



July 24, 2017

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: Jordan Cove Energy Project L.P. and Pacific Connector Gas Pipeline, LP
Jordan Cove Energy Project – Docket No. PF17-4-000
Response to Scoping Comments

Dear Ms. Bose:

On February 10, 2017, the Director of the Office of Energy Projects issued a letter in the above-referenced docket approving the request of Jordan Cove Energy Project L.P. (“JCEP”) and Pacific Connector Gas Pipeline, LP (“PCGP,” and collectively, “Applicants”) to commence the Federal Energy Regulatory Commission’s (“Commission”) pre-filing review process of JCEP’s proposed liquefied natural gas export terminal in Coos County, Oregon (“LNG Terminal”) and PCGP’s associated pipeline (“Pipeline,” and collectively, the “Project”). On June 9, 2017, the Commission issued a Notice of Intent to Prepare an Environmental Impact Statement for the Project that initiated a scoping period to solicit comments on the scope of the environmental review from interested stakeholders through July 10, 2017.

Pursuant to Section 157.21(f)(9) of the Commission’s regulations,¹ Applicants submit, in Appendix A hereto, their response to comments received during the scoping period. Appendix A also includes a brief summary of the procedures used to ensure that comments received during the scoping period were addressed in this response. Applicants acknowledge that the Commission will likely continue to receive and review comments filed after the close of the comment period. To the extent concerns raised after the close of the comment period are not addressed in other submissions during pre-filing, Applicants will address such concerns in the Section 3 application and related Section 7 application.

Applicants are committed to addressing concerns raised by landowners and other stakeholders in this proceeding and the related certificate proceeding and will continue to work with stakeholders throughout this environmental review of the Project. Further, all stakeholders will have additional opportunities to provide comments on the Project.

¹ 18 C.F.R. § 157(f)(9) (2016).

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Should you have any questions, please contact me at rose.haddon@jordancovelng.com or (866) 227-9249.

Sincerely,

/s/ Rose Haddon

Rose Haddon

Director, Regulatory Affairs

Jordan Cove Energy Project, L.P.

Pacific Connector Gas Pipeline, LP

cc: John Peconom (FERC)
Attachment



APPENDIX A

Jordan Cove Energy Project L.P.
Pacific Connector Gas Pipeline, LP

Jordan Cove Energy Project
Docket No. PF17-4-000

Response to Comments - FERC Scoping Period

July 24, 2017

Prepared for:

Federal Energy Regulatory Commission

Office of Energy Projects

888 First Street NE

Washington, DC 20426

Jordan Cove Energy Project

Docket No. PF17-4-000

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Introduction

Jordan Cove Energy Project L.P. (“JCEP”) and Pacific Connector Gas Pipeline, LP (“PCGP”, and collectively, “Applicants”) are seeking authorizations from the Federal Energy Regulatory Commission (“FERC” or “Commission”) pursuant to Sections 3 and 7(c) of the Natural Gas Act (“NGA”) for JCEP’s proposed liquefied natural gas (“LNG”) export terminal (“LNG Terminal”) and PCGP’s associated pipeline (“Pipeline”). The LNG Terminal and Pipeline are referred to, collectively, as the “Project.”

The Project is designed to create a new LNG export point on the Oregon coast to serve overseas markets particularly around the Pacific Rim. The LNG Terminal would be capable of receiving natural gas, processing the gas, liquefying the gas into LNG, storing the LNG, and loading the LNG onto vessels at its marine dock. The proposed liquefaction facility would be capable of producing up to 7.8 million metric tons per annum (“mtpa”) of LNG. PCGP proposes to construct and operate a new, approximately 229-mile-long, 36-inch natural gas transmission pipeline crossing through Klamath, Jackson, Douglas, and Coos Counties, Oregon. The Pipeline would be designed to transport 1,200,000 dekatherms per day (“Dth/d”) of natural gas to the LNG Terminal from interconnections with the existing Ruby Pipeline LLC and Gas Transmission Northwest LLC systems near Malin, Oregon.

Applicants are currently in the pre-filing review process for the Project, which is administered by the FERC Staff. The purpose of the pre-filing review process is to encourage early involvement of interested stakeholders during project development to identify and resolve issues before the applications are filed with FERC. As part of the pre-filing review process, FERC Staff formally solicits comments from stakeholders to determine what issues will be evaluated in its environmental report. Applicants are required to respond to the comments submitted during the FERC scoping period in Docket No. PF17-4-000 and provided by stakeholders at the FERC scoping meetings.

To ensure that Applicants reviewed and addressed all relevant comments, Applicants created tracking spreadsheets, which include every commenter’s name, date provided, and a summary of each stakeholder’s comment(s). The tracking spreadsheet was populated with the written comments submitted during and after the scoping period through the close of business on July 11, 2017. Additionally, Applicants used internal notes from the FERC scoping meetings to populate a similar spreadsheet to ensure those public comments were identified and concerns were tracked and addressed. When FERC issues transcripts of the scoping meetings, Applicants will review and address any additional comments if necessary. Applicants are responding herein to substantive comments about the National Environmental Policy Act (“NEPA”) process and are not responding to general comments in opposition to the Project.

Each comment was reviewed to determine which subject matter category(ies) it pertained to:

Proper Scope of NEPA Review
Environmental Comments – LNG Terminal and Overall Project
Environmental Comments – Pipeline
Procedural Comments and Other Issues

Jordan Cove Energy Project

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Each comment summary was then organized in separate files by Resource Report, as applicable, to be compared and grouped with other similar comments. These groupings were further classified into subcategories within each of the subject matter categories. The comment summaries in each category and subcategory were consolidated into summary questions that were designed to address each stakeholder comment. Cross references to the draft Resource Reports that Applicants filed in Docket No. PF17-4-000, or intend to file with the formal Section 3 and Section 7 applications, are also included in this document. After the responses were completed, a final cross-check was done to ensure all relevant concerns were addressed.

This document will also be posted to the Project website at: www.jordancovelng.com and www.pacificconnectorgp.com.

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I. PROPER SCOPE OF NEPA REVIEW

A. *The Commission is not required to prepare a Programmatic EIS.*

Several commenters assert in their comments that the Commission should (or must) prepare a Programmatic Environmental Impact Statement (“EIS”) analyzing approved LNG export terminals.¹ However, “[t]he decision whether to prepare a programmatic EIS is committed to the agency’s discretion.”² The Commission need not prepare a programmatic EIS in advance of the NEPA analysis of the Project.

The Council on Environmental Quality (“CEQ”) regulations define Major Federal Actions, which require an EIS under NEPA, to include “Adoption of programs, such as a group of concerted actions to implement a specific policy or plan; systematic and connected agency decisions allocating agency resources to implement a specific statutory program or executive directive.”³

As the Commission has previously explained, it “considers proposed projects on their own merits, based on the facts or circumstances specific to the proposal.”⁴ In effect, the commenters “seek[] a Programmatic EIS for a ‘program’ that is not before the Commission.”⁵ Because no federal plan exists for LNG exports or related sites, no Programmatic EIS is required.

In suggesting otherwise, commenters ignore the distinction between (1) a federal plan for the export of natural gas and development of associated facilities, and (2) development led by private industry. In *Kleppe v. Sierra Club*, where the Supreme Court rejected plaintiffs’ argument that a Programmatic EIS was required for coal development in a particular region, the Court recognized that there was no federal plan or program in that region, and furthermore, “no evidence that the individual coal development projects undertaken or proposed by private industry and public utilities in that part of the country are integrated into a plan or otherwise interrelated.”⁶ Regional or national development of coal resources, absent a federal plan or program governing that development, was insufficient to trigger a Programmatic EIS requirement in *Kleppe*.⁷

¹ Comments of Oregon Wild at 6, Docket No. PF17-4-000 (submitted July 6, 2017) (“Oregon Wild Comments”); Comments of Western Environmental Law Center at 7, Docket No. PF17-4-000 (submitted July 10, 2017) (“WELC Comments”); Comments of Citizens Against LNG at 5, Docket No. PF17-4-000 (submitted July 10, 2017) (“Citizens Against LNG Comments”).

