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Sent: Tuesday, September 24, 2019 4:52 PM
To: Jill Rolfe; Amy Dibble; Planning Department
Cc: Pfeiffer, Steven L. (Perkins Coie)
Subject: Coos County File No. REM-19-001 (Applicant's Second Open Record Period Submittal)
Attachments: 20190924 Ltr to A. Stamp re_ Vessel Impacts (Remand).PDF

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Attached please find Jordan Cove Energy Project L.P.'s second open record period submittal in response to the Hearings Officer's August 23 order to reopen the record in this matter. Please place a copy of these materials in the official record for this matter and please place a copy before the Hearings Officer. Thank you.

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Exhibit: 73
Date: 9/24/19

September 24, 2019

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VIA EMAIL TO PLANNING@CO.COOS.OR.US

Andrew Stamp
Land Use Hearings Officer
c/o Coos County Planning Department
225 N Adams St
Coquille, OR 97423

**Re: Jordan Cove Energy Project Land Use Applications
Coos County File No. REM-19-001 (HBCU-15-05/FP-15-09)
Applicant's Second Submittal Responding to August 23 Order to Reopen Record**

Dear Mr. Stamp:

This office represents Jordan Cove Energy Project L.P. ("JCEP"), the applicant requesting approval of concurrent land use applications to construct a liquefied natural gas facility, export terminal, and related project components ("Project") in Coos County File No. REM-19-001 (HBCU-15-05/FP-15-09) ("Applications"). This letter and its exhibit constitute JCEP's second open record submittal in response to the Hearings Officer's August 23, 2019 order re-opening the record to address the limited topic of JCEP's use of Coos Bay and potential impacts to other users of the Bay. Please consider this information before completing your recommended order for this matter.

Enclosed herewith as Exhibit 1 please find a supplemental memorandum from Amergent Techs, Inc. addressing issues and questions raised by other parties during the first open record period.


Based upon the attached evidence and the additional evidence and explanation submitted by JCEP into the record, and subject to a condition limiting the number of annual LNG vessels serving the Project to 120, the Hearings Officer should find that the Project will not "unreasonably interfere with public trust rights" in Coos Bay.

I have asked staff to place a copy of this submittal into the official record for this file and to place a copy before you. Finally, in response to the Hearings Officer's supplemental

Andrew Stamp
Coos County Land Use Hearings Officer
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letter dated September 19, 2019, JCEP requests until October 2, 2019 to submit final written argument limited to the scope of the issues raised in the re-opened record. Thank you for your careful review of this information.

Very truly yours,



Seth J. King

Encl.

cc: Jill Rolfe (via email) (w/encl.)
Steve Pfeiffer (via email) (w/encl.)
Client (via email) (w/encl.)



September 23, 2019

Seth King, Esq
Perkins Coie LLP
1120 N.W. Couch Street Tenth Floor
Portland, OR 97209-4128

**Re: Security Zone Expert Report Supplemental– Captain Frank Whipple, USCG (retired)
Jordan Cove Energy Project**

Dear Mr. King:

I have received the supplemental questions/issues which were raised during the hearing officer's opening of the record. I am providing my responses to these questions/issues. As before, I have incorporated my knowledge, skill, expertise, education, qualifications, and 45 years of experience. It is also worth noting that I was in each and every meeting with the USCG, State of Oregon, and local law enforcement in determining the measures necessary to properly operate LNG carriers in Coos Bay, the security zones, and the enforcement policies.

I have listed the questions/issues below followed by responses:

1. Under what weather conditions would an LNG vessel not transit the Bay?

Answer: The Coos Bay Pilots make the ultimate decision on whether or not ships, including LNG carriers, are able to enter the harbor. The Coos Bay Pilots, working with the VTIS and USCG will determine prior to the LNG carrier's arrival as to whether they will enter port. The Project has established a policy of the LNG carriers making a decision to enter while more than 50 miles offshore. This provides a safety parameter so that should conditions be unacceptable, the LNG carrier will wait far offshore.

