



Oregon

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August 15, 2019



Ms. Natalie Eades
Jordan Cove Energy Project, LP
Pacific Connector Gas Pipeline, LP
Email: neades@pembina.com

Project: Jordan Cove Energy Project/Pacific Connector Gas Pipeline
US Army Corps Federal Permit No.: NWP-2017-41
FERC Docket Nos: CP17-495-000 and CP17-494-000

Applicants: Jordan Cove Energy Project, LP and Pacific Connector Gas Pipeline, LP

Location: Coos Bay, Oregon and Pipeline Route within Coastal Zone

Re: **Second Information Request and Clarification**

Dear Ms. Eades:

As indicated in a letter sent May 13, 2019, the Oregon Department of Land Conservation and Development (DLCD) is reviewing the above referenced project for consistency with the Oregon Coastal Management Program (Program). To be consistent with the Program, the proposed project must comply with enforceable policies contained in: 1) the statewide land use planning goals; 2) the applicable acknowledged city or county comprehensive plans and land use regulations; and 3) selected state authorities (*e.g.* those governing removal-fill, water quality, and fish & wildlife protections).

DLCD continues to review the applicant's necessary data and information supplied to DLCD on April 12, 2019 including the federal permit applications and the FERC draft environmental impact statement (DEIS). By letter dated July 12, 2019, DLCD requested information necessary to determine consistency with the Program. Thank you for supplying some additional information in the July 31, 2019 response letter and attachments. The information was helpful, particularly related to the impacts to some wildlife of the state. We are encouraged to hear the progress on the Compensatory Mitigation Plan as well. DLCD both renews its July 12, 2019 information request and requests additional information related to other enforceable policies of the Program. DLCD also provide some clarification for the Applicants regarding our consistency review process.

Clarification and Questions

The Applicants' July 31, 2019 letter explains that the Applicants believe aspects of DLCD's July 12, 2019 request exceeds the scope of information necessary for review. DLCD clarifies that we requested the information not under 15 CFR § 930.58 or the state's supporting OARs as referenced in the Applicants' letter on pages 1-2. DLCD makes information requests following 15 CFR § 930.63(c), as is stated above and also in the July 12, 2019 letter. The regulation provides in part that "a State agency objection may be based upon a determination that the applicant has failed, following a written State agency request, to supply the information required pursuant to § 930.58 **or other information necessary for the State agency to determine consistency.**" [Emphasis added]. DLCD's May 13, 2019 letter indicated that necessary data and information to start review was provided, however the completeness review of the necessary data and information is not a substantive review as explained in 15 CFR § 930.58. In the July 12, 2019 letter and this information request letter, DLCD seeks additional information that is absent from the necessary data and information documents, but needed to demonstrate consistency with the enforceable policies of the Program in order to come to a decision. The applicable enforceable policies for the request are listed in the information request tables in the July 12, 2019 letter and this letter in Table 1 below.

The Applicants' July 31, 2019 letter respectfully disagrees with the Habitat Mitigation Policy as a state assessment tool or framework to satisfy fish and wildlife enforceable policies of the Program. DLCD reminds the applicant that wildlife and the habitat upon which they depend are not mutually exclusive. However, we have advised the Applicants that submitting an alternative framework for impacts is acceptable, however to-date none has been submitted. Regardless of framework used, the project must be consistent with fish and wildlife policies and ODFW is the coastal partner with the expertise to help determine consistency with the ODFW policies of the Program.

DLCD renews the requests for the information related to fish passage because the information provided to ODFW and DLCD was not sufficient. The Applicants response in the July 31, 2019 did not provide engineering drawings for high-risk sites nor is that information in the Appendices listed. Similar issues exist for the other requested items in the information request.

As a networked Program, it is necessary to submit data to the expert coastal partners whom the Applicants report they are working with throughout the July 31, 2019 letter. Currently, DLCD has natural resource data not yet supplied to ODFW for technical review.

The Applicants' Prepared Draft Biological Assessment (APDBA) originally submitted to FERC in 2018 was not complete. FERC submitted the revised Biological Assessment (BA) to the US Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NOAA-NMFS) on July 29, 2019. DLCD would like confirmation that the information in the attachment sent with the July 31, 2019 letter is not that of an incomplete APDBA that the applicant submitted last year, but the most recent and complete information that the Services are now reviewing. It is necessary to have the most recent information to base a determination of the consistency of the

activity on the same information as that being considered by the USFWS, NOAA-NMFS, FERC, the Corps, and expert coastal partners.

