



# Oregon

Kate Brown, Governor

## Department of Land Conservation and Development

Oregon Coastal Management Program

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July 12, 2019



Ms. Natalie Eades  
Jordan Cove Energy Project, LP  
Pacific Connector Gas Pipeline, LP  
Email: [neades@pembina.com](mailto: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:** **Three-month Notification and Information Request**

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).

This letter serves as the three-month notification, pursuant to 15 CFR § 930.62(b), of the status of the review and the basis for further delay. As indicated in the May 13th letter, the federal consistency review period began on April 12, 2019 and DLCD is reviewing the project for consistency with the Program. Because the Program is “networked” and integrates authorities of local governments and other state agencies, DLCD will not concur that a proposed project is consistent with the Program until the applicant has obtained the necessary approvals from local government and state agencies with regulatory authority for the project. The authorizations help demonstrate consistency with the enforceable policies of the Program. This project will require the following authorizations from coastal partner agencies:

**Table 1. Permits and authorizations that demonstrate consistency with the OCMP.**

Permits and Authorizations	Related Enforceable Policies of the OCMP
<b>STATE</b>	<b>Oregon Revised Statutes</b>
ODEQ: Air Contaminant Discharge Permit (JC)	(2013) 468.936; 468.939; 468.941; 468.951; 468A.005; 468A.010; 468A.020; 468A.025; 468A.040; 468A.045; 468A.050; 468A.055; 468A.060; 468A.070; 468A.075
ODEQ: CWA Section 401 Water Quality Cert (JC and PCGP)	(2013) 468.943; 468.946; 468.949; 468.951; 468B.005; 468B.015; 468B.020; 468B.025; 468B.048; 468B.050; 468B.052; 468B.055; 468B.060; 468B.075; 468B.080; 468B.085; 468B.120; 468B.125; 468B.130; 468B.135; 468B.150; 468B.155; 468B.160; 468B.300; 468B.305; 468B.310; 468B.315; 468B.320; 468B.337; 468B.345; 468B.350; 468B.355; 468B.360; 468B.365; 468B.370; 468B.375; 468B.380; 468B.385; 468B.390; 468B.450; 468B.460; 468B.475; 468B.485
ODEQ: 1200-C Construction Stormwater (JC Terminal)	
ODEQ: 1200-C Construction Stormwater (Kentuck Slough)	
ODEQ: 1200-C Construction Stormwater (US HWY 101/TPP)	
ODEQ: NPDES General Permit 1200C (PCGP)	
ODEQ: 1200-C Construction Stormwater (APCO)	
ODEQ: Individual WPCF-Hydrostatic Testing (PCGP) in CZ	
ODEQ: NPDES- Wastewater Treatment Plant	(2013) 454.605; 464.607; 454.610; 454.655; 454.657
ODFW Fish Passage Plans Kentuck/APCO	(2013) 509.580; 509.585; 509.600; 509.610; 509.625
ODFW Fish Passage Plan Access Road Steam Crossing in CZ;	
ODFW Fish Passage Plans Pipeline Stream Xings in CZ	

DSL Removal-Fill Authorization (All)	(2013) 196.682; 196.687; 196.800; 196.805; 196.810; 196.815; 196.818; 196.825; 196.830; 196.845; 196.855; 196.880; 196.905
DSL Proprietary Authorizations: Easements JC	(2013) 274.005; 274.025; 274.040; 274.043; 274.060; 274.400; 274.402; 274.550; 274.705; 274.710; 274.860; 274.905; 274.920; 274.940
DSL Proprietary Authorizations: Sand and Gravel Licenses JC	
DSL Proprietary Authorizations: Waterway Use JC	
DSL Proprietary Authorizations: Mitigation JC	
DSL Proprietary Authorizations: State-owned land Xing's PCGP	
DSL Proprietary Authorizations: Special Use	
OWRD: Limited License: Coos River	
OWRD: Limited License: East Fork Coquille	
OWRD: Limited License: Middle Fork Coquille	
OPRD/SHPO: State Archeological Permits (Various) JC Terminal	(2013) 390.010; 390.235; 390.237
OPRD/SHPO: State Archeological Permits (Various) PCGP in CZ	

