

January 12, 2011

Friends of Living Oregon Waters (FLOW)
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(Submitted via email and U.S. mail)

RE: Oregon International Port of Coos Bay Revised Application for Oregon Gateway Marine Terminal and Jordan Cove LNG Project (DSL Application APP0037712)

Ms. Hanson, Mr. Lobdell, and Director Solliday,

We are submitting the following comments in addition to our January 3, 2011 letter that provided some of our initial concerns and responses to the application by the Oregon International Port of Coos Bay ("Port") for the Oregon Gateway Marine terminal ("terminal"). The proposed terminal would accommodate the proposed Jordan Cove Liquefied Natural Gas (LNG) terminal and Pacific Connector Gas Pipeline Project. In our view, the projects are directly linked. The Port has not provided detailed information about other possible users of the eastern berth of the terminal in the absence of the Jordan Cove LNG project. As a result, the application is vague and incomplete. To date, the only named potential customer for the eastern berth of the terminal facility is the Jordan Cove LNG terminal. The public cannot be expected to guess at the purpose and need for the project without additional information regarding non-LNG customers/candidates for the eastern berth of the terminal.

Additionally, the public comment period for this extremely complex project is unreasonably short and the lack of public notice is unlawful. Oregon Department of State Lands (DSL) and the Army Corps of Engineers (Corps) are required to provide adequate notice of major permitting actions. The Corps and DSL failed to do so here. For example, the main Coos Bay newspaper, *The World*, was not informed of this major public comment period until a local citizen activist alerted the newspaper. DSL and the Corps should provide adequate public notice, and should place copies of the current application in local libraries (the DSL application documents available in local libraries are outdated). Furthermore, as we noted in our previous comments, many pages in the current application available online are illegible. In particular, key features of poorly scanned images are indiscernible, hampering the public's ability to adequately review the proposed application.

We ask that public comment be extended for 60 additional days beyond January 12, 2011. We also request that DSL and the Corps hold public hearings about this major project in Coos Bay and along the proposed Pacific Connector pipeline route. There is significant interest in the Oregon Gateway terminal throughout Southern Oregon because the project is designed to primarily facilitate the Jordan Cove LNG terminal and Pacific Connector Gas Pipeline.

Although FLOW's ability to review the current application has been limited by the short review period and the incomplete and illegible application materials, we ask that DSL and the Corps please consider the following reasons why the project should not be permitted at this time.

The application fails to demonstrate the need for the Oregon Gateway Terminal and underlying Jordan Cove LNG project.

As we explained in our earlier comments, the Port has not specifically identified any potential candidates for using the proposed terminal other than the Jordan Cove LNG project. Hence, the need for the project hinges on whether the Jordan Cove LNG project, itself is necessary and in the public interest. If the Port truly has other candidates for the terminal, the Port should disclose who these companies are in an amended application. The current application is deliberately vague and prevents the public from providing

meaningful input on whether this project is needed, much less whether it is economically viable.

The Oregon Department of Energy (ODOE) and multiple state agencies submitted comments in previous years to the Federal Energy Regulatory Commission (FERC) clearly explaining that FERC did not demonstrate a need for the Jordan Cove LNG project. In fact, the State of Oregon filed a Petition for Rehearing arguing that FERC's review of Jordan Cove's application was cursory and inadequate. To date, neither the applicant nor FERC has provided a coherent argument for why importing LNG is necessary. In contrast, the ODOE submitted a report to FERC clearly explaining that domestic gas options are available, cheaper, and less greenhouse gas-intensive than importing LNG. Rather than rehashing all of these comments, we have attached them to this submittal, incorporate them herein, and urge DSL to acknowledge the demonstrated lack of need for the Jordan Cove LNG project.

