



Leagues of Women Voters of Coos County, Umpqua Valley, Rogue Valley, and Klamath County

February 28, 2020

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street
Washington, D.C. 20246

Re: Partial Response to David Owens' February 24, 2020 letter re: Pacific Connector Gas Pipeline, LP (Docket No. CP17-494-000) and Jordan Cove Energy Project L.P. (Docket No. CP17-495-000)

Dear Ms. Bose:

We write representing the League of Women Voters of Coos County (LWVCC), LWV of Umpqua Valley (LWVUV), LWV of Rogue Valley (LWVRV), and LWV of Klamath County (LWVKC). We are grassroots nonpartisan, political organizations operating in the four counties in Oregon that would be directly affected by the construction and operations of the proposed Jordan Cove Liquefied Natural Gas (JCLNG) and Pacific Connector Gas Pipeline (PCGP), commonly referred to collectively as the Jordan Cove Energy Project (JCEP). We are also all Intervenor on this Project. Our detailed review of the proposed activities and documents for the JCEP shows that the projects are in direct conflict with many of the state and national League of Women Voters positions. These positions are based on League studies and resultant consensus deliberations and pertain to natural resources, water quality and quantity, climate change, offshore and coastal management, land use, energy conservation, public health and safety, and seismic risks.

Mr. Owens urges the Commission to move forward and approve PCGP's pending applications for a section 7 NGA certificate of public convenience and necessity and JCLNG's application for a section 3 NGA authorization without regard to the Oregon Department of Land Conservation and Development's (DLCD) objection to JCEP's CZMA consistency certification. As part of his rationale, he indicates that "the Secretary of Commerce may override DLCD's determination." We are not attorneys, but we have researched the criteria specified in the CZMA and its implementing regulations that the Secretary would need to find the project meets and have concluded that this project falls far short of meeting those criteria. What follows in *italics* is excerpted from our September 21, 2019 comment¹ to the DLCD regarding JCEP's CZMA consistency certification, presented here for your convenience.

¹ http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20191219-5011

First, a brief description of the appeal process and statutory criteria the Secretary of Commerce must find exist in order to overrule the State's determination:

In the case of an objection, the Applicant has 30 days to appeal to the Secretary of Commerce who, in accordance with 15 CFR 930.121, evaluates the state's consistency review. If he determines the review was performed appropriately, he must sustain the state's objection unless:

1. *The Project is consistent with the objectives of the CZMA, meaning that:*
 - *The project furthers the national interest, as defined in the CZMA, in a significant or substantial manner;*
 - *The national interest furthered by the Project outweighs the Project's adverse coastal effects, and*
 - *There is no reasonable alternative available consistent with the state's coastal management program; or*
2. *The Project is necessary in the interest of national security.²*

A finding in favor of either criterion #1 or #2 could result in an override of the state's objection. [A finding in favor of criterion #1 requires that all three sub-criteria must be met.]

The more substantive development of our reasons for concluding that the JCEP cannot meet the criteria that would allow the Secretary of Commerce to override DLCD's objection.

B. If DLCD objects and the objection is appealed to the Secretary of Commerce, we contend that the state's objection cannot be overruled under 15 CFR § 930.121 and 16 USC § 1456(c)(3)(A). We rely in this on key and similar factors put forth in former Secretary of Commerce Gary Locke's 2009 Decision and Findings sustaining the objection by the State of New York of the consistency certification application by Broadwater Energy LLC and Broadwater Pipeline LLC.³

In that Decision, Secretary Locke explained that,

. . . Secretary must sustain the state's objection unless at least one of two findings is made: 1. The Project is consistent with the objectives of the CZMA in terms of national interest. . . .⁴

The Broadwater Decision notes the all of three criteria pertinent to the "national interest" finding must be met for the state's objection to be overridden.

We believe a national interest finding cannot be made, at least because:

² "Decision and Findings by the U.S. Secretary of Commerce in the Consistency Appeal of Broadwater Energy LLC and Broadwater Pipeline LLC From the Objection by the State of New York, April 13, 2009, p. 2, citing 15 C.F.R. § 930.121 and providing "16 U.S.C. § 1456(c)(3)(A) ('No license or permit shall be granted by the Federal agency until the state or its designated agency has concurred with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed, unless the Secretary, on his own initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the state, that the activity is consistent with the objectives of this chapter or is otherwise necessary in the interest of national security.')." "

³ "Decision and Findings by the U.S. Secretary of Commerce in the Consistency Appeal of Broadwater Energy LLC and Broadwater Pipeline LLC From the Objection by the State of New York, April 13, 2009.

⁴ CZMA Sections 302, 303.