The Project has conducted many simulations of the LNG carriers entering and navigating up and down Coos Bay channel. There are several factors to consider that will depend upon LNG carriers entering the Bay. The factors include:

- a) Wind conditions while maneuvering in the channel are currently limited at 25-30 knots of wind.
- b) Wave conditions at the entrance that are currently limited by the Coos Bay Pilot boats' ability to transit outbound with the pilot. They are smaller vessels and when they cannot go out, the LNG carriers will not come in.
- c) Sea conditions that are currently estimated at 20 feet (offshore sea conditions).

- d) Tidal conditions sufficient for the LNG carrier to maintain a 10% under keel clearance.
- e) Ship handling characteristics of the individual LNG carriers.

The LNG carriers entering the channel entrance will be similar to all other deep draft vessels entering the harbor and should not impede fishing/crabbing vessels. Their arrivals and departures will be published weeks in advance and the VTIS will assist waterway users and deep draft ships in avoiding each other.

Due to the high rate of fishing vessel fatalities along the coast, the USCG has been more vigilant in closing the entrance bars in severe weather to smaller fishing and recreational boats, which should have the effect of reducing casualties caused by large “breaking bar” conditions and fisherman deaths.

2. What happens to a fishing or recreational vessel that is out at sea and wants/needs to get back to port, perhaps due to changes in weather conditions, and the LNG vessel/security zone enters the Bay before they do?

Answer: There is not expected to be any impact to vessels needing to return to port due to deteriorating weather conditions, emergencies, or normal transits. As stated in the statement previously provided, the security zone is not an exclusion zone. Any vessel offshore will be able to work with the VTIS or the local patrol commander to enter with the LNG carrier in transit. The LNG carrier will remain in the deep water portion of the federal navigation channel and there is room for other vessels.

3. There is ongoing dredging occurring in the Coos Bay Federal Navigation Channel through the Army Corps of Engineers. In general, how would a dredging vessel interact with an LNG vessel?

Answer: The LNG carrier will work with the dredging companies, the VTIS, and the Coos Bay Pilots to coordinate transits of the harbor. The dredge will not pose a risk to the LNG carrier and will continue its work.

Coos Bay Pilots routinely deal with dredging operations and deep draft ship movements. No different arrangements will be necessary with LNG carriers. The additional benefit of the VTIS is that it will assist the Pilots and ship masters in making passing arrangements. The dredges are highly familiar with working in busy ports and do it on a regular basis. These same dredges work in busy ports like Puget Sound, Los Angeles, and Long Beach. Their activities are published long in advance, permits obtained, and USCG broadcasts Local Notice to Mariners (LNTM) advising waterway users of their dredging operations.

4. **Since the security zone is moving with the vessel, approximately how long will it be in effect for a given location?**

Answer: 20-30 minutes is a good estimation of the time a zone will impact any given point on a chart. The impact time is based upon the LNG carrier's speed. During the entry channel transit, the impact will be less as the LNG carrier will be transiting faster. Once in the channel, the time increases as the LNG carrier slows to approximately 4-6 knots.

Keeping in mind that these are not exclusion zones, the impact to waterway users being discussed should not occur.

5. **Opponents identify examples of LNG vessel security zones in other locations that they claim are exclusion zones (e.g., Cove Point in Maryland and Distrigas in Massachusetts). Why wouldn't the Coos Bay LNG security zone become an exclusion zone?**

Answer: I have gone back and rechecked the actual security zone, boundaries, and regulations established for the zones mentioned. They provide no such "exclusion zone" language or status. The actual wording of the security zone regulations and policy documents is attached and appears to post-date the materials included in Ms. Moro's testimony.

From a confidential draft document in Moro's exhibit:

"After September 11, 2001 and the terrorist attacks in New York City, Washington D.C. and Pennsylvania, the risks involved with the transportation of Liquefied Natural Gas (LNG) caused the United States Coast Guard to modify its transportation plan of LNG to the Distrigas Facility. The Captain of the Port of Boston, who is responsible for the safe maritime transportation of the product within his jurisdiction, mandated the modifications."