In 2008, Governor Ted Kulongoski ordered the Oregon Department of Energy to analyze the need and usefulness of an LNG terminal in Oregon. ODOE's report concluded:

- While natural gas will continue to be necessary, the three LNG terminals proposed in Oregon are not the only viable option to assure needed natural gas supplies are available. At least three new pipelines from the Rocky Mountain gas fields have been recently proposed which could provide natural gas more economically for the same Oregon and California markets that the three LNG terminals would serve. [The proposed Jordan Cove facility is one of the three terminals. The Ruby pipeline, now under construction, is one of three then proposed pipelines.]
- Natural gas from North America, including Canada and the Rocky Mountains in the near term, and Alaska in the long term, can likely provide adequate natural gas to meet Oregon's needs for the foreseeable future, assuming no disruption of pipeline service.
- Liquefied natural gas supplied to Oregon would likely cost substantially more than natural gas produced in North America, although there may be some economic benefit from shorter pipeline transmission of gas from LNG terminals

located in Oregon. However, this advantage of shorter pipeline transmission costs would not offset the current difference in price of North American natural gas and LNG. To be a significant factor, LNG costs would need to be the same as North American natural gas prices, which is unlikely for the foreseeable future.

- There is an over-capacity of existing LNG facilities in the United States. Existing facilities cannot acquire natural gas anywhere near their capacity because of international competition from Japan and other Asian countries. Those countries, which have very little local natural gas, are willing to pay as much as double the price of North American gas for LNG in order to replace higher-priced oil as much as possible.
- It is questionable whether the capacity of any LNG facilities located in Oregon would be substantially utilized, especially with the presence of the new LNG facility in Baja California, Mexico. That LNG facility will initially be the same capacity as one of the proposed LNG terminals in Oregon and by 2010 could be expanded to nearly the same capacity as all three of the LNG terminals proposed in Oregon.

Summary of conclusions from letter to Oregon Governor Ted Kulongoski from Michael Grainey, Director, Oregon Department of Energy. May 7, 2008¹

Events and trends since the 2008 ODOE report have confirmed the report's conclusions. Among them:

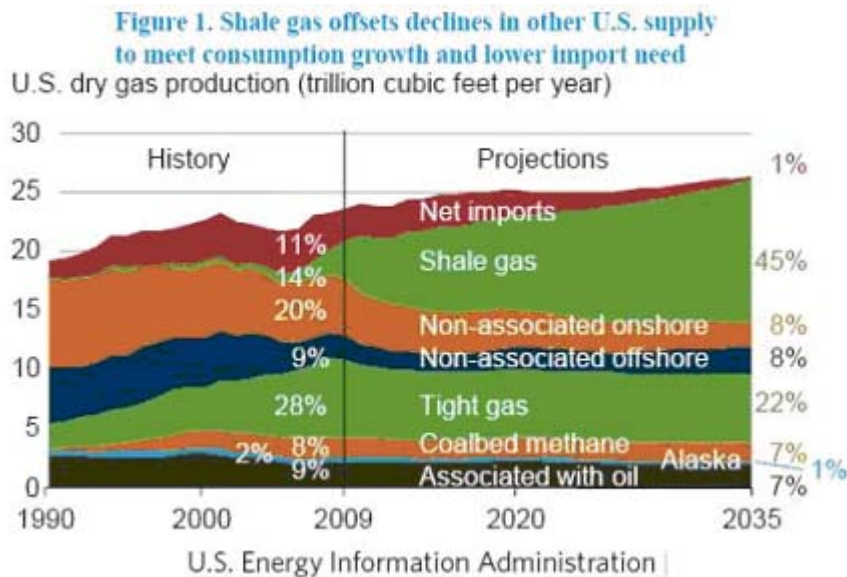
- The Ruby Pipeline has obtained its needed permits, is now under construction, and is due to be operational in June 2011. At a capacity of 1.5 billion cubic feet per day, it will supply the western states with domestic natural gas from the Rocky Mountains. The Ruby pipeline send-through volume will be 50 percent larger than that proposed by Jordan Cove. Like the Pacific Connector, its endpoint will be a tie-in to the existing PG&E pipeline in Malin, Oregon.² Thus, it will fill the exact same need as the proposed Jordan Cove facility, at a lower cost, with greater capacity, and with none of the geopolitical risk associated with imported LNG.

