this new evidence, by submitting the two-page response from Dr. Mark Chernaik attached here.

Thank you for your attention to this request.

Sincerely,



Corinne C. Sherton

cc: Jill Rolfe  
Roger A. Alfred (via e-mail only)  
Mark D. Whitlowe (via e-mail only)  
Mark Chernaik (via e-mail only)  
Jody McCaffree (via e-mail only)

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DEC - 2 2011

COOS COUNTY  
PLANNING DEPARTMENT

Exhibit 7  
Date: 12/1/11

December 1<sup>st</sup>, 2011

Corinne Sherton  
247 Commercial Street NE, Suite 205  
Salem, OR 97301

Dear Corinne,

I examined the new figure and accompanying analysis submitted on November 28<sup>th</sup>, 2011 by PCGP in a letter by Dr. Robert H. Ellis. The new figure is titled: "Contour map showing the pipeline route in relation to the proposed Olympia oyster relocation area." On the attached document, I have juxtaposed this new figure with an earlier figure of the proposed Olympia oyster relocation area from the October 7<sup>th</sup>, 2011, Olympia Oyster Mitigation Plan by Ellis Ecological Services. There are several important aspects of the new figure that are of concern.

- (1) The new figure in Ellis's letter is misleading because it depicts the pipeline right-of-way as a one-dimensional line, when in fact the pipeline right-of-way is 250 feet, including at least 60 feet in which dredging and stockpiling would occur. Assuming that the line in the new figure represents the centerline of the pipeline right-of-way, then the new figure shifts the oyster relocation area more than 100 feet closer to the pipeline right-of-way than where it was depicted in earlier reports, thereby reducing the elevation differential between the relocation area and pipeline excavation by a foot or more.
- (2) Even if we assume that the new figure accurately depicts the relocation area in relation to the pipeline route, the Ellis letter improperly interprets the figure. The letter states: "This map shows that at any point on the pipeline route the corresponding area on the relocation area parallel to that point is no more than about 1.5 feet higher and that most of the relocation area is less than 1 foot higher." However, a substantial portion of the pipeline route near the Highway 101 Bridge, which has the highest concentration of Olympia oysters, is not parallel to a corresponding point in the relocation area. Rather, this area is near or within a channel where elevations decline rapidly. At these places along the pipeline route, the elevation differential between the pipeline excavation area and the lowest point in the relocation area would be several feet.
- (3) Finally, the Ellis letter fails to discuss the biological significance of these elevation differences. The overall difference between low tide and high tide in Coos Bay is roughly 4-8 feet on average, and it takes about 6-7 hours for a tide to rise from low to high (or fall from high to low). <http://www.coos-bay.net/tide.html> Oysters do not tolerate long periods out of water. The amount of time spent out of water is a major factor determining oyster survival. An oyster moved from one intertidal location in Haynes Inlet, to another intertidal location that is only 1-1.5 feet higher, would be out of water for substantially longer periods of time after such relocation.

Sincerely,



Mark Chernaik  
2355 Dale Avenue  
Eugene, Oregon 97408

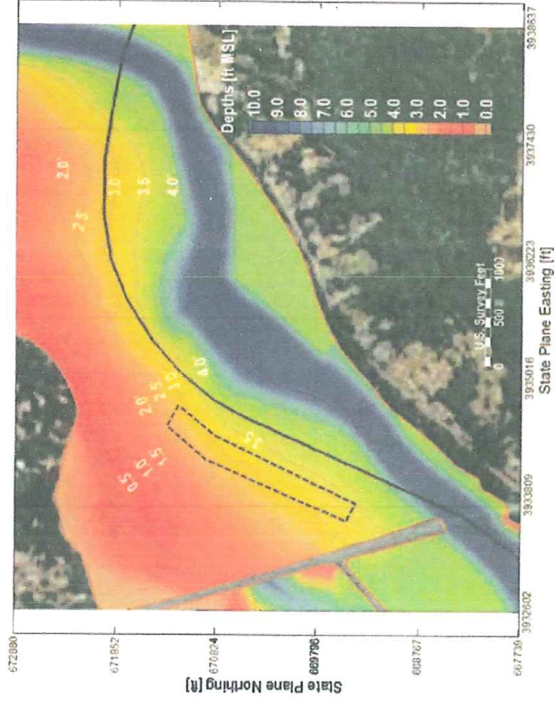


Figure 1. Contour map showing the pipeline route in relation to the proposed Olympia oyster relocation area.

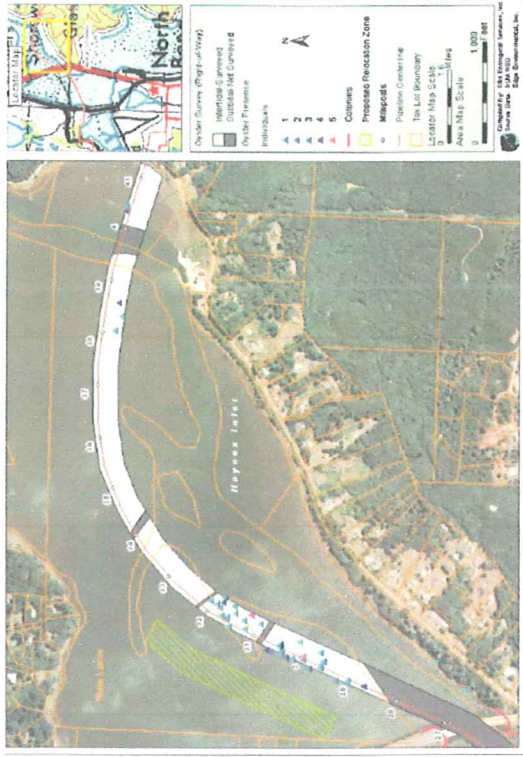


Figure 2. Proposed relocation zone.