Since 911, many of the initial actions taken to secure the American waterways have changed. Boston remains one of the only LNG (import) terminals which continue the heavy security actions. No other port in the country conducts operations in the same or similar manner. The security zone in Boston was developed in the same manner that zones are created all over the country. The USCG met with State and local officials and determined the zone, the parameters of operation, and the enforcement policy.

Some of the material referenced in the attached articles are referring to newspaper articles written about the projects and I will assume they made comments that were not exactly in line with the USCG regulatory authority, policy, or actual zones in effect now.

Although according to the federal regulations, the Boston and Chesapeake Bay zones require COTP permission in order to enter the respective zones, the authorization is available and means to contact the USCG are provided. No extreme limitations are expected under normal circumstances in Coos Bay. Security zone risk is not equal in all COTP zones. The zones mentioned (Boston and Chesapeake Bay) are high visibility locations, political targets, and our nation's headquarters. A number of aspects are considered in establishing and enforcing security zones.

To be honest, the COTP in any port could deny access into a security zone if they could prove or demonstrate a threat existed. That is exactly why they create the zone or regulated navigation area, is to provide the COTP the regulatory or legal authority to deny entry. Without the security zone, they would not be able to legally determine a boat, kayak, or other vessel posed a security risk and deny them access. Having said this, it is not the definition of a security zone or USCG policy to deny waterway users access to public waters without sufficient threat.

One of the LNG facilities used in the discussion of severe restrictions was Freeport LNG in Texas. The information submitted presented a newspaper article calling it an exclusion zone. I was COTP Galveston/Alternate Captain of the Port Galveston which at the time oversaw the operations in Freeport, Texas. The access channel into Freeport is extremely narrow (unlike Coos Bay) and whether it was a tanker or LNG carrier, they are short on room. The federal navigation entrance channel is only 400 feet across. The Freeport LNG terminal is also immediately inside the breakwater on the port side and the pilots begin maneuvering immediately upon entry. This additional maneuvering at the entrance creates a system where by other vessels must follow the Rules of the Road to go around the ship while docking. This creates one of the cited examples of security zones being imposed due to existing circumstances. See attached picture of Freeport.



6. **Exhibit 64 (Moro) also quotes testimony about the possibility of bomb attacks from small boats. Why is that not a significant enough risk in Coos Bay to warrant an exclusion zone?**

Answer: Boat attacks were included in the USCG assessment for Coos Bay. Unlike Boston or the Chesapeake, Coos Bay does not have a significant boat population and only has several launch ramps. It is very easy to monitor this area for threats from small boats. Therefore a different risk model exists. In areas like Boston, Chesapeake, New York, there are hundreds of miles of shoreline, thousands of boats, boat launching facilities everywhere, and many other differences from Coos Bay.

7. **Opponents claim the USCG concluded in 2008 that the waterway was not suitable for LNG traffic and there is insufficient evidence that it has changed its mind.**

Answer: The USCG COTP in 2008 was exactly following policy established by USCG Headquarters. In creating a Waterway Suitability Report (WSR), the COTP was given two options. The waterway could be suitable (no changes or additions necessary) or the

waterway could be unsuitable but could be made suitable. The exact WSR/LOR document wording is:

“Coos Bay is not currently suitable, but could be made suitable for the type and frequency of LNG marine traffic associated with this proposed project. Additional measures are necessary to responsibly manage the maritime safety and security risks.”

The USCG Letter of Recommendation (LOR) dated 2009APR24 stated “The Applicant's WSA includes risk management strategies and associated measures that were developed for the safe navigation and security at each maritime security level, and that if properly implemented, sufficiently mitigate the identified risks associated with LNG vessel traffic for the proposed facility. These risk mitigation measures and strategies have been documented in the attached WSR.” The reader must evaluate all of the documents the USCG provided and take into consideration the modification. The WSA was evaluated by a committee comprised of local and State representatives in their making the decision it was suitable. So while the single sentence stated unsuitable, the document provided that the WSA had the proper mitigation measures to make it suitable.

