Oregon
Kate Brown, Governor

Department of Land Conservation and Development
Oregon Coastal Management Program
635 Capitol Street NE, Suite 150
Salem, Oregon 97301-2540
Phone: 503-373-0050
Fax: 503-378-6033
www.oregon.gov/LCD

January 29, 2020

Mr. Mike Koski
Jordan Cove Energy Project, LP
Pacific Connector Gas Pipeline, LP
Email: MKoski@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:	**Clarification to Letter Dated January 10, 2020**

Dear Mr. Koski:

This letter serves as the Department of Land Conservation and Development's (DLCD) clarification to the January 10, 2020 letter submitted to you regarding your concerns about the federal consistency review of the Jordan Cove Energy Project (JCEP) and the clarification on specific Department of Environmental Quality (DEQ) permits you requested at our January 22, 2020 meeting with DEQ. The goal of DLCD's clarification is to communicate DLCD's position on conditioning state permits and to provide clarification as to why DLCD will not condition any DEQ permits, including 1200-C and Water Pollution Control Facilities (WPCF) Hydrostatic Testing Permit authorizations. DLCD hopes that this response will provide you with the clarity you are seeking so that DLCD may continue and complete the unbiased review of the proposed project.

As stated previously, DLCD is under no obligation to condition any state permits as part of the JCEP federal consistency review and doing so would be in direct conflict with state administrative rules and the best interest of the State of Oregon. The authority for the state to determine conditionality of state permits and authorizations in a consistency decision was also explicitly clarified by NOAA at a meeting requested by the applicant on November 15, 2019. DLCD maintains that issued state permits or authorizations are the only acceptable evidence demonstrating consistency with their corresponding enforceable policies (OAR 660-035-0050). **DLCD's final position has not changed and will still require all 1200-C and WPCF permits be issued to JCEP in order to demonstrate consistency with the associated enforceable policies of the Oregon Coastal Management Program (OCMP).**

As stated previously, DLCD exercises its authority under the CZMA to not condition any additional state permits or authorizations. DLCD and the State have deemed the list of state permits and authorizations provided to you on January 10, 2020 as critical, and believe conditioning these permits would not be a responsible environmental and public welfare decision. DLCD reminds JCEP that the agency is under no obligation to make exceptions to an

applicant because our process does not align with the timeline needs or business purposes of the applicant. Federal law does not prevent DLCD from recommending that applicants wait to submit for federal consistency review until they have the necessary permits and authorizations in hand. DLCD recommends this approach to all applicants.

I apologize for any confusion or perceived misrepresentations on the agency's position regarding conditioning of the specified DEQ permits. As stated in the November 5, 2019 memo and conditioning matrix (attached), DLCD does not view these DEQ permits as being in the same category as permit authorizations required from the Oregon Water Resources Department (OWRD) and the State Historic Preservation Office (SHPO). We provide further clarification on the agency's position below. As a friendly reminder, DLCD plans to honor the agreement to condition state permits under the authority of the OWRD and SHPO, due to the recognition that these permits cannot be issued until closer to construction. These permits include three limited licenses and four state archeological permits.

As requested, below is clarification on DLCD's decision to not condition 1200-C or WPCF permits:

1. 1200-C Permits

The 1200-C Construction Stormwater General Permit is a five-year permit and does not restrict the applicant to wait to submit the permit application. Once a project is covered under the 1200-C Construction Stormwater General Permit, coverage will continue until the registrant terminates coverage or renews coverage with the next issued General Permit. DLCD and OCMP networked state agency partners have determined that there are significant foreseeable effects to surrounding coastal resources, including those activities that take place closer to and during construction phases of the project. DLCD has determined that it is in the best interest of the State of Oregon and its coastal resources that JCEP obtain its 1200-C permits prior to the potential issuance of a federal consistency concurrence to ensure activities are, in fact, consistent with the OCMP's enforceable policies and meet the corresponding State standards. The 1200-C permit requires an approved Erosion and Sediment Control Plan (ESCP) and the incorporation of approved Best Management Practices (BMPs) into a project's land-disturbing construction work. BMPs are used on the project site to prevent or minimize erosion and control sediment runoff from the site. This is critical for preventing pollution from erosion and runoff.

2. WPCF Permits

The WPCF permit is a state requirement for the discharge of wastewater to the ground; discharge to surface water is not allowed. The WPCF permit is good for ten years and does not restrict the applicant to wait to submit the permit application. WPCF permits are issued for land irrigation of wastewater, wastewater lagoons, onsite sewage disposal systems, other disposal systems, and underground injection control systems. The primary purpose of a WPCF permit is to authorize the land application or disposal of wastewater and to prevent discharges to surface waters and to protect groundwater from contamination. This permit is also used to prevent nuisance conditions such as odors and disease vectors. DLCD has determined that it is in the best interest of the State of Oregon and its coastal resources that JCEP obtain its WPCF permits prior to the potential issuance of a federal consistency

concurrence to ensure activities are, in fact, consistent with the OCMP's enforceable policies and meet the corresponding State standards.