¹ http://www.oregon.gov/ENERGY/SITING/docs/LNG/LNG-Final_Report-May07_08.pdf?ga=t

² <http://www.rubypipeline.com/default.shtm>

FERC itself noted that the Ruby pipeline, if constructed, would likely remove the need for the Jordan Cove LNG project. On page 3-17, second paragraph, of FERC's Final Environmental Impact Statement for the Jordan Cove LNG project, FERC wrote, "The Ruby (pipeline) project could satisfy most of the main objectives of the Jordan Cove Project." The Jordan Cove LNG terminal is not needed, and the lack of need for the project renders the Oregon Gateway terminal, whose only named customer is Jordan Cove LNG, contrary to the public interest.

- Recent analysis from the US Energy Information Agency indicates that given the growth of the domestic natural gas industry in the US, there will be virtually no need or market for imported LNG or natural gas by the year 2035. According to the early release of their 2011 Annual Energy Outlook (AEO), estimates for the potentials of shale gas plays are double what the EIA estimated in their 2010 AEO. See graph below.³



- With natural gas consumption rates 90 percent higher than that of Oregon, it's clear that the Jordan Cove project is largely designed for the California natural gas and electricity market. However, the Ruby Pipeline should be able to satisfy any plausible trend in the California natural gas market. Since 1999, natural gas

³ <http://www.eia.doe.gov/forecasts/aeo/index.cfm?featureclicked=1&>

consumption in California has been essentially flat, with a 1999 consumption rate at 2,339,521 million cubic feet, and a 2009 rate slightly lower at 2,328,506 million cubic feet.

- California is highly dependent on natural gas-fired power plants for electricity, especially for peak-time needs. However, peak electricity needs in California have been gradually declining, and are expected to continue to decline in the future. The California Energy Commission recently released re-projections for peak demand for electricity in California. In the PG&E service area, the difference from earlier projections is -4.3 percent.⁴

Table 1: Comparison of Revised 1 in 10 and 2009 IEPR Peak Demand Forecasts (Megawatts), 2011 and 2012

TAC Area	Year	Revised Forecast	2009 IEPR Forecast	Difference (Percent)
PG&E	2011	22,618	23,594	-976 (-4.1%)
	2012	22,936	23,959	-1,023 (-4.3%)
SCE	2011	24,352	25,878	-1,526 (-5.9%)
	2012	24,686	26,266	-1,580 (-6.0%)
SDG&E	2011	4,801	5,036	-235 (-4.7%)
	2012	4,882	5,124	-242 (-4.7%)

Source: California Energy Commission, 2010

- There is a broad consensus in the trade and investment press that the growth of domestic natural gas production in North America eliminates the need for imported LNG. Indeed, much of the dialogue has shifted to the potential profits that could be made by exporting LNG from North America. In recent years, North America has been described by many as the “Saudi Arabia of natural gas.” There is an LNG export facility being developed in British Columbia, Canada, while two projects on the Gulf Coast originally designed to import LNG are now applying to the Department of Energy to export North American LNG.⁵ This has led to speculation that the only way that Jordan Cove could make any financial sense would be if it were designed to **export** domestic natural gas out of the Port

⁴ <http://www.energy.ca.gov/2010publications/CEC-200-2010-011/CEC-200-2010-011-SD.PDF>

⁵ <http://www.investingdaily.com/tes/18150/energy-investing-the-global-lng-market.html>

of Coos Bay. Given the potential linkage of the proposed Pacific Connector to the Ruby Pipeline at Malin, this theory is plausible. While an export facility is not the project currently before DSL, the consensus of the financial community that there is an abundance of natural gas certainly makes it clear that this project, as currently described, is not necessary for the western state's energy future.

In fact, in its comments to FERC on the DEIS, DSL itself noted the application failed to justify the need for the project:

[Jordan Cove and Pacific Connector] developed their project because of the perceived need for additional supplies of Natural Gas in the PNW, northern California, and northern Nevada. Several studies have indicated there will be increased demand sometime in the future and existing interstate pipelines may not be able to meet those demands.