After the LOR was issued, the Project worked years with the local agencies, the State, and USCG to develop the necessary processes, funding agreements, and mitigation measures to make the waterway suitable. This resulted in the State issuing a “Cost Share Agreement” after the Project agreed to provide extensive upgrades to the waterway, the agencies, and emergency management resources. The majority of the items necessary to make the waterway suitable dealt with navigation modifications including the VTIS, security monitoring systems, electronic navigation systems, and the PORTS tidal system.

Additionally, the USCG has issued an updated LOR dated May 10, 2018, in which the COTP, Sector Columbia River, found the Channel to be suitable for project-related LNG traffic:

“Based upon a comprehensive review of Jordan Cove’s WSA, and after consultation with State and Local port stakeholders, I recommend that the Coos Bay Channel be considered suitable for accommodating the type and frequency of LNG marine traffic associated with this project.”

This updated LOR is included in the record and supersedes the earlier LOR.

- 8. Will the LNG security zone involve bells, lights, sirens, etc. that could be disruptive to users of the Bay or nearby residents, particularly at night?**

Answer: The security zone does not have any specific lighting, bells or sirens attached to it. It would be primarily patrolled by County Sheriffs. It is not uncommon for security boats to display a blue light indicating their presence for the benefit of waterway users. This would be no more than the existing blue lights mounted atop of sheriff boats currently in use.

Education, Training, Licenses, Certificates, and Unique Qualifications:

Captain Whipple holds a Bachelors in Nautical Science from Cal State Vallejo (California Maritime Academy) and completed a one-year executive management program with Crowley Maritime Corporation. He holds an unlimited Mates license (navigation of ships of any gross tonnage upon any ocean) and has completed 64 technical schools and qualification courses. He is qualified in all 23 positions within a Captain of the Port and Officer in Charge Marine Inspection office. He served as Captain of the Port in both Galveston, Texas and Honolulu, Hawaii. Additionally, he served as the Pacific Areas, Chief of Marine Safety, Security, and Environmental Protection covering all COTP zones in the entire Pacific region.

Respectfully submitted,



Captain Frank Whipple

- Encl: (1) 33 CFR §165.502 Safety and Security Zone; Cove Point Liquefied Natural Gas Terminal, Chesapeake Bay, Maryland.
(2) 33 CFR §165.110 Safety and Security Zone; Liquefied Natural Gas Carrier Transits and Anchorage Operations, Boston, Massachusetts.;
(3) Encl (3) 33 CFR §165.500 Safety/Security Zones; Chesapeake Bay, Maryland.



Encl: (1) 33 CFR §165.502 Safety and Security Zone; Cove Point Liquefied Natural Gas Terminal, Chesapeake Bay, Maryland.

(a) *Location.* The following area is a safety and security zone: All waters of the Chesapeake Bay, from surface to bottom, encompassed by lines connecting the following points, beginning at 38°24'27" N, 76°23'42" W, thence to 38°24'44" N, 76°23'11" W, thence to 38°23'55" N, 76°22'27" W, thence to 38°23'37" N, 76°22'58" W, thence to beginning at 38°24'27" N, 76°23'42" W. These coordinates are based upon North American Datum (NAD) 1983. This area is 500 yards in all directions from the Cove Point LNG terminal structure.

(b) *Regulations.* (1) In accordance with the general regulations in §§165.23 and 165.33 of this part, entry into or movement within this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Maryland-National Capital Region or his designated representative. Designated representatives include any Coast Guard commissioned, warrant, or petty officer.

(2) Persons desiring to transit the area of the zone may contact the Captain of the Port at telephone number (410) 576-2693 or via VHF Marine Band Radio Channel 16 (156.8 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his designated representative.

(c) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, local, and private agencies.

[CGD05-03-023, 68 FR 75133, Dec. 30, 2003, as amended by USCG-2016-0060, 81 FR 38594, June 14, 2016]

Encl (2): 33 CFR §165.110 Safety and Security Zone; Liquefied Natural Gas Carrier Transits and Anchorage Operations, Boston, Massachusetts.

(a) *Definitions.* As used in this section—

Authorized representative means a Coast Guard commissioned, warrant, or petty officer or a Federal, State, or local law enforcement officer designated by or assisting the Captain of the Port (COTP) Boston.