ODOE Energy Facility Siting Certificate	(1987) 469.300; 469.310; 469.320; 469.500; 469.510
<b>LOCAL</b>	<b>Land Use Regulations</b>
Coos County: Omnibus 1	CCCP Volume 1 Section 5.2, Strategies 2, 14; Section 5.3, Strategies 1, 10, 12, 13; Section 5.4, Strategies 1, 3, 9; Section 5.5, Strategies 1, 2, 4; Section 5.6 Strategies 1, 6; Section 5.7, Strategy 3; Section 5.10, Strategies 1, 2, 3, 5, 7, 8, 9, 10, 11; Section 5.11, Strategies 1, 4, 6, 7; Section 5.18 Strategies 4, 4a, 5, 6; Section 5.22 Strategy 2; CCCP Volume 2 Section 3.3, Policy 4, 5, 8, 9, 14, 16, 18, 19, 20, 22, 30; Section 5 All mgmt units; ZO Chapter 2, Sections 2.1.100-2.1.200; Section 4.3.200; Section 3.2.100; Section 3.2.175; Section 3.2.180; Section 3.2.201, Section 3.2.202; Section 3.2.240; Section 3.2.241; Section 3.2.245; Section 3.2.246; Section 3.2.255; Section 3.2.256; Section 3.2.260; Section 3.2.261; Section 3.2.265; Section 3.2.266; Section 3.2.275; Section 3.2.276; Section 3.2.280; Section 3.2.281; Section 3.2.285; Section 3.2.286; Section 3.2.290; Section 3.2.291; Section 3.2.335; Section 3.2.336; Section 3.2.370; Section 3.2.371; Section 3.2.400; Section 3.2.401; Section 3.2.402; Section 3.2.425; Section 3.2.426; Section 3.2.440; Section 3.2.441; Section 3.2.445; Section 3.2.446; Section 3.2.450; Section 3.2.451; Section 3.2.455; Section 3.2.456; Section 3.2.525; Section 3.2.526; Section 4.11.217; Section 4.11.125.1-7; Section 4.6.100; Section 4.6.140; Section 4.6.200; Section 4.6.210; Section 4.6.230
Coos County: Combo App: Transpacific Pkwy items	
Coos County: Combo App: PCGP early works items	
Coos County: Combo App: Nav Reliability Improv (NRI)-Channel mods	
Coos County: Omnibus 2	
Coos County: Conditional Use: PCGP Blue Ridge Route	EPs will be identified when appeal concluded and applied to review.
Coos County: Conditional Use: PCGP Alternate Routes	EPs to be identified.
Coos County: Conditional Use: PCGP Original Route	EPs to be identified.

City Coos Bay: Estuarine Activity in S2-NA	CBCP Section 7.10, ER.1; Dev Ord 17.352.010-17.352.080; CBEMP Lower/Upper Bay DA all requirements, aquatic unit/deep-draft nav channel; 52-NA All requirements; 54-DA All requirements; 55-CA All requirements
City Coos Bay: Combo App: Nav Reliability Improv	
City North Bend: Combo App: Floodplain Dev and CB Estuary Permit PCGP	NBCC 18.44; NBCC 18.48; CBEMP 47-DA All requirements; 47-UW all requirements; 48-CA All requirements; 48-CS All requirements; 50-NA All requirements; 51-CA All requirements
City North Bend: Combo App: DMD at APCO site Floodplain Dev and CB Estuary Permit	
Douglas County: Conditional Use Application PCGP in CZ	RLUP-RRD-Criteria for Designating rural resource lands; RLUP-OZ-Table specifies overlay zone designations; Ch1 Section 1.010-1.090; Ch3 Article 3.1; Article 3.2; Article 3.3; Article 3.5; Article 3.6; Article 3.32; Article 3.39

In addition, DLCDD has been reviewing the applicant’s necessary data and information supplied to DLCDD on April 12, 2019 including the federal permit applications and the FERC draft environmental impact statement (DEIS). Currently, and consistent with the comments the state provided to the FERC for the DEIS comment period, per 15 CFR § 930.63(c), in Table 2 DLCDD formally requests the information missing from the federal permit applications, the DEIS and associated reports, and the enforceable policies analysis regarding mitigation for fish and wildlife impacts. If the applicant fails to provide the information necessary to determine consistency, DLCDD may object because of insufficient information. Table 2 focuses only on information missing to meet fish and wildlife enforceable policies. Additional information requests will be forthcoming as the review continues. The information should be submitted to DLCDD to comply with federal consistency regulations and should also be submitted to the expert natural resource coastal partner agency for technical analysis.

