



Submitted electronically

September 23, 2019

To: U.S. Army Corps of Engineers
North Bend Field Office
2201 North Broadway Suite C
North Bend, Oregon 97459-2372

Via email: NWP-2017-41@usace.army.mil

Subject: Comment on Jordan Cove LNG US Army Corps of Engineers No: NWP-2017-41, Oregon Department of State Lands No: APP0060697

To Whom It May Concern,

The Surfrider Foundation Coos Bay Chapter respectfully hereby submits this comment letter on Jordan Cove LNG, LLC's application for a Department of the Army permit pursuant to Sections 10 and 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403 and 408) and Section 404 of the Clean Water Act (33 U.S.C. 1344)(Application No. NWP-2017-41). Furthermore, we hereby request a public hearing on the application. A public hearing is necessary for the reasons set forth herein below, as the project is not in the public interest.

The Surfrider Foundation is a national non-profit environmental organization dedicated to the protection and enjoyment of our ocean, waves, and beaches. Working towards this mission, the Coos Bay Chapter is part of Surfrider's network of more than 80 grassroots chapters located in the U.S.. The Chapter works within the greater Coos County area focusing on a variety of programs, stewardship activities, campaigns and fun events – all for the love of our local ocean, waves and beaches. The chapter serves Coos County with the longest running beach water quality monitoring program ([Blue Water Task Force](#)) in the state of Oregon.

Our chapter is dedicated to protecting our local beaches, ocean and estuaries for the benefit of current and future generations. The proposed Jordan Cove liquefied natural gas ("LNG") project (the "Project") is against the public interest and will have long term adverse impacts to the estuary, sloughs and bay environment within Coos Bay and the near shore environments, as well as the economic wellbeing of the

citizens of the Coos Bay area. Therefore, we strongly encourage the U.S. Army Corps of Engineers, Portland District (“USACE”) to deny the permit for the Jordan Cove Energy Project L.P. & Pacific Connector Gas Pipeline LP.

The Project is Against the Public Interest (33 C.F.R. § 320.4)

Pursuant to the USACE’s regulations, 33 C.F.R. § 320.4, in making a decision as to all applications for Department of the Army permits, the Corps must evaluate the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. (See 33 C.F.R. § 320.4(a)(1).) The public interest review is a balancing test of the foreseeable benefits and detriments of the proposed project, that requires a careful weighing of § 320.4’s twenty enumerated public interest factors. This includes considering the following: conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, and in general, the needs and welfare of the people. Cumulative impacts must also be evaluated. (Id.)

For activities involving 404 discharges, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agency’s 404(b)(1) guidelines (40 C.F.R. § 230).

The following general criteria will be considered in the evaluation of every application: (i) the relative extent of the public and private need for the proposed structure or work; (ii) where there are unresolved conflicts as to resource use, the practicability of using reasonable alternative locations and methods to accomplish the objective of the proposed structure or work; and (iii) the extent and permanence of the beneficial and/or detrimental effects which the proposed structure or work is likely to have on the public and private uses to which the area is suited. (33 C.F.R. 3240.4(a)(2)).

Other commenters will provide detailed, science based reasons why the USACE should find the proposed project unacceptable based on the adverse impacts to home, commercial, wildlife habitat, public navigation, and fishing (see Hodder, Graybill, etc). Surfrider will focus these comments on the detrimental recreational and livability impacts of proposed project.

Recreational Impacts

With respect to recreational values, full evaluation of the general public interest requires that due consideration be given to the effect a proposed project may have on values associated with wilderness areas including estuarine and marine sanctuaries, and other areas established under federal, state, or local policies or controls. Actions on permit applications should, insofar as possible, be consistent

with and avoid significant adverse effects on the values or purposes for which such classifications, controls, or policies were established. (33 C.F.R. 3240.4(e)).