Deepwater port means any facility or structure meeting the definition of deepwater port in 33 CFR 148.5.

Support vessel means any vessel meeting the definition of support vessel in 33 CFR 148.5.

(b) *Location.* The following areas are safety and security zones:

(1) *Vessels underway.* All navigable waters of the United States within the Captain of the Port (COTP) Boston zone, as defined in 33 CFR 3.05-10, two miles ahead and one mile astern, and 500 yards on each side of any liquefied natural gas carrier (LNGC) vessel while underway.

(2) *Vessels anchored in the Broad Sound.* All waters within a 500-yard radius of any anchored LNGC vessel located in the waters of Broad Sound bounded by a line starting at position 42 deg. 25' N, 070 deg. 58' W; then running southeast to position 42 deg. 22' N, 070 deg. 56' W; then running east to position 42 deg. 22' N, 070 deg. 50' W; then running north to position 42 deg. 25' N, 070 deg. 50' W; then running west back to the starting point (NAD 83).

(3) *Vessels moored at the Distringas LNG facility.* All waters within a 400-yard radius of any LNGC vessel moored at the Distringas LNG facility in Everett, MA.

(4) *Vessels calling on a deepwater port.* All waters within a 500-meter radius of any LNGC engaged in regasification or transfer, or otherwise moored, anchored, or affixed to a deepwater port listed in 33 CFR 150.490 and falling within the waters of the Boston COTP Zone, as defined in 33 CFR 3.05-10.

(c) *Regulations.* (1) In accordance with the general regulations in Sec. 165.23 and Sec. 165.33 of this part, entry into or movement within these zones is prohibited unless authorized by the Captain of the Port Boston, or his/her authorized representative.

(2) No person or vessel may enter the waters within the boundaries of the safety and security zones described in paragraph (b) of this section unless previously authorized by the COTP Boston, or his/her authorized representative. However, LNGCs and support vessels, as defined in 33 CFR 148.5, operating in the vicinity of NEGDWP are authorized to enter and move within such zones in the normal course of their operations following the requirements set forth in 33 CFR 150.340 and 150.345, respectively.



(3) All vessels operating within the safety and security zones described in paragraph (b) of this section must comply with the instructions of the COTP or his/her authorized representative.

[CGD01-02-023, 67 FR 63263, Oct. 11, 2002, as amended by USCG-2007-0087, 73 FR 34194, June 17, 2008]

Encl (3) 33 CFR §165.500 Safety/Security Zones; Chesapeake Bay, Maryland.

- (a) *Definitions.* (1) Certain Dangerous Cargo (CDC) means a material defined in 33 CFR part 160.
- (2) Liquefied Hazardous Gas (LHG) means a material defined in 33 CFR part 127.
- (3) Liquefied Natural Gas (LNG) means a material defined in 33 CFR part 127.
- (4) Cruise ship means a vessel defined as a “passenger vessel” in 46 U.S.C. 2101 (22).

(b) *Location.* The following areas are a safety/security zone: All waters of the Chesapeake Bay and its tributaries, from surface to bottom, within a 500 yard radius around cruise ships and vessels transporting CDC, LNG, or LHG while transiting, anchored, or moored within the COTP Maryland-National Capital Region zone.

(c) *Regulations.* (1) The COTP will notify the maritime community of affected vessels and the periods during which the safety/security zones will be enforced by providing notice to mariners in accordance with 33 CFR 165.7.

(2) Entry into or remaining in this zone is prohibited unless authorized by the Coast Guard COTP, Maryland-National Capital Region or his designated representative.

(3) Persons desiring to transit the area of the security zone may contact the COTP at telephone number 410-576-2693 or on VHF channel 16 (156.8 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the COTP or his or her designated representative.

(d) *Authority.* In addition to 46 U.S.C. 70034, the authority for this section includes 46 U.S.C. 70051.

[CDG05-03-008, 68 FR 43311, July 22, 2003, as amended by USCG-2016-0060, 81 FR 38594, June 14, 2016]