Per OAR 141-085-0029(3), "the Department must determine that the proposed removal-fill activity will not be inconsistent with the protection, conservation and best use of the water resources of this state, and would not reasonably interfere with the paramount public policy of this state to preserve the use of its waters for navigation, fish and public recreation."

The purpose and need statement as presented is vague and speculative in nature, does not justify the "need" for the project. Further define the purpose and need for the project. Vol. I, section 1.5.3.2 page 1-34. ODSL-State Agency section Port resubmitted their application in April 2008. That application was also deemed incomplete due to lack of purpose and need, alternatives analysis, and mitigation (estuarine and freshwater). This project will be reviewed per OARI41-085-0025, -0027, 0029, -0031,-0115 *et seq.* (mitigation) and ORS 196.825. That application needs to be revised and resubmitted to DSL and COE with particular attention paid to the purpose and need for the project. Vol. I, section 2.1.1 to 2.1.2.8, pages 2-2 - 2-6.

Waterway for LNG Marine Traffic State-owned submerged and/or submersible land is managed to ensure the collective rights of the public, including riparian owners, to fully use and enjoy this resource for commerce, navigation, fishing, recreation and other public trust values. The Department would like to see the impacts to the public trust values minimized for this project.

State of Oregon FEIS comments at 11, DSL section (emphasis added).

These serious concerns were not remedied between issuance of the DEIS and FEIS. They have not been remedied in the revised joint permit application (JPA), nor in subsequent submissions to FERC or other federal agencies. These serious deficiencies render the JPA incomplete and fatally flawed. DSL and the Corps simply cannot reasonably find that the proposed project is in the public interest.

In fact, the revised JPA is significantly more vague and incomplete because the application makes reference to potential customers for the Oregon Gateway terminal, but fails to disclose specifically who they might be and what cargoes they would transport. As we described in our January 3, 2011 comments, the potential for bulk export rather than LNG import could result in impacts that were not evaluated in the BE/BA that is referenced in the Port's application, such as discharge of ballast water.

If the Port can demonstrate firm commitments from other customers to use the terminal, the Port should provide this information in an amended application. Clearly, at this time, the Port has failed to demonstrate that the terminal is necessary or in the public interest.

The application lacks an adequate analysis of potential alternative designs that could have less impact on estuarine resources

The application alludes to the potential for non-LNG carriers to use the eastern berth of the proposed slip dock. Because LNG carriers are considered to be a potential security and safety risk, the alternatives analysis assumes that selection criteria for a port site and design must be driven by these safety concerns. Yet, the Port's own suggestion that the Jordan Cove LNG project may not move forward should prompt the Port to consider configurations for the project that would involve less impacts to estuarine resources.

For example, the Port could consider a single, smaller berth that does not have to be sized large enough to accommodate an LNG tanker – typically some of the largest ocean-going vessels in the world. Given the lack of identified alternate customers for the terminal as a whole, it is unclear why the Port requires a two-berth slip. Additionally, as the U.S. Coast Guard (USCG) has noted and as Jody McCaffree and other members of the public noted in previous comments, the thermal hazard zone of the LNG tanker extends to the other side of the slip. Hence, when an LNG tanker is moored, the other side of the slip cannot be safely used. Furthermore, the “slip” design, itself, may be unnecessary because other cargoes do not necessarily require the same level of safety and security. The Port provides only a cursory analysis of potential alternatives. FLOW submitted more extensive comments on potential alternatives to the project, and the

project design to the Corps and Oregon Department of Environmental Quality on December 24, 2009. Those comments on Jordan Cove's Clean Water Act sections 401 and 404 permit application were provided as an attachment to our January 3, 2011 comment letter and are incorporated by reference herein.

To put the proposed project in perspective, the Oregon Gateway terminal proposes to dredge and excavate over 5.6 mcy, which is roughly 8 times more than the dredging and removal/fill activity associated with the proposed and now-defunct Bradwood Landing LNG terminal. The Port must demonstrate that this staggering level of impact to the Coos Bay estuary is warranted and unavoidable, and it has failed to do so thus far. Most of the criteria for the terminal are driven by the USCG's analysis of the Jordan Cove LNG terminal, which the Port suggests may not be the potential use for the terminal.