The project is proposed to impact the Coos Bay estuary, close to the South Slough National Estuarine Research Reserve, and will conflict with the Coos Bay Estuary Management Plan (e.g., Policy 5)¹ and Statewide Planning Goal 16.²

Additionally, the lower Coos Bay provides ample opportunities for a wide variety of public trust recreational activities including fishing, surfing, sailing, kayaking, scuba diving, stand-up paddle boarding, and kite boarding. The Charleston harbor has berths for both commercial and recreational boats, and provides boat launching access to sports fisherman that trailer their boats from elsewhere. The fill and removal activities that will enable LNG tankers to transit Coos Bay will impact all these public trust activities, many of which occur at times of high slack water; the time that LNG tankers will transit the bay.

LNG tanker safety/security zone restrictions will make it difficult for human powered boats (kayaks, canoes, standup paddle boards) to use the bay during high slack water as they will be required to pay attention to the safety zone restrictions and move appropriately. This is bound to discourage people from undertaking these activities for fear of not being able to move quickly enough out of the security exclusion zone. Slack high tide is also the safest time for recreational and commercial fishermen who moor or launch in Charleston to cross the bar to go fish in the ocean. The 500 ft safety/security zone restriction will have a serious impact on these fishermen as the entire area between the north and south jetties of Coos Bay will be closed to other vessel movement when a LNG tanker is crossing the bar.

The map attached as Exhibit A shows several popular SCUBA diving spots identified by the Oregon Department of Fish and Wildlife, many of which are right at the entrance to Coos Bay. In addition to SCUBA diving, these areas are also popular with free divers. The impacts to the natural environment caused by dredging has the potential to make these sites no longer desirable to divers, negatively impacting tourism for the area. The unintended consequences of changing the environment from dredging are also very concerning. If dredging changes current patterns, that can pose significant risks to divers who develop their dive plan based on current conditions only to find conditions have changed.

¹ See http://www.co.coos.or.us/Portals/0/Planning/2019/AM-RZ/AM-19-003%20COOS%20BAY%20ESTUARY%20MANAGMENT%20PLAN/CBEMP_Part_1_recommendations.pdf?ver=2019-05-30-101441-570

² See <https://www.oregon.gov/lcd/OP/Documents/goal16.pdf>

SCUBA diving site Tri-leg#1 (Exhibit A) is very close to or within Dredge Area #13, with several dive sites downstream. During periods of dredging turbidity will increase, decreasing visibility at dive sites in the Bay. Direct dredging of dive site Tri-leg #1 may remove what makes this an attractive dive site, eliminating this site completely.

The proposed dredging activities may have negative impacts on popular surf sites located within the Bay. Changing the depth and contour of the navigational channel may change the characteristics of important surfing sites. Currently, these surf sites within the Bay are sheltered enough to offer recreational opportunities when stormy ocean conditions do not allow for recreation on the ocean.

The Project does not anticipate abandonment of the proposed LNG Terminal facility in the foreseeable future (less than 30 years) (Jordan Cove Energy Project L.P. Resource Report No. 1; General Project Description Jordan Cove Energy Project. July 2017). Thirty years of restrictions on recreational activities will create the message that Coos Bay is closed for recreation business.

During the proposed implementation of channel “improvements”, the noise levels from pile driving, dredge equipment and blasting will most certainly adversely impact recreation opportunities in the bay. Imagine going for a paddle on the bay, the sound of the waves lapping against your boat, the wind at your back, and the pounding, pounding, constant pounding of the pile drivers reverberating throughout the bay, night and day.

The USACE’s regulations acknowledge the profound impacts dredge or fill activities can have on recreational and commercial fisheries, and water-related recreation (e.g., by changing turbidity, contaminating and interfering with the reproductive success of recreational and commercially important species, impairing recreational resources, and interfering with aesthetic qualities of sight, odor, and color). (40 C.F.R. 230.51, 230.52).

Livability and Community Welfare

The Project will also negatively impact the livability for Oregonians who live adjacent to the bay. Envision yourself enjoying what used to be quiet time on your deck overlooking the bay, watching the sunset, but now listening to the constant roar of diesel pumps in the background 24/7 for months and years. Enjoying a nice morning cup of coffee, when suddenly explosions rattle your windows and your dog becomes unhinged. This is what the Project will mean for area residents.