² *Nevada v. Department of Energy*, 457 F.3d 78, 92 (D.C. Cir. 2006) (citing *Izaak Walton League of Am. v. Marsh*, 655 F.2d 346, 374 n.73 (D.C. Cir. 1981)).

³ 40 C.F.R. § 1508.18(b)(3) (2016).

⁴ *Cameron LNG, LLC*, 147 FERC ¶ 61,230 at P 72 (2014).

⁵ *Columbia Gas Transmission, LLC*, 148 FERC ¶ 61,138 at P 37 (2014).

⁶ 427 U.S. 390, 401 (1976).

⁷ Indeed, the Court noted that without an overall plan for regional development, a programmatic EIS could not be completed. An attempt to draft a programmatic EIS without a specific plan would lead to little more than a study that merely estimates potential development and attendant environmental consequences; without the necessary factual

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The same principle applies here. Private industry’s development of a market to export LNG is not part of any comprehensive federal plan and is not associated with a single program. The Commission does not initiate LNG export projects; rather it merely responds to applications. In addition, the activities of private parties in establishing a market to export LNG are competitive in nature and are not integrated. Furthermore, these development projects are not interrelated with each other because each has independent utility.

In determining whether a Programmatic EIS is necessary, courts consider not only “the extent of the interrelationship among the proposed actions” but also “practical considerations of feasibility.”⁸ Activities related to the establishment of a market for LNG exports will occur over a substantial period of time and over a large geographic area. Because there is no overall plan for this potential development, a Programmatic EIS is not required and would not be the best way to analyze potential impacts to the environment as a result of any individual project.

Moreover, even if the Commission made the decision at some point in the future to prepare a Programmatic EIS, the current application would not be held in abeyance pending the completion of this analysis.⁹ NEPA does not require an agency to cease all projects while a Programmatic EIS is developed.¹⁰

Finally, commenters’ suggestions that the Commission should prepare a Programmatic EIS for all approved LNG sites “and seek to promote those that were the most environmentally benign”¹¹ misunderstands the role of the Commission and misstates the purpose of NEPA. First, the Commission does not “promote” any specific LNG export projects – it responds to applications from private industry. Moreover, it is axiomatic that NEPA does not mandate any particular substantive outcome, but rather simply describes the process necessary for an agency to reach an informed decision.¹² Indeed, so long as potential “adverse environmental effects of the proposed action are adequately identified and evaluated, the agency is not constrained by NEPA from deciding that other values outweigh the environmental costs.”¹³

B. Assessment of Impacts

Under NEPA, an agency’s environmental analysis must address direct, indirect, and cumulative impacts.¹⁴ Indirect effects are those

predicate, it would be impossible to predict levels of activity, the environmental consequences, and alternatives in a way that meets EIS requirements. *Id.* at 401-02.

⁸ *Kleppe v. Sierra Club*, 427 U.S. 390, 412 (1978).

⁹ WELC Comments at 8.

¹⁰ *Jones v. Lynn*, 477 F.2d 885, 891 (1st Cir. 1973); *see also Nat. Wildlife Fed. V. Appalachian Regional Commission*, 677 F.2d 883 (D.C. Cir. 1981).

¹¹ WELC Comments at 7; Citizens Against LNG Comments at 5.

¹² *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350-51 (1989).

¹³ *Id.* at 350.

¹⁴ 40 C.F.R. § 1508.25(c).

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which are caused by the action and are later in time or farther removed in distance, but are still *reasonably foreseeable*. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.¹⁵

Thus, an agency need only consider indirect effects that are both “caused by the action,” and are “reasonably foreseeable.” And, while an agency may need to expand its analysis beyond the geographic scope of the proposed project, it would need to do so only with respect to indirect effects occurring in other areas that are proximately caused by the action.

Cumulative impacts are defined as “the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions.”¹⁶ In evaluating cumulative impacts, “NEPA does not require the government to do the impractical.”¹⁷ Environmental effects of actions that still could change substantially, may not occur, or that are too far in the future to be reasonably foreseeable are speculative. Indeed, the impacts of actions that are themselves still speculative cannot legitimately be evaluated, because the precise nature, scope, and timing of such impacts are unknown. Evaluating the impacts of such actions would be little more than guesswork and would result in a meaningless analysis.¹⁸

Further, NEPA does not require an agency to analyze impacts for any particular length of time; rather, it must “consider[] the relevant factors and articulate[] a rational connection between the facts found and the choice made.”¹⁹ Estimating such impacts too far in the future would not result in a meaningful analysis and would diminish the purpose of NEPA.

¹⁵ 40 C.F.R. § 1508.8(b) (emphasis added).

¹⁶ 40 C.F.R. § 1508.7.

¹⁷ *Inland Empire Public Lands Council v. U.S. Forest Service*, 88 F.3d 754, 764 (9th Cir. 1996) ((citing *Kleppe v. Sierra Club*, 427 U.S. 390, 414 (1976) (noting that “practical considerations of feasibility might well necessitate restricting the scope of comprehensive statements”); *Krichbaum v. Kelley*, 844 F. Supp. 1107, 1118 (W.D. Va. 1994)).

¹⁸ *See Theodore Roosevelt Conservation P’ship v. Salazar*, 616 F.3d 497, 513 (D.C. Cir. 2010) (stating that a reasonably foreseeable action does not need to be finalized but must not be so preliminary as to make determining its cumulative impact meaningless).

¹⁹ *Selkirk Conservation Alliance v. Forsgren*, 336 F.3d 944, 962 (9th Cir. 2003) (upholding a three year study period for an EIS); *see also City of Shoreacres v. Waterworth*, 420 F.3d 440 (5th Cir. 2005) (finding that the Corps of Engineers was not required to consider the cumulative impacts from potential future deepening of the Houston Ship Channel because Congressional approval was required for the deepening and there was no proposal pending, and it would likely not occur for decades); *City of Dallas v. Hall*, 562 F.3d 712, 719-20 (5th Cir. 2009) (finding that the “uncertainty over whether the reservoir will be constructed and its impact on water supplies, and the long time frame for the project” precluded the court from requiring the agency to consider the effects of establishing the refuge on future water supplies).

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Several commenters discussed at length the Commission’s obligation to conduct a comprehensive assessment of supposed environmental impacts of the proposed Project. These commenters argue that NEPA requires the Commission to consider the following issues, among others: impacts from fracked and conventional gas production, transport, end use, and a comprehensive assessment of methane gas leakage.²⁰

But NEPA requires only that the Commission take a “hard look at the environmental consequences of [the] proposed action [.]”²¹ In fulfilling this mandate, NEPA only requires an agency to consider those reasonably foreseeable impacts that are proximately caused by the agency action at issue. Contrary to several commenters’ suggestions, NEPA “does not require that every conceivable study be performed and that each problem be documented from every angle to explore its every potential for good or ill.”²² Nor does it “require that all impacts be discussed in exhaustive detail;” it simply requires the provision of “such information as appears to be reasonably necessary under the circumstances for the evaluation of the project.”²³

1. Climate Change

With respect to climate change, NEPA requires proximate causation between the federal agency action under review and any alleged direct or indirect impacts. Section 102(2)(C) of NEPA requires federal agencies to consider “the environmental *impact* of the proposed action . . . including any adverse environmental *effects* which cannot be avoided should the proposal be implemented.”²⁴ CEQ regulations define “direct effects” as those “which are *caused by the action* and occur at the same time and place,” and “indirect effects as those “which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable.”²⁵

²⁰ See, e.g., Comment of the Sierra Club of Oregon, Docket No. PF17-4-000 (submitted July 5, 2017) (“Sierra Club Comments”); Comment of Margaret Philhower at 1-3, Docket No. PF17-4-000 (submitted May 3, 2017) (“Philhower Comments”), Comment of Dennis Netter at 1-2, Docket No. PF17-4-000 (submitted June 27, 2017) (“Netter Comments”) Comment of Crystal Houser at 1, Docket No. PF17-4-000 (submitted Mar. 30, 2017); Comment of Oregon Women’s Land Trust Comments at 7, Docket No. PF17-4-000 (submitted July 7, 2017) (“Oregon Women’s Land Trust Comments”); Oregon Wild Comments at 6; Comments of Stacey McLaughlin at 5, Docket No. PF17-4-000 (submitted July 10, 2017) (“McLaughlin Comments”); WELC Comments at 14, 17; Citizens Against LNG Comments at 37; CTCLUSI Comments at 43.