Second Information Request

This letter constitutes our second information request, and consistent with the comments the state provided to the FERC for the DEIS comment period, per 15 CFR § 930.63(c), in Table 1 below DLCD formally requests the information missing from the federal permit applications, the DEIS and associated reports, and the enforceable policies analysis regarding water quality impacts, wetlands and waterbodies impacts, and energy generation. If the Applicant fails to provide the information necessary to determine consistency, DLCD may object because of insufficient information. Additional information requests may be forthcoming as our review continues. The necessary information should be submitted to DCLD to comply with federal consistency regulations *and should also be submitted to the expert natural resource coastal partner agency for technical analysis.*

Table 1. Missing information necessary to determine consistency is listed, the coastal partner agency and related enforceable policies identified.

Missing Information	Coastal Partner	Applicable OCMP Enforceable Policy (not exhaustive)
<ul style="list-style-type: none"> • Provide the information supplementing the Corps federal permit application #NWP2017-41 that is the basis for Corps Supplemental Notice dated July 26, 2019. 	n/a	Request pursuant to 15 CFR § 930.58(a)(1)(i) and 15 CFR § 930.63(c)
<ul style="list-style-type: none"> • Analysis demonstrating avoidance/minimization of wetland impacts at individual wetland/waterway scale. • Alternatives to selected dredge material disposal sites and methods. • Alternative analysis for size and shape of slip and access channel. 	DSL	ORS 196.800; ORS 196.805; ORS 196.810; ORS 196.815; ORS 196.818; ORS 196.825; ORS 196.830; ORS 196.845; ORS 196.855; ORS 196.880; ORS 196.905
<ul style="list-style-type: none"> • Identification of sources and release sites of hydrostatic testing water to avoid out-of-basin diversions, impacts, and identify alternatives. • Identification of water sources for project needs like dust control to understand impacts and identify alternatives. 	WRD	Policies highlighted in ORS chapters 536 and 537 here .

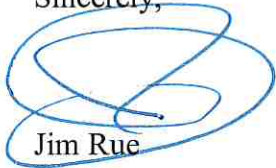
<ul style="list-style-type: none"> • Identification of water sources that may result in changes to established diversion locations. 		
<ul style="list-style-type: none"> • Explain the ability of project to meet water quality standards such as turbidity, thermal, biocriteria, and applicable statewide narrative criteria. • Provide details and adequate plans for turbidity, sedimentation, dredge material management, thermal impacts, baseline stream surveys, dewatering of trenches, construction and post construction stormwater. • Provide plans for monitoring stormwater controls and discharges, and road inspection and maintenance. • Provide mitigation plans for thermal impacts, stream restoration, and high landside risk areas related to impacts from pipeline construction 	<p>DEQ</p>	<p>Policies highlighted in ORS chapter 468B here.</p>
<ul style="list-style-type: none"> • Engineering designs that demonstrate the facility will include hardware or software that will limit energy generation below regulatory thresholds. 	<p>ODOE</p>	<p>(1987) ORS 469.300; ORS 469.310; ORS 469.320; ORS 469.500 (<i>currently numbered 469.507</i>); ORS 469.510 (<i>currently numbered 469.501 and 469.504</i>)</p>

DLCD may provide additional requests for missing information necessary to determine consistency while we continue review. Under 15 CFR § 930.60(b), Applicants and DLCD may mutually agree in writing to stay our federally mandated six-month review period which ends October 12, 2019. A stay may be beneficial because of the networked structure of the Program, multiple potential project modifications, and uncompleted mitigation proposals stated in the July 31, 2019 letter. DLCD will be able to accept new information that helps the project demonstrate consistency until September 12, 2019, 30 days before the decision deadline if the Applicants are not willing to sign a stay agreement that would provide more time for both parties to handle the outstanding information related to the project.

We appreciate the response to the July 12, 2019 information request and regret the Applicants disappointment with the August 1 meeting cancellation. DLCD is available to meet on August 19, September 10, and October 1 as scheduled. We emphasize that with the short review time left

and the Applicants reluctance to sign a stay agreement, continuing to provide outstanding information to DLCDD and coastal partner agencies is the single most effective action that the Applicants can take in order to complete the review. If you have any questions please contact our Coastal Program Manager, Patty Snow, at (503) 934-0052 or by e-mail at: patty.snow@state.or.us.

Sincerely,



Jim Rue

Director

Department of Land Conservation and Development

Cc: Jason Miner, Governor's Office
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