Channel deepening poses a serious risk to the Coos Bay estuary and surrounding ecosystems

Dredging has the potential to change the hydrodynamics of Coos Bay in the long-term. The application fails to evaluate the project in conjunction with other proposed dredging in Coos Bay. For instance, the Corps is considering a massive channel deepening project for Coos Bay, and the State of Oregon commented that some level of channel deepening will be required to accommodate LNG tankers, particularly if the LNG terminal is allowed to use larger tankers in the future. The State of Oregon commented on the DEIS to FERC in 2008:

Deepening of the existing federal navigation channel will be required to accommodate the vessels with capacities proposed to be received at the terminal. The significant volumes of material to be removed, the geomorphic adjustments to the bay and its tributaries precipitated by deepening the channel, and all the potential impacts to water quality and beneficial uses must be included in the analysis of dredging for this proposal, particularly with regard to projected ongoing maintenance dredging.
State of Oregon DEIS comments at 50, Dec. 4, 2008.

Even after all the critical DEIS comments, many of which included suggestions on how to remedy the problems, serious deficiencies remained in the Jordan Cove FEIS.

Oregon Department of Fish and Wildlife (“ODFW”) noted that these issues were not adequately resolved in the FEIS:

In the FEIS, [Jordan Cove is] only considering the dredging at the slip and access channel into the slip as part of this project. ODFW continues to have concern over the potential ecological effects of future dredging (down to -51 feet mean lower low water and channel widening from 300 to 600 feet, plus widening the jetty opening) that is proposed to occur to further use the Port's facility (“Oregon Gateway Terminal”), even though the JCEP tenancy is not portrayed as associated with that level of dredging. Changes to salinity, ocean water exchange, water temperatures, flood/ebb rates, etc. may be expected to occur with additional deepening of the channel. Predictive modeling should be conducted to ascertain the potential impacts to the estuarine ecology from the anticipated >10 feet of additional depth from the current situation.

State of Oregon FEIS comments at 37, ODFW section, May 29, 2009.

Without remedying the serious problems in the FEIS and addressing them in the JPA, DSL and the Corps cannot issue permits for the Oregon Gateway terminal. DSL and the Corps must evaluate related and reasonably foreseeable channel deepening projects that might contribute to the impacts of the Jordan Cove LNG project.

The application mischaracterizes the “freshwater phase” of excavation as having “no impact” on the Coos Bay estuary

The application asserts that 3.75 mcy of excavation will take place behind a berm (“freshwater phase”), and so this excavation is not subject to regulation under Oregon’s removal/fill law. The area to be created in the freshwater phase of construction will ultimately be connected to the waters of the state, and the manner in which the slip is constructed will directly impact the water quality of the Coos Bay estuary. For example, at the conclusion of the freshwater phase of construction when the berm is removed, tidal action and erosion will increase turbidity in the Coos Bay estuary. In effect, the project proposes to create a new area of Coos Bay (38 acres at the slip). This activity must be fully evaluated for its impacts on the water quality of the Bay.

As several state agencies have noted in previous comments, the current erosion and sediment control measures proposed for both the freshwater and saltwater period of construction are not fully developed and are inadequate. For example, the use of hay

bales and other measures in areas where dredge spoils are being de-watered may not be adequate to prevent stormwater from impacting water quality in Coos Bay during the freshwater period of construction. In fact, the JPA provides only general descriptions about how impacts to adjacent wetlands and waterways will be prevented.

