



# Oregon

Kate Brown, Governor

Department of Environmental Quality

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May 6, 2019

**VIA EMAIL, CERTIFIED MAIL, AND U.S. FIRST CLASS MAIL**

Derik Vowels  
Jordan Cove LNG, LLC  
Pacific Connector Gas Pipeline, LP  
111 SW 5<sup>th</sup> Ave., Suite 1100  
Portland, OR 97204

and

Jordan Cove LNG, LLC  
Pacific Connector Gas Pipeline, LP  
5615 Kirby, Suite 500  
Houston, TX 77005

Tyler Krug, Regulatory Project Manager  
North Bend Field Office, Portland District  
United States Army Corps of Engineers  
2201 N. Broadway Suite C  
North Bend, Oregon 97459

Ms. Kimberly D. Bose,  
Secretary  
Federal Energy Regulatory Commission  
888 First St., N.E., Room 1A  
Washington, D.C. 20426  
FERC Dockets No. CP17-494, CP17-495

Dear Mr. Vowels, Mr. Krug and Ms. Bose:

On October 24, 2017, the U.S. Army Corps of Engineers (Corps) notified the Oregon Department of Environmental Quality (DEQ) that it had received an application from Jordan Cove LNG LLC and Pacific Connector Gas Pipeline LP, (herein collectively referred to as "Jordan Cove" or the "Applicant") for Section 404 (Clean Water Act, or CWA) and Section 10 and 14 (Rivers and Harbors Act) permits related to construction and operation of LNG facilities and an associated pipeline (collectively, the "Project"). Consistent with its regulations, the Corps

determined that the initial application of October 24, 2017 was incomplete on November 3, 2017. Consistent with Corps regulations, the Corps requested additional information from November 2017 through May 2018 before the Corps determined it had received a complete application and issued a public notice on May 22, 2018, which commenced DEQ's water quality certification (401 WQC) review pursuant to CWA Section 401.

The proposed Project consists of two interconnected parts. The 200-acre Jordan Cove LNG Export Terminal would be located in Coos County, Oregon on the North Spit of Coos Bay. The facility would include a slip and access channel, modifications to the federal navigational channel, a marine terminal, a natural gas conditioning and liquefaction facility, temporary workforce housing, security and safety buildings, and wetland mitigation sites. The Pacific Connector gas pipeline is the second part of the Project, consisting of a 229-mile 36-inch diameter pipeline and associated roadways and work areas, extending from the terminal to interconnections with existing pipelines near Malin, Oregon. The Jordan Cove terminal would receive up to 1.2 billion cubic feet per day of natural gas from the Pacific Connector gas pipeline.

DEQ has evaluated the Project application pursuant to Section 401 of the Clean Water Act, 33 USC §1341, ORS 468B.035 through 468B.047, and DEQ's certification rules found in Oregon Administrative Rules 340, Division 048. To certify the Project, DEQ must have reasonable assurance that the proposed activities will be conducted in a manner that will not violate the applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, and Oregon water quality standards in Oregon Administrative Rules 340, Division 041, adopted to implement these sections.

Following a preliminary review of the Project, DEQ filed a request for additional information with Jordan Cove on September 7, 2018. Jordan Cove filed responses on October 8, 2018. However, because many of the responses were incomplete or inadequate, the Department filed a supplemental information request with Jordan Cove on December 20, 2018. That request included examples of the information sought. Jordan Cove responded, in part, on January 22, February 20, and April 16, 2019, and committed to filing complete responses by the end of April 2019. DEQ filed additional requests for project information on September 25, 2018, and March 11 and 13, 2019. Jordan Cove filed a response to these requests on April 30, 2019; however, the late date of Jordan Cove's filing prevented any significant review of the material for this decision. OAR 340-048-0020(3).

On March 29, 2019, DEQ reviewed the FAST-41 Coordinated Project Plan for the Project. DEQ notes that the Corps has indicated that JCEP is considering pipeline route changes, and that the Corps intends to issue a revised public notice once it receives sufficient information regarding the changes. DEQ has not yet received information from Jordan Cove regarding these changes to the proposed Project.

DEQ denies Jordan Cove's request for 401 WQC for the Project. DEQ does not have a reasonable assurance that the construction and operation of the Project will comply with applicable Oregon water quality standards, as described in the attached Evaluation and Findings Report, which is incorporated in its entirety by this reference. DEQ's decision, however, is made without prejudice. Jordan Cove may reapply for 401 WQC for the Project, and DEQ will consider additional information that is responsive to the bases for denial in this decision.

In accordance with the Oregon Administrative Procedures Act (Oregon Revised Statute, chapter 183) and OAR 340-048-0045(2), Jordan Cove may request a contested case hearing if dissatisfied with the certification decision. Your request for a hearing must be made in writing to and received by the Department of Environmental Quality within 20 days of the date of mailing of this certification decision, and such request must comply with OAR 340-011-0530(2) and OAR 340-048-0045(2).

A request for a hearing must be mailed to:

Oregon Department of Environmental Quality  
Attn: Chris Stine  
165 East Seventh Avenue, Suite 100  
Eugene, Oregon 97401

If a request for hearing is not received within this 20-day period, your right to a hearing will be considered waived. If you request a hearing, you will be notified of the time and place of the hearing and provided information on the procedures by which contested cases are heard, your rights, the import and effect of such a hearing, and your rights and remedies.

Contested cases are governed by the rules of the Office of Administrative Hearings, specifically OAR 137-003-0501 through -0700. As a corporation, you must be represented by legal counsel at this hearing, if any.

In accordance with OAR 340-048-0045(3), this certification decision is effective upon issuance of this decision, notwithstanding a request for a contested case or other judicial review, if any.

As noted above, this decision is being made without prejudice. Jordan Cove may resubmit an application for 401 WQC with DEQ. If Jordan Cove does so, DEQ strongly recommends that Jordan Cove, the Corps and DEQ hold a pre-application conference to ensure a shared understanding of the information and actions required to complete a subsequent review of an application in a timely manner that would avoid delays in consideration of the application by DEQ, and that is coordinated with both the Corps and the FAST-41 Project Plan being managed by the Federal Energy Regulatory Commission. DEQ also requests that if it does resubmit an application, Jordan Cove clearly indicate in such a submittal whether the applicant is seeking certification for purposes of the permits and licenses for the Project pending before both FERC and the Corps.

If you have any questions, please contact Chris Stine at [stine.chris@deq.state.or.us](mailto:stine.chris@deq.state.or.us) or at (541) 686-7810 or at the address on this letterhead.

Sincerely,



Richard Whitman  
Director  
Oregon Department of Environmental Quality

Attachment: Evaluation and Findings Report

cc: Ms. Natalie Eades, Jordan Cove LNG  
Mr. Mike Koski, Jordan Cove LNG,  
Ms. Rose Haddon, Jordan Cove LNG  
Mr. Bill Abadie, US Army Corp of Engineers  
Mr. Sean Mole, Oregon Department of Energy  
Mr. Jim Rue, Oregon Department of Land Conservation and Development  
Mr. Keith Andersen, DEQ  
Mr. David Belyea, DEQ  
Mr. Chris Stine, DEQ  
FERC Dockets No. CP17-494, CP17-495  
DEQ (file)

#### **NOTICE TO ACTIVE DUTY SERVICEMEMBERS**

Active duty Service members have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.