

October 2, 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 Final Written Argument 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 constitutes JCEP's final written argument 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. This letter does not include any new "evidence" as that term is defined in ORS 197.763(9)(b). Please consider this argument before completing your recommended order for this matter.

Credible, reliable evidence in the record supports the conclusion that the Project will not unreasonably interfere with public trust rights in Coos Bay. This evidence includes a September 9, 2019 report from Rajnish Kelkar, JCEP Marine Manager, who is charged with achieving the safe and reliable navigation and transit of LNG vessels associated with the Project, and two reports from Captain Frank Whipple of Amergent Techs, Inc., who has decades of experience with the United States Coast Guard ("USCG") and over 46 years of experience establishing, enforcing, and creating the basis for regulated navigation areas, safety zones, and security zones around the country, and who worked with the USCG and the State of Oregon to develop the security zone in this case.

Andrew Stamp  
Coos County Land Use Hearings Officer  
October 2, 2019  
Page 2

Captain Whipple's reports are dated September 9, 2019 (Whipple I) and September 23, 2019 (Whipple II). The findings of these three reports are summarized below:

- The security zone will be 500 yards surrounding an LNG vessel, it is not an exclusion zone, and its purpose is limited to "safeguard[ing] vessels, harbors, ports, and waterfront facilities from destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of a similar nature." Whipple I at 5, 8.
- The case-by-case threat assessment will include: (1) information and observation; (2) education of the public; (3) pre-arrival checks; and (4) escorting the LNG carrier through the Bay. Whipple I at 9-12. This process will allow for a final warning to Bay users of the approaching LNG vessel, which addresses opponents' contention that Bay users could be surprised or caught in an unsafe position by the approach of an LNG vessel.
- Because the intent of the security zone is only to exclude subversive forces, "small recreational and fishing boats not perceived as a harm and [] not in the federal navigation channel would be allowed to remain where they are and continue with their activities as the LNG carrier passes through." Whipple I at 10. Captain Whipple's testimony is credible on this point given the limited purpose of security zones (to prevent subversive activities) and his extensive experience implementing security zones and developing the security zone at issue in this case with applicable regulatory authorities.
- "If a surfer or kayaker was to intentionally interfere with the transit of the LNG carrier, they would be subject to actions and penalties as stipulated in the regulations for violation of a security zone. If they were merely paddling without stated intent to interfere with the passage of an LNG carrier, no action would be taken." Whipple I at 13. This testimony refutes opponents' contention that the security zone will prevent their activities or require them to stop and then restart their activities. Captain Whipple's testimony is credible on this point given the limited purpose of security zones (to prevent subversive activities) and his extensive experience implementing security zones and developing the security zone at issue in this case with applicable regulatory authorities.

- The security zones will not involve bells, lights, sirens, or other features that could be disruptive to other users of the Bay or nearby residents. Whipple II at 6-7. The security boats patrolling the security zone would likely display a blue light similar to that utilized by existing sheriff boats. *Id.*
- An LNG vessel will take approximately 90 minutes to travel between the LNG slip and access channel basin and the Pilot station (two miles offshore) and approximately 90 minutes on an inbound trip between these two points. Kelkar at 4, which will result in the LNG security zone being in place for a given location about 20-30 minutes. Whipple II at 3.
- Maneuvering and mooring/unmooring of the LNG vessel will take an additional approximately 90 minutes each way, but this will be located in JCEP's basin and outside of the Coos Bay channel. Kelkar at 4.
- A normal-size, fully-loaded LNG tankers will only be able to safely depart the slip and transit through Coos Bay while maintaining the required underkeel clearance during approximately 50-75% of high tides. Kelkar at 2. LNG vessels that are not fully loaded are not required to transit at high tide. Resource Report 8 at 29. These facts refute the opponents' contentions that no high tides will be free from LNG vessel transit.
- After an initial period of daytime transits, it will be generally feasible and preferable for LNG vessels to transit the Bay at night when there is typically less traffic on the Bay, fewer winds, and less radio congestion; however, it is subject to USCG regulation and thus not appropriate for a local condition of approval. Kelkar at 3. The general ability for LNG vessels to transit the Bay during both the daytime and nighttime hours will provide a greater number of potential transit times for these vessels, which will ensure that neither daytime nor nighttime users of the Bay are impacted by an unreasonably heavy volume of vessels.
- LNG vessel transit times will be announced far in advance and communicated via the Vessel Traffic Information Services, including on publicly displayed signboards and websites. Whipple I at 10.

Andrew Stamp  
Coos County Land Use Hearings Officer  
October 2, 2019  
Page 4

- Only up to 110-120 LNG vessels would be allowed to service the Project per year, and JCEP is willing to accept a condition of approval to this effect. Kelkar at 1-2.
- If very inclement weather exists, the LNG tanker will remain at the slip or approximately 50 miles off-shore, which will reduce the likelihood of interactions between LNG tankers and other Bay users during such inclement weather. Whipple II at 1-2. In the unlikely event that an LNG vessel entered the Bay before a fishing or recreational vessel that was out at sea and wanted/needed to return to port, perhaps due to deteriorating weather conditions, the LNG vessel security zone would not preclude the vessel from entering the Bay outside of the navigation channel. Whipple II at 2.
- LNG vessels will not interfere with dredging vessels and vice versa. Whipple II at 2-3.
- The USCG has deemed the Coos Bay Channel suitable for Project-related LNG traffic. Whipple II at 6.
- Testimony from other hearing participants regarding nighttime use of the Bay, including for fishing, provides evidence of a segment of the population that will not be impacted by daytime LNG vessel transit. Further, it supports the conclusion that nighttime use of the Bay is available to other daytime users, who could opt to conduct their activities at that time.
- Opponents' contentions that LNG vessel transit in the Bay will interfere with their activities are grounded in a misunderstanding of the proposed security zone in this location, misconstruction of other security zones that were not developed based upon the unique attributes of the Bay, general attempts to thwart the Project for other purposes, and/or misconstruction of the relevant County standard (CBEMP Policy #5), which does not prohibit any interference with other users' public trust rights in the Bay, only an unreasonable one.

Based upon the evidence and explanation in the whole record, and subject to a condition limiting the number of annual LNG vessels serving the Project to 120, the

Andrew Stamp  
Coos County Land Use Hearings Officer  
October 2, 2019  
Page 5

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. Thank you for your careful review of this information.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'SJK', is positioned above the name Seth J. King.

Seth J. King

cc: Jill Rolfe (via email)  
Steve Pfeiffer (via email)  
Client (via email)