Additionally, the proposed stabilization of dredge spoil areas with non-native vegetation is unacceptable. According to the National Parks Service, European Beach Grass is a serious threat to natural dune ecosystems. The Parks Service describes the problems associated with European beachgrass:

- European beachgrass is an aggressive colonizer of beach areas that forms a dense mat of grass and rhizomes, unlike any of the native dunemat species.
- The beachgrass captures sand, decreasing natural sand movement, and causing the dunes to increase in height.
- As the dunes increase in height and the normal ocean breeze diminishes behind the dunes, a new microclimate develops that is no longer suitable for dunemat species. Succession ensues toward more inland native coastal vegetation types and colonization by other exotic plant species, until the integrity of the entire native dunemat ecosystem is threatened.
- Areas heavily infested with beachgrass are unsuitable as habitat for nesting snowy plovers. These marine birds require areas of open sand or low, native dunemat vegetation for nesting. The snowy plover is a federally listed, threatened species.
- Areas infested with beachgrass are unsuitable as habitat for three (CNPS List 1B) sensitive plant species: beach layia (*Layia carnosa*) [also federally listed as endangered], Wolf's evening primrose (*Oenothera wolffi*) and pink sand verbena (*Abronia umbellata* ssp. *brevifolia*).

See <http://www.nps.gov/archive/redw/beach-gr.htm>.

As noted above, FLOW, Klamath-Siskiyou Wildlands Center, and others submitted detailed comments on the water quality impacts of the proposed Jordan Cove LNG terminal and pipeline. We incorporate those comments by reference, and submitted them to DSL along with our January 3, 2011 comments. These comments demonstrate that both the freshwater and saltwater phases of construction will have impacts on the Coos Bay Estuary, including protected fish and wildlife species.

The proposed terminal will harm water quality and aquatic habitats in the Coos Bay estuary

Construction of the access channel will also result in loss of aquatic habitat, and proposed mitigation is inadequate. The JPA lacks adequate mitigation for habitat that the applicant characterizes as “deep,” up to -15 ft. MLLW. Significant acreage will be impacted during construction of the access channel and slip. This area is habitat both to Endangered Species Act listed Coho salmon and green sturgeon. Regardless of whether shallower areas are considered more important as habitat, the lack of mitigation for deep-water areas is a significant omission in the JPA.

The JPA also fails to provide an adequate analysis of how dredging impacts will be avoided. The State of Oregon commented that FERC’s analysis failed to adequately evaluate dredging impacts: “Total organic carbon, acid volatile sulfides, and nutrient sampling should be conducted to quantify the potential for adverse impact to oxygen levels caused by re-suspension of sediments during dredging activities. Impacts should then be evaluated utilizing hydro dynamic modeling which can capture real time tidal conditions and simulate real time tidal exchanges during the period of the project.” State of Oregon DEIS comments at 63. These issues remain unresolved in the JPA, and the massive proposed dredging and excavation will severely harm aquatic species and habitat, including protected salmonids and green sturgeon.

The State of Oregon noted in its DEIS comments that LNG vessels could exacerbate shoreline erosion, and that this erosion risk was inadequately addressed in FERC’s analysis. The JPA also fails to adequately evaluate potential erosion that could occur as a result of side-slope adjustment from the dredging of the access channel and slip dock. While the slip itself will be armored, the JPA does not indicate that the access channel will be similarly stabilized. With rapid currents occurring at times in this area, it is likely that significant side-slope adjustment will result from construction of the terminal. Because the access channel and slip are so close to Henderson Marsh, the JPA should evaluate future impacts to intertidal and marsh areas near the terminal if erosion exceeds the applicant’s estimates.

The maintenance dredging involved with the project, alone, will constitute a major impact. The Port now proposes to dredge up to 350,000 cy of material every other year. This is a significant increase over maintenance dredging estimates in the original JPA, which proposed between 35,000 and 315,000 cy. The proposed disposal site for all of the maintenance dredge material is Site F, but the JPA does not contemplate the capacity of Site F being reduced by other proposed dredging activities in Coos Bay, such as the Channel Deepening project. Furthermore, the JPA asserts that “there are no adverse long-term impacts to [Essential Fish Habitat (EFH)] for (salmon) species. NO significant long-term effects to EFH were identified or anticipated.” JPA at 7. The Port’s reasoning dismisses the repeated, long-term disturbance of areas that will require maintenance dredging and the related turbidity in EFH. Maintenance dredging for the access channel and slip will pose a long-term impact on salmon, sturgeon, and EFH.