³ See

https://www.nwp.usace.army.mil/Portals/24/docs/regulatory/publicnotices/NWP-2017-41_figures.pdf

Further, today as you drive south on Highway 101 and come to your first sight of the McCullough Bridge spanning the Bay, imagine that amazing view being blocked by an industrial landscape. This is also what the Project will mean for area residents and visitors.

The USACE regulations require protection of aesthetics, which include “the perception of beauty by one or a combination of the senses of sight, hearing, touch, and smell. Aesthetics of aquatic ecosystems apply to the quality of life enjoyed by the general public and property owners.” (40 C.F.R. 230.53). “Activities which ... result in changes in odor, air quality, or noise levels may reduce the value of an aquatic area to private property owners.” (40 C.F.R. 230.53(b)).

No Need for the Project

And why are all these adverse actions proposed? As noted above, one factor the USACE must consider is whether there are energy needs for the Project. As the Federal Energy Regulatory Commission (“FERC”) found in 2016, the proposed LNG facility and associated infrastructure that relies on dredging will not serve a public need. See, e.g., “Pacific Connector has presented little or no evidence of need for the Pacific Connector Pipeline;” “Pacific Connector states that the pipeline will benefit the public by delivering gas supply from the Rocky Mountains and Canada to the Jordan Cove LNG Terminal and by providing an additional source of gas supply to communities in southern Oregon though, again, it has presented no evidence of demand for such service;” and perhaps most importantly for purposes of the USACE’s public interest analysis, “The generalized allegations of need proffered by Pacific Connector do not outweigh the potential for adverse impact on landowners and communities.”⁴ Coupled with the adverse impacts guaranteed by the Project, this lack of need for the Project weighs strongly against granting applicant’s permit.

Further, the applicant admits that the existing channel can accommodate 99.5% of the anticipated 120 vessels estimated to enter Coos Bay annually (Draft EIS 4.10.1.1 p 4-463 Marine Traffic). Therefore, essentially, the anticipated adverse impacts to Coos Bay’s natural resources, livability for Coos Bay area residents, and public trust recreational opportunities in the Bay, would all be for the benefit of one half of one ship, and a foreign owned company which has failed to demonstrate a need for its Project.

In addition, this proposed action is just an example of “give ‘em an inch, and they’ll take a mile”. The Port of Coos Bay readily admits that the proposed Jordan Cove project would be the first project in their desire to fully industrialize the North Spit (envision the Port of Long Beach, California or the lower Mississippi industrialization).

⁴ Docket Nos. CP-13-483-00, CP13-492-000, Order Denying Applications for Certificate and Section 3 Authorization, FERC (March 11, 2016).

We the citizens of Oregon recognized the special natural beauty of our landscapes by overwhelmingly passing referendums and establishing agencies to protect our natural resources. Allowing the proposed project to proceed, for a 25-year lifespan, sending the bulk of profits to a private foreign owned company whilst destroying what makes Oregon Oregon, is definitely not in the best interests of Oregonians, citizens of the United States, nor for our natural resources. We therefore call on the USACE to deny the applicant's permit.

Sincerely,

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Exhibit A

Charleston SCUBA Diving

The nearshore ocean of Charleston is filled with exciting dive sites. Popular harvest targets such as black rockfish, lingcod, and rock scallops can be found in good numbers on just about every rocky area. Viewing dives are excellent among the kelp beds and boulder fields. Highlights include: stalked pink hydroids found at Norton Gulch, estuarine populations of Copper rockfish, and the beautifully colored "Simpson Reef" rock greening in the shallow kelp beds.

Gregory Point Research Reserve is one of the state's oldest subtidal reserve areas. It allows fishing but not for invertebrate harvest. The site provides refuge for species important to local fisheries such as red sea urchins and rock scallops. The Cape Arago Research Reserves (areas A&B) pertain only to intertidal areas and does not restrict harvest below the lowest low tide levels. See current sport regulations for details.