²¹ *Custer County Action Ass’n v. Garvey*, 256 F.3d 1024, 1034 (10th Cir. 2001) (internal quotation marks and citations omitted) (explaining the “hard look” standard).

²² *Sierra Club v. Froehlke*, 486 F.2d 946, 951 (7th Cir. 1973) (internal quotation and citation omitted). Furthermore, “[i]t is doubtful that any agency, however objective, however sincere, however well-staffed, and however well-financed, could come up with a perfect environmental impact statement in connection with any major project.” *Id.* (internal quotation and citation omitted).

²³ *Britt v. U.S. Army Corps of Engineers*, 769 F.2d 84, 91 (2d Cir. 1985).

²⁴ 42 U.S.C. 4332(2)(C) (emphasis added). See also 40 C.F.R. 1502.16 (NEPA requires consideration of “the environmental *impacts* of the alternatives including the proposed action [and] any adverse environmental *effects* which cannot be avoided should the proposal be implemented.”) (emphasis added).

²⁵ 40 C.F.R. 1508.8 (emphasis added).

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The Supreme Court has held,

Our understanding of the congressional concerns that led to the enactment of NEPA suggests that the terms “environmental effect” and “environmental impact” in Section 102 be read to include a requirement of a reasonably close causal relationship between a change in the physical environment and the effect at issue. This requirement is like the familiar doctrine of proximate cause from tort law.²⁶

Thus, only those impacts caused by the federal agency action under review require consideration in a NEPA document as a direct or indirect impact. In this light, we note that current science cannot establish a causal link between emissions of GHGs from any particular action and specific impacts to the environment. Put differently, the state of the science is that no individual project proximately causes climate change impacts. As a result, climate change impacts can never be direct or indirect impacts of any particular federal action, and NEPA does not require that they be analyzed as such.

In contrast, as explained above, cumulative impacts under NEPA are defined as “the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions.”²⁷ Thus, impacts associated with climate change can *only* be analyzed as cumulative impacts under NEPA. JCEP addresses cumulative impacts in Appendix B.1 of draft Resource Report 1.

Several commenters questioned whether the Commission will quantify and analyze the impact of increased greenhouse gas emissions over the lifespan of the Project.²⁸ Climate change, however, is a global phenomenon. It is not caused by any individual action, but is the result of individually insignificant but cumulatively significant emissions. A ton of GHG emitted anywhere in the world has the same impact as any other ton emitted. The consequence is that the climate change impact, if any, from an emitting source is no more than its ratio to total global emissions. Further, any such impact is not reasonably foreseeable.

NEPA requires consideration of environmental *effects* or *impacts*, not emissions. Emissions of GHGs are not in and of themselves an environmental effect. As a result, information relating to a federal

²⁶ *Metropolitan Edison Co. v. People Against Nuclear Energy* (“PANE”), 460 U.S. 766, 774 (1983). See also *Dep’t of Trans. v. Public Citizen*, 541 U.S. 752 (2004) (citing *PANE*).

²⁷ 40 C.F.R. § 1508.7.

²⁸ WELC Comments at 16, 27; Comments of Southern Oregon Climate Action Now at 2-3, Docket No. PF17-4-000 (submitted July 4, 2017) (“Southern Oregon Climate Action Now Comments”); Oregon Women’s Land Trust Comments at 7; Oregon Wild Comments at 4; WELC Comments at 21; Comments of Our Children’s Trust at 3, 15, Docket No. PF17-4-000 (submitted July 10, 2017) (“Our Children’s Trust Comments”); Comment of Elizabeth Eggers, Docket No. PF17-4-000 (submitted June 21, 2017); Comment of Nancy A. Holmes, Docket No. PF17-4-000 (submitted June 15, 2017); CTCLUSI Comments at 43.

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action’s emissions of GHGs will never be “essential to a reasoned choice among alternatives” in the context of NEPA because varying levels of emissions cannot be equated to different environmental impacts.²⁹

a. *Social Cost of Carbon*

Several commenters suggest that the Commission is required to calculate the social cost of carbon associated with the Project. The President, however, recently withdrew the Social Cost of Carbon tool and all underlying technical documents in his March 2017 “Presidential Executive Order on Promoting Energy Independence and Economic Growth.”³⁰ Pursuant to that Executive Order, Agencies are directed to follow OMB Circular A-4. This circular provides agencies with a method of quantifying impacts, focusing on metrics such as quality-adjusted life years.³¹ As such, the weighing of the merits and drawbacks of various alternatives need not be displayed using a monetary cost-benefit analysis and should not be when there are important qualitative considerations.³²

2. Induced Production

Several commenters suggest that potential upstream impacts associated with natural gas production should be considered as part of the Commission’s analysis of impacts for the Project.³³ The legal standard for determining when an indirect effect is sufficiently related to the proposed project so as to require consideration under NEPA is whether the proposed project is the proximate cause of the effect.³⁴ In other words, the agency action and the effect must be “two links of a single chain,”³⁵ and there must be a “reasonably close causal relationship”³⁶ between the agency action and the alleged effect.

As such, in order to support their position that the Commission must evaluate upstream and downstream impacts from natural gas production, the commenters must show a “reasonably close causal

²⁹ See 40 C.F.R. § 1502.22. The concept of mitigating climate change impacts on an individual project-level scale is illogical, and NEPA does not require its consideration. If the largest GHG-emitting project causes climate change impacts that are so insignificant that they cannot be measured on an individual scale, considering alternatives to mitigate those already insignificant impacts is even more meaningless. As a result, choosing among alternatives with insignificant differences in GHG *emissions* on a relative scale is likewise never “essential to a reasoned choice among alternatives,” see 40 CFR Section 1502.22, because there is no meaningful difference in the climate change *impacts* caused by varying emissions of any particular federal action. As a result, notwithstanding EPA’s comments to the contrary, it is not the kind of significant issue affecting an agency’s decision that requires consideration under NEPA.

³⁰ <https://www.whitehouse.gov/the-press-office/2017/03/28/presidential-executive-order-promoting-energy-independence-and-economy>

³¹ See, e.g. OMB Circular A-4 and references therein.

³² See 40 C.F.R. § 1502.23.

³³ See, e.g. Comments of Environmental Protection Agency at 12, Docket No. PF17-4-000 (submitted July 10, 2017) (“EPA Comments”); WELC Comments at 17-18.

³⁴ See *Dep’t of Transp. v. Pub. Citizen*, 541 U.S. 752, 767 (2004); *Metro. Edison Co. v. People Against Nuclear Energy*, 460 U.S. 766, 774 (1983).

³⁵ *Sylvester v. U.S. Army Corps of Engineers*, 884 F.2d 394, 398 (9th Cir. 1989).

³⁶ See *Metro. Edison Co.*, 460 U.S. at 774 n.7.