The analysis of dredge disposal, in particular, lacks adequate evaluation of each alternative’s impacts on threatened and endangered species such as the snowy plover and marbled murrelet. Disposal on Port property may not be the most beneficial use of dredge material, and ultimate plans for dredge spoils are unclear, with a large amount of dredged material to be temporarily “stored” for later removal to another site. Moreover, as FLOW noted in its January 3, 2011 comments, the ownership between the Port and potential dredge disposal sites is unclear. The Port is evaluating whether to purchase a smaller portion of the Weyerhaeuser property than originally proposed, and has failed to provide the most recent option agreements to DSL and the public as part of this application process.

The application also provides inadequate information about the method of dredging and the measures to prevent excessive turbidity. While the application suggests that the dredging will occur “slowly” to minimize turbidity, the Port has not produced a final plan for mitigating turbidity impacts in the Bay. The application states that, “The Contractor will develop a turbidity monitoring and management plan (TMMP) that describes measures to reduce turbidity resulting from dredging activities.” The application is incomplete without this key document. DSL cannot fulfill its responsibility to protect public trust resources – the water quality and aquatic resources of the Coos Bay estuary – without a complete plan for preventing excessive turbidity in the Bay.

The JPA does not provide an adequate analysis of dredging method alternatives and a clear indication of why the proposed methods will minimize impacts. The JPA indicates that both mechanical and hydraulic dredging may be used. Hydraulic pipeline dredging has the potential to impact aquatic species through entrainment and impingement. Other dredge methods will result in significant turbidity in Coos Bay. Although some specially designed hydraulic cutterhead dredges may reach 0.5 percent spillage, the JPA fails to disclose what kind of cutterhead dredge will be used for dredging. This is vitally important information for the public and the agencies to assess the veracity of the applicant's statements – without knowing what type of cutterhead dredge will be used, the public cannot begin to evaluate what kind of turbidity will be caused by dredging activities. Furthermore, any modeling conducted on behalf of the Project is suspect until a spillage rate can be determined. All cutterhead dredges are not the same. Studies indicate that conventional cutterhead dredging “can liberate considerable amounts of turbidity and associated contaminants to overlying water.” Cooke, 2005.

Selection of the proper cutterhead for the type of sediment, in addition to correct rotational speed and hydraulic suction, to obtain reduced suspension rates of sediments is rarely achieved. Herbich, 2000. Therefore, knowing not just the type of dredge used but the anticipated methods of using the dredging equipment are important factors that must be disclosed for the public and agencies to properly analyze the effects of dredging at the proposed project. DSL and the Corps must make specific findings on the types of dredging equipment. The JPA should present an analysis of alternative methods in order for the DSL and the Corps to fully analyze the impacts dredging will have on turbidity and overall pollution.

The Port's proposed mitigation plans are inadequate

The proposed mitigation plans do not adequately compensate for the ongoing aquatic habitat disturbance that will be caused by maintenance dredging, and for the permanent alteration of Coos Bay through construction dredging of the slip, turning basin, and access channel. The proposed wetland mitigation is also inadequate, as the

areas to be mitigated will likely be impacted by the freshwater portion of construction through stormwater intrusion and erosion.

The centerpiece of the terminal's proposed mitigation plan is the flooding of the Kentucky Golf Course, and an attempt to re-establish eelgrass beds in this area. The mitigation proposal is suspect for several reasons. First, it is not adequately similar to several of the habitat types that are being damaged (for instance, the turning basin and access channel) so there are impacts that are not being mitigated. Secondly, the Port fails to show that the site is suitable for increasing fish habitat. What pesticides and herbicides were used on this golf course? Do these chemicals or other contamination remain on the areas that are proposed to be flooded? The use of agricultural chemicals is extremely common on golf courses, and can leave long-lasting contamination that is deleterious to fish. The Port has not adequately addressed this issue in its mitigation plan.

Finally, as we discuss below, it is not clear whether the mitigation property owners have agreements with Jordan Cove LNG, the Port, or both. If the Jordan Cove LNG project does not move forward, can the Port ensure that the mitigation sites remain available?