- *Element #1. The Appellant cannot convincingly contend that any national interest it may be deemed to further, would do so in a “significant or substantial manner. Although engaged in energy development—defined in the CZMA as in the national interest—the argument runs off course in that the nation whose interest it serves is almost exclusively Canada. The Applicants have stated clearly and publicly that little of the natural gas to be liquefied and exported would be sourced from U.S. gas fields. Furthermore, given the historic and current assets holdings and development plans of the corporation, it is not certain that Pembina would remain in the natural gas business if another product were to become more lucrative.*
- *Element #2. Moreover, and especially because of its primarily foreign benefits, the Appellant cannot convincingly contend that whatever (U.S.) national interest it furthers outweighs the activity’s adverse coastal effects. We have demonstrated throughout this comment—and other commenters submitting substantive documents will underscore—that the JCLNG facility alone would come with egregious adverse effects that would be perpetrated on this coastal region. The project would,*
 - *Disrupt existing industries and other aspects of the local economy;*
 - *Disrupt all other vessel traffic using the navigable waters of the Bay;*
 - *Entrain and otherwise harm aquatic species, including threatened and endangered species, and jeopardize their habitat;*
 - *Exacerbate dramatically the existing affordable housing crisis;*
 - *Potentially increase certain types of crime, substance abuse, and domestic violence;*
 - *Vastly increase GHG emissions from methane leakage and combustion and contribute air pollution;*
 - *Subject the public, aquatic species, and wildlife to noise pollution;*
 - *Disturb cultural resources and trample on indigenous rights;*
 - *Disrupt recreational uses;*
 - *Degrade the viewshed and aesthetics of the entire region; and*
 - *Put communities at risk by exacerbating impacts of natural hazards and creating safety hazards of its own through its activities and associated operations.*
- *Element #3. While the deficient alternatives analyses of both the Applicant and FERC in the DEIS indeed yielded no reasonable alternative to the project, consistency with the objectives of the CZMA on the basis of this first option—national interest—requires that all three criteria specific in the pertinent regulations must be satisfied. They cannot be, at least because of the egregious adverse coastal effects we name above.*

The Secretary can override a state’s objection if he finds that, “The Project is necessary in the interest of national security.”⁵

We cannot see how there could be a plausible finding that the JCEP has any value in terms of national security. We also note that nothing suggests that JCEP claims any national security value in the project either.

To make a finding that a project meets the objectives of the CZMA in terms of national security, federal regulations indicate that,

⁵ “Decision and Findings by the U.S. Secretary of Commerce in the Consistency Appeal of Broadwater Energy LLC and Broadwater Pipeline LLC From the Objection by the State of New York, April 13, 2009, p. 36.

A proposed activity is necessary in the interest of national security if “a national defense or other national security interest would be significantly impaired were the activity not permitted to go forward as proposed [emphasis added].”⁶

JCEP cannot justify a contention that any national security interest would be impaired at all if the project were stopped. In fact, this project or any other LNG project poses a significant national security threat in that such facilities and the LNG tankers that call there may present an attractive target for terrorist attack.

The DEIS says this,

The LNG marine vessels that would deliver or receive LNG to or from the proposed facility would also need to comply with various U.S. and international security requirements. The IMO adopted the International Ship and Port Facility Security Code in 2002. This code requires both ships and ports to conduct vulnerability assessments and to develop security plans. The purpose of the code is to prevent and suppress terrorism against ships; improve security aboard ships and ashore; and reduce the risk to passengers, crew, and port personnel on board ships and in port areas. All LNG marine vessels, as well as other cargo vessels (e.g., 500 gross tons and larger), and ports servicing those regulated vessels, must adhere to the IMO standards.⁷

However, as we described in our discussion of Statewide Planning Goal #17, the Coos Bay poses its own natural hazards that fall outside of such measures, due to the configuration of the bar and Bay coupled with weather patterns. Numerous other vessels have wrecked on the bar and run aground in the Bay due to weather conditions, as well as human error. The Applicant offers no plans for extracting a grounded tanker, but historical precedents offers clear proof that extracting a shipwrecked tanker within the Bay or at the bar defies planning.

Additionally, an export facility contradicts the national security goal of energy self-sufficiency. To the extent that U.S. gas from western states via the Ruby Pipeline, does get access to Asian markets JCEP proposes to serve, we are losing energy that could at some point be vital to national security.

Neither criterion that would allow the Secretary to override an objection by Oregon can be met under the law.

The Commission will find in the entirety of our comment to DLCD⁸ that we wholeheartedly support DLCD’s objection to JCEP’s consistency certification as the project is inconsistent with the Oregon Coastal Management Program and does not comply with the objectives of the federal Coastal Zone Management Act. Our comment to FERC on the DEIS⁹ articulates our reasons for recommending that you deny with prejudice the two JCEP applications before you. We believe the Commission’s Certificate Policy Statement¹⁰ requires denial in that the potential adverse consequences far outweigh the public benefits and a public need has not been demonstrated.

⁶ 15 C.F.R. § 930.122.

⁷ DEIS, p. 4-704.

⁸ http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20191219-5011

⁹ https://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20190705-5052

¹⁰ <https://www.ferc.gov/legal/maj-ord-reg/PL99-3-001.pdf>

The League of Women Voters is a volunteer organization without any motive other than to work for the best interest of all our citizens. Thank you for accepting and considering our information and concerns and thank you for your service.

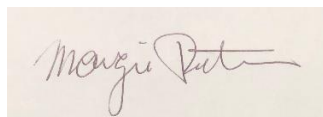
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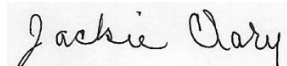
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Douglas County Commissioners Chris Boice, Tim Freeman, Tom Kress
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Klamath County Commissioners Donnie Boyd, Derrick DeGroot, Kelley Minty Morris
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North Bend Mayor Rick Wetherell
Shady Cove Mayor Lena Richardson
Shady Cove City Council
Myrtle Creek Mayor Matthew Hald
Canyonville Mayor Jake Young
Winston Mayor Dick Hayes
Riddle Mayor William Duckett
Klamath Falls Mayor Carol Westfall
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