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relationship” between the Project and increased natural gas production, processing, and transportation as well as the use of LNG once it has been exported.³⁷ Here, no such causal relationship exists – as both the Commission and Federal Courts have repeatedly concluded in rejecting precisely the same argument in other cases involving natural gas facilities. Just as was the case with another LNG project, “[t]he potential environmental effects associated with shale gas development are neither sufficiently causally related to [the Project] nor are the potential environmental impacts reasonably foreseeable, as contemplated by the CEQ regulations.”³⁸

Commenters assert that “all available analyses indicate that increasing natural gas exports leads to increases in North American natural gas production, processing and transportation,”³⁹ but upstream natural gas production activities are not caused by the Project. This development and activity will occur regardless of whether the Project is built. Thus, the Commission need not consider upstream development as an indirect impact of the Project.

Moreover, even if the requisite causal relationship existed, which it does not, the specific impacts of natural gas development allegedly caused by the Project are not reasonably foreseeable. Thus, under the CEQ’s regulations, these impacts are properly excluded from the Commission’s analysis.

Commenters further argue that the Commission must consider impacts associated with an alleged “increase in coal fired electricity generation.”⁴⁰ However, these alleged impacts are neither sufficiently causally related to the Project, nor reasonably foreseeable. As such the Commission need not include them in its impacts analysis for the Project.

C. *Cumulative, Connected, and Similar Actions*

For the purposes of NEPA, the Jordan Cove Energy Project and Pacific Gas Connector Pipeline are connected actions that must be considered in the same document. The Commission will analyze the impacts of these two actions in a single, comprehensive EIS. However, other projects, including the Port Project, future maintenance dredging, and other LNG projects, are neither connected, cumulative, nor similar actions and, therefore, do not need to be considered in the same EIS.

1. Connected Actions

CEQ implementing regulations define “connected actions” as that (i) automatically trigger other actions, (ii) cannot proceed unless other actions are undertaken previously or simultaneously, or (iii) are

³⁷ See, e.g., WELC Comments at 18.

³⁸ *Sabine Pass Liquefaction Expansion, LLC*, 151 FERC ¶ 61,012 at P 90 (2015).

³⁹ WELC Comments at 17.

⁴⁰ WELC Comments at 17-18.

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interdependent parts of a larger action and depend on the larger action for their justification.⁴¹ None of the other proposals cited in the comments meet these criteria.⁴²

- a. *The Port Project is not a connected action because it has independent utility. However, reasonably foreseeable impacts of the Port Project will be included in the cumulative impacts analysis.*

The test that courts apply to determine whether separate actions subject to federal permitting are “connected” or not, for purposes of NEPA, is whether the project has independent utility – that is, whether each project will be undertaken regardless of whether any other subsequent or contemporaneous project is undertaken, or whether one project necessarily causes a separate project to occur.⁴³

Under these standards, the Project (defined as the LNG Terminal and Pipeline) is an unconnected single action. Consistent with CEQ’s regulations, the Project (i) does not automatically trigger other actions, (ii) can and will be undertaken regardless of whether other projects proceed, and (iii) does not depend on other projects for its justification.

These facts satisfy the independent utility test adopted by the majority of courts, which requires a project to demonstrate that it would take place in the absence of other projects.⁴⁴ This is certainly the case here -- the Project is a market-driven response to the burgeoning and abundant natural gas supply in the U.S. Rocky Mountain and Western Canada markets, and the growth of international demand, particularly in Asia.

Moreover, the Project has independent utility and will proceed regardless of the status of the Port Project. Reasonably foreseeable impacts from the Port Project, however, will be included in the cumulative impacts analysis for the Project.

- b. *Future Maintenance Dredging is not a Connected Action because there is no proposal, therefore it cannot be a connected action under NEPA.*

One commenter incorrectly argued that the Commission is required to include an analysis of future maintenance dredging of Coos Bay in the EIS because it is a “connected action” under NEPA.⁴⁵ This is not correct. Section 102(2)(C) of NEPA applies only to “proposals” for major Federal actions significantly

⁴¹ 40 C.F.R. § 1508.25(a).

⁴² WELC Comments at 7-10.

⁴³ See, e.g. *Great Basin Mine Watch v. Hankins*, 456 F.3d 955, 969 (9th Cir. 2006) (“We apply an ‘independent utility’ test to determine whether multiple actions are so connected as to mandate consideration in a single EIS. The crux of the test is whether each of two projects would have taken place with or without the other and thus had ‘independent utility.’ When one of the projects might reasonably have been completed without the existence of the other, the two projects have independent utility and are not ‘connected’ for NEPA’s purposes.”) (internal quotations and citations omitted).

⁴⁴ See *Great Basin Mine Watch*, 456 F.3d at 969.

⁴⁵ EPA Comments at 7.

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affecting the quality of the human environment.⁴⁶ And CEQ regulations explain that “[p]roposals or parts of proposals which are related to each other closely enough to be, in effect, a single course of action shall be evaluated in a single impact statement.”⁴⁷

As the regulations make clear, the Commission is only required to consider the impacts of “proposals” for Major Actions.” The Supreme Court explained in *Kleppe v. Sierra Club*⁴⁸ that an agency’s obligation to prepare a NEPA document is only triggered when it makes a recommendation or report on a proposal for federal action.⁴⁹ Under *Kleppe*, federal courts may not impose additional NEPA requirements during the germination process of a potential proposal, before the proposal becomes formal.⁵⁰ The mere fact that a project proponent is contemplating a course of action or conducting studies to gain background information to use in a subsequent formal decision-making process does not trigger NEPA.

Here, there is no proposal for future maintenance dredging relating to the Project beyond the initial effort discussed below. In fact, the applicable regulations preclude any party from applying for a permit for maintenance dredging more than 10 years in advance.⁵¹ Moreover, as stated above, the Project has independent utility and will proceed regardless of the status of any maintenance dredging undertaken by the Corps of Engineers projects in future years. Reasonably foreseeable impacts from such dredging, however, will be included in the cumulative impacts analysis for the Project.

2. Cumulative Actions

CEQ regulations define “cumulative actions” as those “which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement.”⁵² There are also no cumulative actions that must be considered in the Project’s EIS.

Further, as noted above, the Project will be evaluated through an EIS, not an EA. To the extent any potential impacts from other projects have reached the level of being reasonably foreseeable, the EIS for the Project will take those into account as part of the cumulative impacts analysis.

3. Similar Actions

⁴⁶ 42 U.S.C. § 4332(2)(C).

⁴⁷ 40 C.F.R. § 1502.4(a).

⁴⁸ 427 U.S. 390 (1976).

⁴⁹ *Id.* at 406.

⁵⁰ *Id.*

⁵¹ 33 C.F.R. § 325.6 (“If the authorized work includes periodic maintenance dredging, an expiration date for the authorization of that maintenance dredging will be included in the permit. The expiration date, *which in no event is to exceed ten years from the date of issuance of the permit*, will be established by the issuing official after evaluation of the proposed method of dredging and disposal of the dredged material in accordance with the requirements of 33 C.F.R. parts 320 to 325.”) (emphasis added).

⁵² 40 C.F.R. § 1508.25(a)(2).

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CEQ regulations define “similar actions” as actions “which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography.”⁵³ There are no other projects that are sufficiently reasonably foreseeable or common in time to be considered similar actions.

Finally, even if it were determined that other projects are similar actions under NEPA, CEQ regulations are clear that “[a]n agency *may* wish to analyze [similar] actions in the same impact statement. It *should* do so when the *best way* to access adequately the combined impacts of similar actions or reasonable alternatives to such actions is to treat them in a single impact statement.”⁵⁴ Thus, the regulations provide agencies with discretion whether to analyze “similar actions” in the same NEPA document.