According to a newsletter produced by the Jordan Cove Energy Project, the JCEP "currently holds an option to purchase the Kentucky lands and, if purchased, ownership of the property would be transferred to the Oregon International Port of Coos Bay for use as compensatory wetland mitigation for impacts created by construction of the Jordan Cove Energy marine terminal and for future Port development projects." See Attached 4Q Newsletter at 2, available at http://pacificconnectorgp.com/docs/4Q_2009_Newsletter.pdf If the Jordan Cove LNG project does not move forward, the application is unclear as to who will bear the burden of purchasing the mitigation sites, and whether the landowners are bound to agree to sell these mitigation sites directly to the Port rather than to the Jordan Cove LNG terminal. According to the Coos Bay newspaper *The World*:

Jordan Cove is paying for the land use application process, as well as the land if it comes to it. **The Culp family, which owns the course, has signed an option with Jordan Cove to sell either half or the entire 137-acre property.** The LNG developer only needs 36 acres of wetland, while the entire property could produce about 100. The port will have the option to buy unused land through its agreement with Jordan Cove.

See attached September 23, 2009, *The World* article, “County OK’s Flooding Kentuck Golf Course” (emphasis added).

The unclear ownership situation about properties involved in the terminal project is a persistent problem throughout the application. Another example is the unclear arrangement between the Port and Weyerhaeuser. The Port is seeking to amend its option with Weyerhaeuser in order to potentially buy a smaller amount of that property. The Port should provide in an amended application its most recent information about land agreements, including the option for the Weyerhaeuser property and proposed mitigation if the Jordan Cove Energy Project is not the Port’s customer.

Conclusion: DSL and the Corps must reject the Oregon Gateway Terminal

The materials that are publicly available regarding the proposed Oregon Gateway terminal clearly demonstrate that the project is not in the public interest. The project will harm the natural resources of Coos Bay for an unspecified purpose that may or may not include the Jordan Cove LNG terminal. Additionally, key project elements, such as the location of dredge disposal and the methods for dredging and controlling resulting turbidity, are inadequately presented in the application. For example, the JPA states on page 4, “Disposal will occur only in upland areas”, yet it states in the same paragraph, referring to the same dredge spoils, that “Dredged material is also suitable for open water disposal at Site F, located offshore. If ocean disposal is used, no more than 0.5 mcy will be placed at site F.” The Port has failed to provide a coherent project description and justification for why dredging and removal of 5.67 mcy of material is necessary at this time.

Finally, we request that DSL and the Corps extend the public comment period for this JPA and hold public hearings in the affected areas. Adequate notice of the public comment period for the JPA was not provided. Application materials available on DSL’s website are incomplete and, in some cases, images are poorly scanned copies and illegible. The JPA makes reference to numerous documents that are not available on the DSL website, and the version of the JPA available in the local public libraries at the time the JPA was opened for public comment were out-of-date and incomplete. In the interest of facilitating a fair and transparent review, and in accordance with Oregon’s public

notice requirements, DSL should extend the comment period for no less than 60 days and provide complete and legible copies of all JPA materials online and in local libraries throughout SW Oregon.

Sincerely,



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List of Attachments: (Submitted in mailed cd)

FLOW DEIS Comments. December 2008.

FLOW FEIS Comments. July 2009.

Western Environmental Law Center Petition for Rehearing to FERC, representing FLOW and Coalition Partners. January 2010.

FERC Jordan Cove/Pacific Connector FEIS.

The World, "County Ok's Flooding Kentuck Golf Course." September 23, 2009.

Jordan Cove Energy Project. 4th Quarter Update. 2009.

State of Oregon Comments on Jordan Cove FEIS. June 2009.

State of Oregon Comments on Jordan Cove DEIS. December 2008.

Oregon Department of Energy. May 7, 2008. Response to Information Request of Governor Kulongoski: Report on Lack of Need for LNG in the Pacific NW.

The World, "Port, Weyco Near Land Deal." October 21, 2005.