

# LIQUEFIED NATURAL GAS EXPORTS - PART 1

The liquefied natural gas (LNG) industry is trying to exploit the growing interest in new “alternative” energy development. In this rush, Oregon has been targeted for the development of LNG export terminals along its coast, and nearly a thousand miles of gas pipelines that would crisscross the state. Thankfully, due to the diligence of numerous landowners, conservation and fishing organizations, lawyers, and others who have successfully fought back LNG proposals, only one project remains a real threat to the values that Oregonians hold dear: the Jordan Cove LNG terminal and its associated pipeline, Pacific Connector. The terminal would be located at the mouth of Coos Bay, Oregon, while the 234-mile-long, 36-inch-diameter underground natural gas pipeline would extend from the Jordan Cove terminal southeast across Oregon’s Coos, Douglas, Jackson, and Klamath Counties, to its terminus near Malin, Oregon.

The shipping terminal, requiring significant dredging to accommodate the huge deepwater LNG tankers, would decimate estuaries and fisheries. The pipeline would clear cut a straight corridor at least 50 feet wide across rivers and through national forests, decimating riparian areas, old growth forest groves, and recreational trails (including a crossing of the Pacific Crest Trail).

Endangered and threatened fish species such as Chinook salmon, Coho salmon, Chum salmon, steelhead, coastal cutthroat trout, pacific lamprey, river lamprey, and green sturgeon would all be adversely affected. These ecological impacts have led the U.S. Fish and Wildlife Service, National Marine Fisheries Service, Environmental Protection Agency, and the State of Oregon to raise serious concerns over the project.

Originally, the Jordan Cove and Pacific Connector (JC/PC) project was conceived as an “import” project to bring gas to Malin, where it would join the north-south pipeline and head south to California. This would mean that highly flammable LNG would be shipped to the United States from countries abroad, heated up and regassified at Jordan Cove, and then piped to markets in California via the Pacific Connector pipeline (little if any of the gas would have been utilized in-state).

Interestingly, the Natural Gas Act of 1938—the law that governs natural gas pipeline and terminal siting and construction—allows a private company like Jordan Cove/Pacific Connector to use eminent domain to take ownership of private property within a pipeline’s right-of-way. Given that the majority of the pipeline will cross private lands, this is a significant attack to private property rights.

Obviously, once the pipelines are built, natural gas could flow through them in either direction; one of the chief concerns with the JC/PC project was that the “import” terminal would be converted to export natural gas from reserves in Canada and the Rocky Mountain states to markets overseas. It turns out those concerns were well-founded.

In 2009, the Federal Energy Regulatory Commission (FERC) – the federal agency in charge of permitting LNG terminals and pipelines – issued a “Certificate of Public Convenience and Necessity” for the JC/PC project, explaining that there was “demonstrated need” for natural gas imports to the United States for domestic use. As part of this determination, FERC concluded that it was in the public interest to take private property from landowners within the pipeline right-of-way, and give it to JC/PC for use for construction of the pipeline.

The Western Environmental Law Center (WELC) and a coalition of 18 conservation and citizen organizations and individuals filed a Petition for Rehearing before FERC in January 2010, arguing that the project violated numerous federal environmental laws. In addition, WELC argued that in fact, there was no need for natural gas imports and that domestic energy sources should be explored before committing to foreign imports. FERC has sat on our Petition for more than two years.

And what a difference those two years have made.

Veresen Inc. – a Canadian firm that holds the controlling interest in the JC/PC project –steadfastly denied rumors for years that building a terminal and pipeline to import foreign natural gas was just a ruse for a more lucrative “flip” to export natural gas. Veresen Inc. filed a \$50 application in late 2011 with the United States Department of Energy (DOE) announcing their intention to do just that: export domestic natural gas from the Interior West to international destinations. DOE rubberstamped the permit application. Jordan Cove/Pacific Connector’s proponents have yet to file paperwork with FERC announcing the alteration of the project, and it is hard to predict how FERC will respond, but we would expect FERC to take another look at the project before granting final approval. It is likely that additional environmental review would be required before that final approval could be given.

As part of FERC’s re-analysis of a JC/PC project built for export rather than import, FERC will need to assess not only the environmental consequences of this flip, but also whether exporting domestic natural gas is in the public interest. If the project is *not* in the public interest, then JC/PC could not make the showing necessary to obtain a Certificate of Public Convenience and Necessity, and the project would die on the vine.

When the Jordan Cove/Pacific Connector project was first proposed, known and technologically feasible sources of domestic natural gas were relatively small. Consequently, it made market sense to import foreign natural gas for domestic use, and FERC could reasonably conclude that import was necessary for domestic energy use and therefore in the public interest. Now, with the rise in [hydrofracking](#) and other extraction techniques, formally unreachable domestic sources of gas have become available. Suddenly, it makes more financial sense to extract natural gas domestically and export it to foreign markets. This market shift compelled JC/PC to change the basic nature of its project from an import exercise to an export boondoggle. But there is very little to suggest that exporting domestic natural gas will be in the best interest of American citizens.

Regardless of how FERC responds, WELC and our clients are well-positioned to challenge the Jordan Cove/Pacific Connector project in court.

Not only is FERC in our sights, but also several other opportunities exist to influence the fate of the JC/PC project. For example, the expert federal agencies – the National Marine Fisheries Service (NMFS) and Fish and Wildlife Service (FWS) – have begun preparations of the biological opinions to analyze the project's effects on sensitive wildlife species. While these two agencies have been very critical of the JC/PC project, they have also indicated that there is a lack of information on the actual effects of the project on wildlife.

While it is JC/PC's obligation to provide the missing information, the company has repeatedly told NMFS and FWS that the expert agencies have all the information they need to complete consultation, regardless of the agencies' protestations to the contrary. It is possible that NMFS and FWS will conclude that due to the lack of information, the terminal and pipeline project will "jeopardize" (i.e., likely lead to the extinction of) listed species. On the other hand, if the biological opinions do not reflect the real environmental consequences of the terminal and pipeline, we will challenge the opinions in court.

Similarly, the Forest Service and Bureau of Land Management (BLM) must undertake an environmental analysis of the effects of constructing and operating the pipeline on federal lands (about 31% of the pipeline crosses National Forest or BLM land). Given the shift from import to export, the federal land managers have delayed commencement of the environmental analysis process, but we expect to be heavily engaged throughout the process, which could take several years. Because the project runs afoul of numerous Forest Service and BLM forest plan standards, we anticipate significant litigation challenging the federal land managers' environmental review. If successful, this litigation will effectively kill the project, because without authorization to cross public lands, the Jordan Cove terminal will be unreachable and the Pacific Connector pipeline will have nowhere to go.

Of course, the majority of the pipeline crosses private lands, and JC/PC must comply with state law that protects those lands. In 2009, Pacific Connector filed suit in federal district court challenging the State of Oregon's permitting requirements for the pipeline, alleging that the State's requirement that the company secure the permission of affected landowners before dredging and filling wetlands on the landowners' private property is unconstitutional under the Commerce Clause. Because WELC believes that Oregon's "signature requirement" protects the interests of private landowners and should be upheld, we have intervened in Pacific Connector's litigation on behalf of the State. In this case, we represent a group of private landowners who own property within the pipeline right-of-way, and who have refused to give their permission to Pacific Connector to destroy sensitive aquatic features on their properties. Our clients include farmers, timberland owners, ranchers, and homesteaders who have courageously stood up for their rights by fighting Pacific Connector's attempts to circumvent an important State law that protects the private property rights of all Oregonians.

Source: <http://readthedirt.org/liquefied-natural-gas-exports-part-1>