Boat dives are best, but some good shore dives can be accessed with rugged walking and swimming. Visibility tends to be best in winter and spring though 10-15 visibility can frequently be found in the summer. Wave heights, current, and boat traffic are critical to consider on any dive. Diving offshore takes extra skill and expertise. This chart should not be used for navigation.

North Jetty/ The Cribs:
Consider drift dives on the jetty. Anchor carefully at "The Cribs" dive during slack water. Rockfish and lingcod can be found.

Further up the bay:
Empire boat ramp is an easy shore dive. Additionally, there are good boat dives on the east side of the lower bay for crab and clams. Beds of orange sea pens can be found east of the channel around buoy #10A (not on map).

Tri-leg buoy #1:
Demarking the entry to the Charleston narrows channel and a subtidal jetty that extends from Fossil Point. Many species of fish and invertebrates are found.

OIMB Kelp Bed:
A rare estuarine kelp bed. The bottom is low relief sandstone with many juvenile fish.

Charleston Bridge:
For those not bothered by low visibility, this is a great viewing dive. Many species of fish and invertebrates can be found on the hard substrates of the bridge and shell hash.

Baltimore Reef:
A yellow buoy "BR" demarks the end of this reef. Tidal currents and boat traffic make this dive extremely difficult to execute.

Cape Arago Lighthouse:
The kelp bed north of the lighthouse is a good dive in south wind. Depths are 15-45' within the kelp bed and current is minimal.

Cape Arago Lighthouse:
A steep trail and a long swim will take you to some nice 20-30' kelp dives on the north side of the Cape Arago Lighthouse.

Gregory Point Research Reserve:
This reserve only excludes take of invertebrates. There are many great kelp dives within. Areas within the emergent rocks are protected from swill, but visibility is not as good as offshore. Big lingcod are common in these shallows during winter.

Sunset Bay:
The middle of the Sunset Bay is sandy, while the sides are shallow and rocky. Entry is easy, but depths are shallow and good visibility is rare.

Norton Gulch:
A narrow gulch just south of Sunset Bay, follow a dirt trail to the water. Swim directly out 200 yards and drop down to 30'. Swim left into shallow purple sea urchin herds, straight out to black rockfish schools and right to some nice ridges and walls. Good visibility is rare.

North Simpson Reef:
Great dives can be found along three ridges that extend from Simpson Reef. The wreck of the steamship "Brush" can be found at the northwest corner of the reef.

Simpson Reef:
With skilled navigation, excellent dives can be found in the middle of Simpson Reef. The inside of the reef has Oregon's only giant kelp (Macrocystis) bed and is an excellent dive, stay distant from sea lions.

South Cove:
A steep paved trail and long swim takes the adventurous diver down to an excellent reef. Swim southwest to find kelp beds and rocky reefs 15-40' deep.

South Cove:
Extensive kelp beds and shallow depths are found.

Legend

-  Dive Site
-  Kelp beds
-  Cape Arago Research Reserve Areas A&C
-  Cape Arago Research Reserve Area B
-  Gregory Point Subtidal Research Reserve



Strawberry anemones, red sea urchins, and a rock scallop at Cape Arago.

Red soft coral on a wall at South Cove.



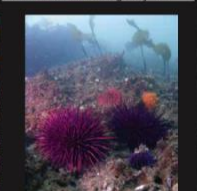
Ochre sea stars and black rockfish at Norton Gulch.



Copper rockfish among plumose anemones at Charleston tri-leg buoy #1.



A rock greening laying on coralline algae at Simpson Reef.



Sea urchins, cucumbers and anemones among the kelp at Gregory Point Research Reserve.

Consult the current ODFW sport regulations before harvest. More information on shellfish including species identification, harvest maps and regulations can be found at: www.dfw.state.or.us/MRP/shellfish

Design and photographs: Scott Groth