D. *Compliance with Other Laws*

Several commenters have suggested that the Commission must fully evaluate the Project’s compliance with various other federal and state laws.⁵⁵ JCEP intends to comply with all applicable federal laws. However, under NEPA, the Commission is required to coordinate with local and state agencies in conducting its analysis. The applicable regulations expressly require that “[a]gencies shall cooperate with State and local agencies *to the fullest extent possible* to reduce duplication between NEPA and State and local requirements[.]”⁵⁶ The CEQ’s regulations explicitly allow lead agencies to incorporate by reference materials not prepared by the lead agency, provided the materials are reasonably available to the public and the information incorporated is briefly described.⁵⁷ Moreover, the lead agency is entitled to rely on the conclusions of other agencies with respect to issues within the other agencies’ areas of expertise.⁵⁸

E. *The Commission may issue a Conditional Certificate.*

Several commenters suggest that the Commission may not issue a certificate conditioned on the satisfaction of conditions of other applicable laws.⁵⁹ Under several federal laws, states have been granted specific authority to issue permits or authorizations that are not preempted by the Natural Gas Act or Pipeline Safety Act. For example, under the Coastal Zone Management Act, the State of Oregon has implemented a federally approved coastal management program, and the Department of Land Conservation and Development will be responsible for reviewing the Project’s statement of consistency with the enforceable policies of that program. Likewise, the State must certify under Section 401 of the Clean Water Act that the Project will comply with applicable state water quality standards. However, the Commission

⁵³ 40 C.F.R. § 1508.25(a)(3).

⁵⁴ 40 C.F.R. § 1508.25(a)(3) (emphasis added); *Klamath-Siskiyou Wildlands Ctr. V. Bureau of Land Mgt.*, 387 F.3d 989, 1000-01 (9th Cir. 2004).

⁵⁵ *See, e.g.* WELC Comments at 48, 130-131, 138.

⁵⁶ 40 C.F.R. § 1506.2(b) (emphasis added).

⁵⁷ 40 C.F.R. § 1502.21.

⁵⁸ *Public Citizen v. Nat’l Highway Traffic Safety Admin.*, 848 F.2d 256, 267 (D.C. Cir. 1988) (NEPA lead agency “was surely entitled to seek and cite EPA’s expert judgment regarding air quality matters.”).

⁵⁹ WELC Comments at 59, 78-79.

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is not required to wait for these authorizations from a state before issuing a certificate for the Project. Rather, the Commission can condition its approval of the Project on Applicants' compliance with specific conditions, including environmental conditions. Indeed, the Commission frequently issues conditional authorizations, and this course of action is consistent with § 7(e) of the Natural Gas Act, which expressly permits the Commission "to attach to the issuance of the certificate and to the exercise of the rights granted thereunder such reasonable terms and conditions as the public convenience and necessity may require."⁶⁰

⁶⁰ 15 U.S.C. § 717f(e); *see also, e.g. Delaware Riverkeeper Network v. FERC*, 857 F.3d 388 (D.C. Cir. 2017).

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II. ENVIRONMENTAL COMMENTS – LNG TERMINAL AND OVERALL PROJECT

Numerous stakeholders submitted comments concerning the environment and the LNG Terminal or the overall Project. The questions and answers have been organized by resource report.

A. *General Project Description (Resource Report 1)*

1. Project Information

- a. *The public should receive full maps of the Project, including shapefiles, KMZ files, and GIS files.*⁶¹

Project maps are provided in JCEP’s and PCGP’s draft Resource Reports 1 and on the Project website. Certain items related to the Project are provided to Commission Staff under seal and are subject to protected status because they contain protected landowner information or critical energy infrastructure information.

2. Purpose and Need

- a. *FERC must consider whether export proposals are contrary to the public interest.*⁶²

The Commission should consider whether construction and operation of the proposed Project facilities meets the applicable statutory standards for obtaining authorization. Section 3(a) of the NGA provides that, “[t]he Commission shall issue an order upon application unless, after the opportunity for hearing, it finds that the proposed exportation or importation will not be consistent with the public interest.”⁶³ Section 153.7(c) of the Commission’s regulations, which implements Section 3(a) of the NGA, requires a showing that the Project is not inconsistent with the public interest.⁶⁴

The Commission’s analysis is limited to the facilities themselves and not natural gas exports. Jurisdiction over imports and exports of natural gas, as a commodity, lies with the Department of Energy (“DOE”) pursuant to the Department of Energy Organization Act and a delegation of authority

⁶¹ Oregon Women’s Land Trust Comments at 6; Oregon Wild Comments at 5.

⁶² Comments of Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians at 21, Docket No. PF17-4-000 (submitted July 11, 2017) (“CTCLUSI Comments”).

⁶³ 15 U.S.C. § 717(b)(a).

⁶⁴ 18 C.F.R. § 153.7(c).

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from the Secretary of Energy.⁶⁵ The Commission considers its scope of review to be “limited to consideration of the impacts related to the place of importation [or export], which necessarily includes the technical and environmental aspects of any related facilities.”⁶⁶ The Commission will evaluate the Project under this standard; however, the Commission is not required to evaluate the environmental consequences of exporting natural gas. The Department of Energy maintains exclusive authority over the export of natural gas as a commodity.⁶⁷

- b. *The EIS must include a clear and concise statement of the underlying purpose and need for the Project.*⁶⁸

The purpose and need of the Project is provided in JCEP’s and PCGP’s draft Resource Reports 1. The overall Project purpose and need is to construct a natural gas liquefaction and deep-water export terminal capable of receiving and loading ocean-going LNG carriers that receives its natural gas supply from a point near the intersections of the Gas Transmission Northwest Pipeline system and Ruby Pipeline system in Malin, Oregon, which allows access to major production basins in Western Canada and the U.S. Rocky Mountain regions.

- c. *Applicants cannot have an overly narrow definition of the purpose and need of the Project that results in a range of alternatives that are inadequate.*⁶⁹

Under CEQ regulations, the Commission must “briefly specify the underlying purpose and need to which the agency is responding.”⁷⁰ Courts have held that in specifying the purpose and need, “[a]n agency cannot redefine the goals of the proposal that arouses the call for action; it must evaluate alternative ways of achieving its goals, shaped by the application at issue and by the function that the agency plays in the decision process.”⁷¹ “Indeed, it would be bizarre if the [Commission] were to

⁶⁵ *Id.* at P 27 (explaining delegation of authority between the Commission and DOE).

⁶⁶ *See Sabine Pass Liquefaction, LLC and Sabine Pass LNG, L.P.*, 139 FERC ¶ 61,039 at P 27, n.35 (2012) (citing *National Steel Corp.*, 45 FERC ¶ 61,100, at 61,333 (1988)).

⁶⁷ 42 U.S.C. § 7151(b).

⁶⁸ EPA Comments at 2; CTCLUSI Comments at 14.

⁶⁹ WELC Comments at 2.

⁷⁰ 40 C.F.R. § 1502.13.

⁷¹ *Citizens Against Burlington, Inc v. Busey*, 938 F.2d 190, 196 (D.C. Cir. 1991).

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ignore the purpose for which the applicant seeks a [project] and to substitute a purpose [the Commission] deems more suitable.”⁷²

Here, the ‘decision process’ is the Sections 3 and 7 process under the NGA, and the Commission’s function is to determine whether the Project satisfies the conditions for issuance of a Section 3 authorization and a certificate of public convenience and necessity under Section 7.⁷³ The Commission’s function is *not* to redefine the parameters and goals of a project as reflected in an application. The goal of the Project is “to construct a natural gas liquefaction and deep-water export terminal capable of receiving and loading ocean-going LNG carriers that receives its natural gas supply from a point near the intersections of the GTN Pipeline system and Ruby Pipeline system in Malin, Oregon.”⁷⁴ The Commission should not “redefine the goals of the proposal that arouses the call for action” as the comment seems to suggest.⁷⁵ To do so would be improper under NEPA.⁷⁶

- d. The Project should be analyzed in the context of the larger energy market, including existing export capacity and export capacity under application. FERC should consider the international gas market when evaluating the application.*⁷⁷

As the Commission has previously explained, the Department of Energy is the proper agency to assess market impacts of LNG exports. The Commission has noted that “implications for domestic consumers of natural gas, for U.S. energy supply, and for national security, all relate directly to impacts associated with the exportation of the commodity natural gas, rather than to any impacts that would be associated with the export facilities”⁷⁸ Jurisdiction over imports and exports of natural gas as a commodity lies with Department of Energy pursuant to the Department of Energy Organization Act and a delegation of authority from the Secretary of Energy.⁷⁹ Accordingly, the Commission does not have

⁷² *Louisiana Wildlife Federation, Inc. v. York*, 761 F.2d 1044, 1048 (5th Cir. 1985).