In addition to the fact that conditioning the above permits is in direct conflict with Oregon's Administrative Rules, how such conditions could be enforced and subsequently litigated in the event of a lack of enforcement by the Federal Energy Regulatory Commission (FERC) puts the State of Oregon at risk, as stated in DLCD's January 10, 2020 letter to JCEP. Again, DLCD may have very little recourse in the event that an applicant does not receive all conditioned state permits. **DLCD has determined that this decision is in the best interest of the State of Oregon, and fully within the authority of the State to determine as provided for under the CZMA.**

Again, DLCD suggests that JCEP put any requests of DLCD in writing and to specify what exactly is being requested in an effort to eliminate any possible confusion. DLCD is committed to making science-based decisions that are in the best interest of Oregonians and Oregon's natural resources. The agency believes this clarification answers your outstanding questions regarding conditioning state permits as part of the JCEP federal consistency review. Please provide me with any further questions in writing to jim.rue@state.or.us.

Sincerely,

Jim Rue
Director
Department of Land Conservation and Development

Cc: Jason Miner, Natural Resources Policy Manager, Office of Governor Kate Brown
Nik Blosser, Chief of Staff, Office of Governor Kate Brown
Senator Arnie Roblan
Senator Betsy Johnson
Representative Caddy McKeown
Director Curt Melcher, Oregon Department of Fish and Wildlife
Director Richard Whitman, Oregon Department of Environmental Quality
Director Vicki Walker, Oregon Department of State Lands
Adam Dilts, Chief, Oceans and Coasts Section, Office of the General Counsel, NOAA
David Kaiser, Senior Policy Analyst, Office for Coastal Management, NOAA
Kerry Kehoe, Federal Consistency Specialist, NOAA
Kris Wall, Coastal Management Specialist, NOAA
Steve Shipsey, Oregon Department of Justice
Jesse Ratcliffe, Oregon Department of Justice
Patty Snow, Oregon Coastal Program Manager, DLCD
Heather Wade, Coastal Policy Specialist, DLCD
Deanna Caracciolo, State-Federal Relations Coordinator, DLCD
Hui Rodomsky, South Coast Regional Representative, DLCD

Oregon Department of Land
Conservation & Development

MEMORANDUM

Date: November 4, 2019
To: Natalie Eades, Jordan Cove Energy Project
From: Oregon Department of Land Conservation & Development

The Oregon Coastal Management Program (OCMP) within the Department of Land Conservation and Development (DLCD) has drafted a table consisting of applicable state and local authorizations and their associated enforceable policies for the Jordan Cove Energy Project (Project). Each of these have been categorized as "hypothetically willing to condition" or not, and any specific requirements for those conditions. This draft table is subject to change upon continued coordination with state agency partners.

It is important for the applicant to understand that the development and sharing of this draft conditions table is not legally binding and does not imply an agreement between DLCD and the applicant. This table is subject to change and is still under review by the State of Oregon. **This correspondence does not imply a decision of conditional concurrence, concurrence, or objection, as the federal consistency review for the Project is still ongoing**.

DLCD reminds the applicant that DLCD's substantive review of the Project includes an evaluation of statewide planning goals, Oregon revised statutes, and local comprehensive plans and land use regulations. DLCD can only concur with the project if and when the applicant can demonstrate compliance with all applicable enforceable policies of the OCMP. DLCD's federal consistency determination will be made based on the record that exists at the time of our decision. This record includes information provided by the applicant, public comment, state agency partners, local jurisdictions, and other sources.

If you have any additional questions regarding the CZMA Federal Consistency Review for this Project, please forward all correspondence via email to Heather Wade, Coastal Policy Specialist, at heather.wade@state.or.us.

Draft Table Last Updated November 4, 2019

Permits and Authorizations	Related Enforceable Policies of the OCMP	Hypothetically Willing to Condition	Condition Requirements
STATE	**Oregon Revised Statutes**		
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	No	n/a
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	No	n/a
ODEQ: 1200-C Construction Stormwater (JC Terminal)		No	n/a
ODEQ: 1200-C Construction Stormwater (Kentuck Slough)		No	n/a
ODEQ: 1200-C Construction Stormwater (US HWY 101/TPP)		No	n/a
ODEQ: NPDES General Permit 1200C (PCGP)		No	n/a
ODEQ: 1200-C Construction Stormwater (APCO)		No	n/a
ODEQ: Individual WPCF-Hydrostatic Testing (PC) -CZ		No	n/a
ODEQ: NPDES- Wastewater Treatment Plant	(2013) 454.605; 464.607; 454.610; 454.655; 454.657	No	n/a
ODFW Fish Passage Plans Kentuck/APCO	(2013) 509.580; 509.585; 509.600; 509.610; 509.625	No	n/a
ODFW Fish Passage Plan Access Road Steam Crossing in CZ;		No	n/a
ODFW Fish Passage Plans Pipeline Stream Xings in CZ		No	n/a
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	No	n/a
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	No	n/a
DSL Proprietary Authorizations: Sand and Gravel Licenses JC		No	n/a
DSL Proprietary Authorizations: Waterway Use JC		No	n/a