**Table 2. 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)
Please provide a comprehensive upland mitigation plan for all land ownerships within the pipeline and terminal project areas that address temporal and permanent impacts to fish and wildlife habitats. The ODFW Fish and Wildlife Habitat Mitigation Policy is the	ODFW	ORS 496.004; ORS 496.012; ORS 496.171; ORS 496.182; ORS 506.011; ORS 506.016; ORS 506.028; ORS 506.109; ORS 509.112

<p>state's assessment tool to determine whether the mitigation for associated habitat impacts is sufficient. Please provide:</p> <ul style="list-style-type: none"> <li>• Updated categorization of federal and non-federal habitats in the coastal zone and survey/data that supports the categorization for the FERC's preferred alternative in the DEIS for the pipeline route and terminal.</li> <li>• Proposed offsets that demonstrate no net loss and net benefit in habitat quantity and quality, with particular attention paid to the estuarine environment, snowy plover, marbled murrelet, northern spotted owl, coastal martens, vernal pools, oak woodlands, native fish bearing streams, and riparian habitats.</li> <li>• Clarify whether ODFW should use 2015 categories for pipeline alignment.</li> </ul>		
<p>Please demonstrate avoidance of Category 1 habitat (see ODFW's discussion of Category 1 habitat in the State of Oregon's FERC DEIS Comments submitted July 3, 2019) and provide evidence via spatial analysis and other surveys/data including:</p> <ul style="list-style-type: none"> <li>• Marbled Murrelet:             <ul style="list-style-type: none"> <li>○ Maps of area surveyed</li> <li>○ Maps of occupied stands, and presumed occupied stands, crossed by the project</li> <li>○ Simple summaries of acres temporarily and permanently impacted, for all land ownerships</li> </ul> </li> <li>• Northern spotted owl:             <ul style="list-style-type: none"> <li>○ Maps of area surveyed</li> <li>○ Maps of occupied nesting areas (70-acre area around nest), and nesting-roosting-foraging habitat</li> </ul> </li> </ul>	<p>ODFW</p>	<p>ORS 496.004; ORS 496.012;          ORS 496.171; ORS 496.182</p>

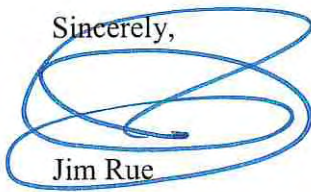
<ul style="list-style-type: none"> <li>○ Simple summaries of acres temporarily and permanently impacted, for all land ownerships.</li> </ul>		
<p>Please provide mitigation proposals for all T&amp;E plant species, for impacts at the terminal site and the pipeline route within the coastal zone.</p>	ODA	ORS 564.115; ORS 564.120
<p>Please provide in-water blasting plans referenced in the FERC DEIS.</p>	ODFW	ORS 509.001; ORS 509.112; ORS 509.122; ORS 509.130; ORS 509.140; ORS 509.505; ORS 506.011; ORS 506.109
<p>Please provide screening plans for hydrostatic testing identified in the FERC DEIS.</p>	ODFW	ORS 498.301; ORS 498.306; ORS 498.316 ORS 506.011; ORS 506.109
<p>Please provide the following information in order to comply with fish passage requirements for crossings (roads and pipeline) in the coastal zone:</p> <ul style="list-style-type: none"> <li>• Streambed and stream bank restoration best management practices at high risk pipeline sites</li> <li>• Fish passage engineering design details for the high risk sites (as determined by ODFW)</li> <li>• Short and long term post project monitoring, evaluation and reporting for all project sites associated with pipeline and restoration actions</li> <li>• Temporary water management and fish passage during pipeline installation at sites determined "high risk" by ODFW</li> <li>• Fish passage plans for construction sites where dam and pumping water management strategies will be implemented.</li> <li>• Design details for Kentuck mitigation site including:             <ul style="list-style-type: none"> <li>○ Ownership, long-term operational and maintenance responsibilities, water management plans, final</li> </ul> </li> </ul>	ODFW	ORS 509.580; ORS 509.585; ORS 509.610; ORS 509.625

engineering design details of East Bay Drive Bridge and tide gage, temporary water management, work area isolation, fish salvage and removal and fish passage during project implementation		
Please provide fish salvage plans as identified in the FERC DEIS.	ODFW	ORS 496.004; ORS 496.012; ORS 496.171; ORS 496.182 ORS 506.011; ORS 506.016; ORS 506.028; ORS 506.109

Based on the above reasons including outstanding state and local approvals, missing information regarding mitigation for the proposed project, and the absence of an NDA to review sensitive, but necessary, information to determine consistency, DLCD has not been able to complete the federal consistency review. The review will remain ongoing until the above coastal partners have completed their reviews and issued final decisions. DLCD will 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.

If DLCD issues an objection because the proposed project is not consistent with Program enforceable policies the federal permits cannot be issued. If any provisional federal permits/licenses are issued, they will not be valid. If you have any questions or comments regarding the consistency review process or the Program, please contact our Coastal Program Manager, Patty Snow, at (503) 934-0052 or by e-mail at: [patty.snow@state.or.us](mailto: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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