⁷³ 15 U.S.C. § 717f(c)-(e) (certificate of public convenience and necessity).

⁷⁴ Draft Resource Report 1 at 2 of Jordan Cove Energy Project L.P..

⁷⁵ *Citizens Against Burlington*, 938 F.2d at 196.

⁷⁶ *Id.*

⁷⁷ EPA Comments at 2; WELC Comments at 133; Citizens Against LNG Comments at 4.

⁷⁸ *Sabine Pass Liquefaction, LLC, et al.*, 139 FERC ¶ 61,039 at P 26 (2012), *reh’g denied*, 140 FERC ¶ 61,076 (2012) (“*Sabine Pass*”).

⁷⁹ *Id.* at P 27 (explaining delegation of authority between the Commission and DOE).

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authority to consider such issues as part of its public interest determination.⁸⁰

- e. The Project does not have sufficient need to support it. Applicants must show a change in market conditions, as outlined in the Certificate Order.⁸¹*

Applicants must demonstrate that the Project is not inconsistent with the public interest, in the case of the LNG Terminal, and is required by the public convenience and necessity, in the case of the Pipeline. Applicants will make this demonstration through their Section 3 and Section 7 applications and through materials submitted in support of those applications.

The Commission's order denying authorizations in March 2016 does not require that the Applicants show a change in market conditions prior to filing new applications. Instead, that order notes that it was "without prejudice" to filing new applications that show a market need.⁸² That is, Applicants are not precluded from filing new applications that address the issues cited by the Commission.

- f. Natural gas is not superior to coal when considering climate change. Natural gas is only superior if ignoring any emissions other than carbon dioxide.⁸³*

As discussed above, the Department of Energy maintains exclusive authority over the export of natural gas as a commodity.⁸⁴ Therefore, FERC does not have jurisdiction over the export of natural gas as a commodity, only the facilities Applicants propose to construct. Also, Applicants are proposing to export natural gas and not coal. The Commission cannot redefine this purpose and need to change the nature of the Project under consideration.

- g. LNG export has the potential to negatively impact gas prices for consumers, both in Oregon and nationwide.⁸⁵*

⁸⁰ *Id.*

⁸¹ Comment of Lucas Leblow, Docket No. PF17-4-000 (submitted Mar. 27, 2017); McLaughlin Comments at 2.

⁸² *Jordan Cove Energy Project L.P., et al.*, 154 FERC ¶ 61,190 at P 48 (2016).

⁸³ Southern Oregon Climate Action Now Comments at 2; Oregon Wild Comments at 4.

⁸⁴ 42 U.S.C. § 7151(b).

⁸⁵ WELC Comments at 113; Citizens Against LNG Comments at 12; Oregon Wild Comments at 11.

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Potential impacts on gas prices are within the scope of the Department of Energy’s analysis as the entity with jurisdiction over exports of natural gas as a commodity. FERC does not have the authority to consider gas price impacts in its analysis.

- h. Alternatives involving trestle-supported and off-shore LNG platforms do not meet the Purpose and Need of this Project.⁸⁶*

Alternatives involving fundamental changes to the nature of the project do not meet the Purpose and Need of this Project. In reviewing privately sponsored projects, the Commission’s role “is to determine whether the proposed site is environmentally acceptable, and not, as in the case of a publicly funded project, to undertake to locate where [the agency] would consider the optimum site for a new facility.”⁸⁷

- i. The EIS must evaluate the environmental impacts of abandoning the infrastructure.⁸⁸ The Commission should require PCGP to set aside money for decommissioning the Pipeline when it is no longer in use.⁸⁹*

Abandonment of the Project is not within the scope of the EIS. The Commission’s guidance manual requires information regarding abandonments only if abandonment plans are “existing or reasonably foreseeable.”⁹⁰ Applicants do not currently have any plans to abandon any portion of the Project and expect the project to remain in operation for the reasonably foreseeable future. Contracts for service at the LNG Terminal and the Pipeline could run for forty years or more. Accordingly, any potential abandonment is far beyond the scope of what is reasonably foreseeable for purposes of the Commission’s EIS in this proceeding.

3. Benefits to local communities

- a. The Project will not benefit the state of Oregon or the United States and is only for the benefit of a foreign corporation.⁹¹ Southern Oregon already*

⁸⁶ WELC Comments at 5-6.

⁸⁷ *Roosevelt Campobello Intern. Park Com’n v. U.S. E.P.A.*, 684 F.2d 1041 (1st Cir. 1982).

⁸⁸ WELC Comments at 27-28.

⁸⁹ Comment of Tim Ryan, Docket No. PF17-4-000 (submitted Mar. 24, 2017).

⁹⁰ *FERC Guidance Manual* at p 4-33.

⁹¹ *See, e.g.*, Comment of Sharon Bellusci, Docket No. PF17-4-000 (submitted Mar. 14, 2017); Comment of Melissa Hess, Docket No. PF17-4-000 (submitted Mar. 30, 2017); Comment of Melanie Mindlin (Docket No. PF17-4-000 (submitted Mar. 20, 2017).

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*has sufficient natural gas supplies and Oregon will see no benefit from the Project.*⁹²

The benefits of the Project, including benefits to the state of Oregon, Southern Oregon, and the United States are detailed in Section 1.2.3 of draft Resource Report 1 for the LNG Terminal and Section 1.1.1.1.3 of draft Resource Report 1 for the Pipeline.

B. Water Use and Quality (Resource Report 2)

- a. *Will FERC identify management of stormwater from the LNG Terminal, including the types of contaminants that will be tested for and the levels of those contaminants that will be allowed to be discharged?*⁹³

Stormwater management and related information will be provided in the Stormwater Management Plan prepared for the LNG Terminal, which will be needed to acquire Section 401 water quality certification from Oregon Department of Environmental Quality (“ODEQ”).

2. Surface and Groundwater

- a. *Will the EIS identify waterbodies likely to be impacted by the Project, the nature of the potential impacts, and the specific discharges and pollutants likely to impact those waters?*⁹⁴

A detailed discussion of the waterbodies potentially impacted by the LNG Terminal is provided in Section 2.2.2.8 of JCEP’s draft Resource Report 2 and a detailed discussion of the waterbodies potentially impacted by the Pipeline is provided in Section 2.2.3 of PCGP’s draft Resource Report 2.

- b. *Will Applicants include substantive detail regarding impacts to municipal water sources?*⁹⁵

Water supply in the JCEP Project Area is provided through municipal sources. The LNG Terminal would obtain water from Coos Bay North Bend Water Board (“CBNBWB”) groundwater wells. Potable water for

⁹² Oregon Wild Comments at 2; Comment of Greg Schechtel at 1, Docket No. PF17-4-000 (submitted June 8, 2017); Citizens Against LNG Comments at 12.

⁹³ WELC Comments at 69.

⁹⁴ EPA Comments at 3; WELC Comments at 111; Comments of Trout Unlimited at 2, Docket No. PF17-4-000 (submitted July 10, 2017) (“Trout Unlimited Comments”).

⁹⁵ WELC Comments at 126.

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the LNG Terminal will be supplied by a 12-inch-diameter potable water supply pipeline that follows the Trans Pacific Parkway north of the LNG Terminal site. A detailed discussion of impacts from construction and operation of the LNG Terminal on CBNBWB wells is provided in Section 2.1.2 of JCEP's draft Resource Report 2.