DSL Proprietary Authorizations: Mitigation JC		No	n/a
DSL Proprietary Authorizations: State-owned land xings PCGP		No	n/a
DSL Proprietary Authorizations: Special Use		No	n/a
OWRD: Limited License: Coos River	(2013) 536.220; 536.700; 536.710; 537.010; 537.110; 537.120; 537.130; 537.135; 537.140; 537.150; 537.160; 537.170; 537.240; 537.400; 537.410; 537.420; 537.440; 537.445; 537.450; 537.505; 537.515; 537.525; 537.535; 537.545; 537.575; 537.585; 537.595; 537.605; 537.610; 537.615; 537.620; 537.625; 537.630; 537.635; 537.680; 537.685; 537.690; 537.695; 537.705; 537.730; 537.780; 537.795	Yes	OWRD must agree to condition and condition language in writing
OWRD: Limited License: East Fork Coquille		Yes	OWRD must agree to condition and condition language in writing
OWRD: Limited License: Middle Fork Coquille		Yes	OWRD must agree to condition and condition language in writing
OPRD/SHPO: State Archeological Permits(Various) JC Terminal	(2013) 390.010; 390.235; 390.237	Yes	OPRD/SHPO must agree to condition and condition language in writing
OPRD/SHPO: State Archeological Permits (Various) PCGP-CZ		Yes	OPRD/SHPO must agree to condition and condition language in writing
ODOE Energy Facility Siting Certificate	(1987) 469.300; 469.310; 469.320; 469.500; 469.510	No	n/a
LOCAL	**Land Use Regulations**		
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;	No	n/a
Coos County: Combo App: Transpacific Pkwy items		No	n/a
Coos County: Combo App: PCGP early works items		No	n/a

Coos County: Combo App: Nav Reliability Improv (NRI)- Channel mods	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 4.11.125.1-.7; Section 4.11.235; Section 4.6.100; Section 4.6.140; Section 4.6.200; Section 4.6.210; Section 4.6.230	No	n/a
Coos County: Omnibus 2		No	n/a
Coos County: Conditional Use: PCGP Blue Ridge Route	EPs will be identified when appeal concluded and applied to review.	No	n/a
Coos County: Conditional Use: PCGP Alternate Routes	Coos County Zoning and Land Development Ordinance(CCZLDO) Section 4.6.110(1)(h); Section 4.6.130; Section 4.6.140; Section 4.6.220(1)(f)(iii); Section 4.6.230.3; Section 4.6.240; Section 3.2.180; Section 3.2.545; Section 3.2.546(15)(a) ; Section 3.2.550; Section 3.2.551(9)(a) ; Section 4.11.235 ; Section 4.11.252; Coos County Comp Plan Appendix 3 Coos Bay Estuary Management Plan (CBEMP) Policies 14, 18, 22.	No	n/a

Coos County: Conditional Use: PCGP Original Route	CCZLDO Section 2.1.200; Section 7.4.200; Section 4.11.125(3)(b)(ii); Section 4.2.100; Section 4.2.200; Section 4.2.300; Section 4.2.400; Section 4.2.500; Section 4.2.600; Section 4.11.213 (Floodplain Statement of Purpose) ; Section 4.11.300 (Airport Surface Floating Zone Purpose); Section 3.3 Shoreland Segment and Aquatic Unit descriptions; Section 4.3.210; Section 4.3.225; Section 4.3.230.2; Section 4.3.230.5; Section 4.3.230.6; Section 3.2.100; Section 3.2.175; Section 3.2.180; Section 3.2.275; Section 3.2.276; Section 3.2.285; Section 3.2.286; Section 3.2.370; Section 3.2.371; Section 3.2.375; Section 3.2.376; Section 3.2.405; Section 3.2.406; Section 3.2.400; Section 3.2.401; Section 3.2.425; Section 3.2.426; Section 3.2.480; Section 3.2.481; Section 3.2.535; Section 3.2.536; Section 3.2.540; Section 3.2.541; Section 3.2.550; Section 3.2.551; Section 3.2.545; Section 3.2.546; Section 3.2.595; Section 3.2.596; Section 3.2.600; Section 3.2.601; Section 3.2.690; Section 3.2.691; Section 4.11.232; Section 4.11.235; Section 4.11.252; Section 4.6.110; Section 4.6.130; Section 4.6.140; Section 4.3.210.23; Section 4.6.220(1)(d)(ii); Section 4.6.220(1)(f)(iii); Section 4.6.220(1)(p); Section 4.6.220(1)(q); Section 4.6.230.3; Section 4.6.240; CBEMP Policies 14, 16, 18, 20, 30	No	n/a
City Coos Bay: Estuarine Activity in 52-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	No	n/a
City Coos Bay: Combo App: Nav Reliability Improv		No	n/a
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	No	n/a
City North Bend: Combo App: DMD at APCO site Floodplain Dev and CB Estuary Permit		No	n/a
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	No	n/a