3. Water Supply

- a. *Will Applicants disclose whether the Project will violate water quality standards or otherwise substantially degrade water quality?*⁹⁶

ODEQ establishes surface water quality standards to maintain the quality of water in Oregon, consistent with public health and enjoyment, protection of aquatic life, and operation of existing industries and economic development, as well as to encourage and promote development and use of regional and area-wide wastewater collection, treatment, and disposal systems. Compliance with applicable Oregon water quality standards and applicable Total Maximum Daily Loads ("TMDLs") will be demonstrated during the 401 certification process prior to construction. Applicants will comply with ODEQ water quality standards and notification procedures.

- b. *Will FERC work with the ODEQ to identify source water protection areas?*⁹⁷

Source water protection areas are identified in Table 2.2-6 of PCGP's draft Resource Report 2. As described in Section 2.2.2 of JCEP's draft Resource Report 2, there are no potable water intake sources within 3 miles downstream of the LNG Terminal site. No municipal water supplies or watershed protection areas will be disturbed by the construction of the LNG Terminal, therefore, the LNG Terminal site would have no impacts on public watershed areas.

4. Wetlands

- a. *Will construction of the Project degrade wetlands? FERC must ensure that Applicants will work to avoid impacts to wetlands in compliance with*

⁹⁶ Trout Unlimited Comments at 6; Comments of Lakewoods Development at 1, Docket No. PF17-4-000 (submitted July 10, 2017); WELC Comments at 126; Comments of League of Women Voters at 2, Docket No. PF17-4-000 (submitted July 10, 2017) ("League of Women Voters Comments").

⁹⁷ EPA Comments at 4.

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the Clean Water Act, Section 404.⁹⁸ How many wetlands will be permanently filled by the LNG Terminal and Pipeline? Will mitigation occur for both temporary and permanent impacts to wetlands?⁹⁹ The wetland mitigation plan is lacking and insufficient.¹⁰⁰

A description of the wetlands delineated in the LNG Terminal area is provided in Table 2.3-1 in JCEP's draft Resource Report 2 and a description of temporary and permanent impacts and proposed mitigation is provided in Section 2.3.2.1 of JCEP's draft Resource Report 2. Impacts to wetlands and proposed mitigation for the Pipeline is provided in Section 2.3.4 of PCGP's draft Resource Report 2. Mitigation for permanent impacts will include permanent conversion of some wetlands from forested and scrub-shrub condition to emergent wetland conditions along some portions of the pipeline. All temporarily disturbed areas will be restored to similar condition post-construction. A wetland mitigation plan will be provided with the final application.

5. Water Use

- a. *Will FERC comprehensively evaluate the planned use of temporary groundwater wells and water sourced from the CBNBWB?¹⁰¹*

A discussion of the LNG Terminal's use of temporary wells and water sourced from the CBNBWB is provided in Section 2.2.6.1.7 of JCEP's draft Resource Report 2.

- b. *Will FERC evaluate the proposed water use at the LNG Terminal and related facilities, including in regards to climate change modeling, impacts to water quality in affected waterways, impacts to ESA-listed species, and cumulative impacts of water withdrawals? Will FERC analyze these impacts in light of threats to water resources posed by population growth, increased demand, upstream pollution, and overutilization of groundwater and surface waters?¹⁰²*

FERC and the cooperating agencies will determine the proper scope of the EIS. A detailed discussion of the LNG Terminal's proposed water use is provided in Sections 2.2.2.6 and 2.2.2.10 of JCEP's draft Resource

⁹⁸ WELC Comments at 75.

⁹⁹ WELC Comments at 76.

¹⁰⁰ CTCLUSI Comments at 38.

¹⁰¹ WELC Comments at 125-26.

¹⁰² WELC Comments at 125.

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Report 2. The cumulative impacts of water use from the Project is provided in Section 3.3.1 of Appendix B.1 of JCEP's draft Resource Report 1.

- c. *Will the EIS include information regarding relevant TMDL allocations, the water bodies to which they apply, water quality standards, and pollutants of concern?*¹⁰³

States are required to develop TMDLs for impaired waterbodies. As discussed in Section 2.2.3.1 of PCGP's draft Resource Report 2, TMDLs for the South Umpqua subbasin were completed in October 2006. TMDLs for the Upper Rogue subbasin were completed in December 2008. TMDLs for the Upper Klamath River and Lost River sub-basins were approved in December 2010. TMDLs for the Coos and Coquille sub-basins are in progress. Section 2.2.6 of JCEP's draft Resource Report 2 provides the Section 303(d) listing status of Coos Bay, which dictates the need for a TMDL. As noted, the TMDL is in progress and is in the scoping and data collection phase according to ODEQ's website.

- d. *FERC should assess the impacts of water use for hydrostatic testing and dust suppression, particularly for withdrawals that require water rights. The EIS should identify the water sources and withdrawal rates required for hydrostatic testing.*¹⁰⁴

Potential hydrostatic source locations and potential hydrostatic dewatering locations are described in Tables 1.3-2 and 1.3-3 of PCGP's draft Resource Report 1. A maximum of 61 million gallons of water will be required for the hydrostatic testing of the Pipeline and about 75,000 gallons for dust control. A discussion of hydrostatic test water and water for dust suppression for the LNG Terminal is provided in Section 2.2.4 of JCEP's draft Resource Report 2.

- e. *What measures would be taken if there is a hydrostatic test failure and a possibility for leakage of contaminated raw water from LNG storage tanks?*¹⁰⁵

The hydrostatic test is a "head" test of the steel inner tank, meaning it is filled with water at atmospheric pressure. The inner tank is enveloped by a reinforced concrete secondary containment structure. Any leaks of the

¹⁰³ EPA Comments at 3-4.

¹⁰⁴ WELC Comments at 129; League of Women Voters Comments at 2; EPA Comments at 4.

¹⁰⁵ CTCLUSI Comments at 16.

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steel inner tank are captured by the secondary containment. Additionally, the entire tank system is surrounded by a tertiary containment berm sized to hold more than the entire contents of one tank. Only one tank will be tested at a time. If the inner tank does not pass the leak test, it will be drained, repaired, and retested.

It should also be noted that “raw” water is actually just untreated well water from the CBNBWB well fields that previously supplied the Weyerhaeuser Plant. All water released from the site will follow the requirements of the National Pollutant Discharge Elimination System discharge permit. Hydrostatic test water from the LNG storage tanks will be sampled, tested, treated if necessary, and either released to the storm drain system or sent to the industrial waste water pipeline.

C. *Fish, Wildlife, and Vegetation (Resource Report 3)*

1. Wildlife

- a. *Will the EIS address impacts to all birds, including shorebirds?¹⁰⁶*

A discussion of impacts to birds, including shorebirds, is provided in Section 3.2.1.3 of JCEP’s draft Resource Report 3 and Section 3.4.1.2 of PCGP’s draft Resource Report 3.

- b. *FERC must evaluate the impacts of the Project on fish species in Coos Bay.¹⁰⁷*

A detailed discussion of impacts from construction and operation on fisheries is provided in Section 3.1.4 of JCEP’s draft Resource Report 3.

- c. *Will FERC evaluate the potential for high levels of entrainment of fish and other aquatic life in engine cooling water for LNG vessels?¹⁰⁸*

A detailed discussion of the effects of impingement and entrainment is provided in Section 3.1.4.9 of JCEP’s draft Resource Report 3.

- d. *How will the Project impact Dungeness crab habitats?¹⁰⁹*

¹⁰⁶ Citizens Against LNG Comments at 25.

¹⁰⁷ CTCLUSI Comments at 28.

¹⁰⁸ WELC Comments at 31.

¹⁰⁹ Comment of Sylvia Yamada, Docket No. PF17-4-000 (submitted June 22, 2017).

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A discussion of Dungeness crab habitats is provided in Section 3.1.1.1.2 and Appendix B.3 of JCEP’s draft Resource Report 3.

- e. Ballast water from barges/vessels is a major source of introducing non-native species into marine ecosystems. The EIS should discuss potential impacts from non-native invasive species associated with ballast water and identify mitigation measures to minimize adverse impacts.¹¹⁰*

A detailed discussion of ballast water discharge and JCEP’s compliance with applicable state and federal oversight and regulations is provided in Section 3.1.4.11 of JCEP’s draft Resource Report 3.

2. Vegetation

- a. Will FERC analyze the impacts of removing vegetation near shorelines?¹¹¹*

A detailed discussion of existing vegetation resources and impacts is described in Section 3.1.4.2 of JCEP’s draft Resource Report 3 and Section 3.3 of PCGP’s draft Resource Report 3.

- b. The EIS must disclose the wide-ranging impacts to traditional plants and gathering threatened by the Project.¹¹²*

Section 3.3.1.5 in PCGP’s draft Resource Report 3 addresses wild harvesting of non-timber products.

- c. Will FERC consider the impacts associated with invasive nuisance species? The EIS should include a Project design feature that calls for the development of an invasive species management plan to monitor and control noxious weeds and to utilize native plants for restoration of disturbed areas.¹¹³*

As described in Section 3.3.2.6 of JCEP’s draft Resource Report 3 and Section 3.3.1.4 of PCGP’s draft Resource Report 3, JCEP will implement treatments to remove exotic invasive species. In addition, to avoid introducing or spreading noxious weeds or invasive species, JCEP will conduct a preconstruction survey of the JCEP Project Area to identify noxious species listed by the Oregon Department of Agriculture (“ODA”)

¹¹⁰ EPA Comments at 9-10; CTCLUSI Comments at 39.

¹¹¹ WELC Comments at 36-37.

¹¹² CTCLUSI Comments at 29.

¹¹³ EPA Comments at 9; Confederated Tribes Comments at 39.

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that persist despite recent and previous control efforts. Following the survey, JCEP will employ standard removal practices as approved by the Bureau of Land Management (“BLM”) for the species identified in the JCEP Project Area. Methods for removal that would not aid in the dispersal of these species will be used and will include the use of integrated BMPs such as fire, mechanical or manual removal, and herbicide application, as appropriate. Treated areas would be restored by spreading native seed and planting native plants. BMPs would also be implemented to prevent the further spread of noxious weeds.

JCEP will follow the BLM’s existing policy and procedures for ongoing noxious weed control. Construction equipment that leaves the JCEP Project Area will be cleaned to prevent the export and spread of noxious weed species and seeds. JCEP will also use herbaceous and native dune seed mixes to limit germination of noxious weeds during the stabilization and restoration of the JCEP Project Area during and following construction. Once the overall JCEP Project Area is stabilized and the LNG Terminal is in operation, the site will be checked for noxious weed infestations, and control measures will be implemented that are consistent with ODA, Oregon Invasive Species Council, and BLM noxious weed control plans and policies, as applicable.

All classified state noxious weeds, which occur in the counties associated with the Proposed Route, and their characteristics are listed in Table C.3-4 in Appendix C.3. Control of noxious weeds by the Forest Service is coordinated with state, county, and private organizations through weed control districts or coordinated resource management agreements. PCGP has developed an Integrated Pest Management Plan (“IPM”) in consultation with the ODA, BLM and Forest Service (see Appendix I to the POD) to address the control of noxious weeds and invasive plants across the project. The BMPs will minimize the potential spread of invasive species and minimize the potential adverse effects of control treatments.

D. Cultural Resources (Resource Report 4)

1. Cultural Resources

- a. Will the EIS address the Project’s potential impacts on historical, cultural, and archaeological resources and show how those can be avoided?¹¹⁴*

¹¹⁴ Citizens Against LNG Comments at 38.

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Section 4.2.1 of JCEP’s draft Resource Report 4 and Section 4.2.1 of PCGP’s draft Resource Report 4 identify the Project’s impacts in terms of direct and indirect effects on cultural resources, including historical and archaeological resources. Cumulative impacts on cultural resources are addressed within Appendix B.1 to JCEP’s draft Resource Report 1.

2. Comments Regarding Tribes

- a. *The Pipeline route in Klamath, County is on the territory of Klamath, Yahooskin, and Northern Paiute tribes. Use of ancestral lands and waters set aside for the Klamath, Madoc, and Kahooskin tribes is in violation of the Treaty of 1864.*¹¹⁵

The Pipeline does not traverse any lands subject to the Treaty of 1864.

- b. *Applicants and FERC must abide by the National Historic Preservation Act (“NHPA”) and Executive Order 11375, and must consult with tribes regarding tribal resources. The EIS should describe the process and outcome of government-to-government consultation between FERC and the tribal governments, issues that were raised, and how these issues were addressed in the selection of a proposed alternative.*¹¹⁶

Section 4.1.1 of JCEP’s draft Resource Report 4 and Section 4.1.2 of PCGP’s draft Resource Report 4 describe Applicants’ correspondence with Indian tribes, including the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians, Coquille Indian Tribe, Confederated Tribes of Siletz Indians, Cow Creek Band of Umpqua Indians, the Confederated Tribes of Grande Ronde and the Klamath Tribes. Tables 4.1-1 of PCGP’s and JCEP’s draft Resource Reports 4 describe communications, identifies concerns raised or responses, and describes any ongoing communications with the tribes.

- c. *Tribal consultation should begin during the pre-filing review process.*¹¹⁷

Applicants have held extensive discussions with the Tribes to-date, including during previous iterations of the Project and during the pre-filing

¹¹⁵ See, e.g., Comment of Willa Powless, Docket No. PF17-4-000 (submitted Mar. 1, 2017); Comment of Elizabeth Field, Docket No. PF17-4-000 (submitted June 9, 2017); Comment of Rose Mary Treetop, Docket No. PF17-4-000 (submitted June 8, 2017).

¹¹⁶ EPA Comments at 10; CTCLUSI Comments at 7; The Confederated Tribes of the Grand Ronde Community of Oregon comments July 10, 2017.

¹¹⁷ CTCLUSI Comments at 12.

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review process. Section 4.1.1 of JCEP’s draft Resource Report 4 and Section 4.1.2 of PCGP’s draft Resource Report 4 describe Applicants’ correspondence with Indian tribes, including the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians, Coquille Indian Tribe, Confederated Tribes of Siletz Indians, Cow Creek Band of Umpqua Indians, and Klamath Tribes. Applicants acknowledge that interactions between Tribes and the Applicants are one aspect of, but do not satisfy the requirements for, “consultation” under the NHPA.

- d. *The LNG Terminal area contains tribal presence, cultural resources, and artifacts of the Tribe. The Tribe considers the Jordan Cove area to be a Traditional Cultural Property and is in consultations to place it on the National Register. Each site must be evaluated for NHPA eligibility. How will this area be affected by the Project?*¹¹⁸

JCEP has conducted and will conduct extensive surveys of all areas contained within the Area of Potential Effect established for the Project under the NHPA. These surveys have been and will be completed in close coordination with the respective state historic preservation office and consulting parties to identify sensitive cultural resources and develop procedures for their protection prior to any work. A summary of outstanding studies can be found in Section 4.4 of JCEP’s draft Resource Report 4. A discussion of JCEP’s cultural resources survey activity is included in draft Resource Report 4. A discussion of potential Traditional Cultural Properties (“TCPs”) potentially present in the LNG Terminal area is provided in Section 4.1.1 of JCEP’s draft Resource Report 4. JCEP will also continue to communicate with the Tribes regarding concerns over the potential effects on potentially eligible TCPs and historic properties.

- e. *How will the LNG Terminal affect archaeological sites, tribal fisheries, cultural sites, and burial sites in the LNG Terminal area? How will tribal lands and waters be impacted?*¹¹⁹

Archaeological, cultural, and burial sites identified to date, and potential effects to them, are described in Section 4.2.5 of JCEP’s draft Resource

¹¹⁸ CTCLUSI Comments at 8.

¹¹⁹ See, e.g., CTCLUSI Comments at 6 and 22-30; Comment of Elizabeth Field at 1, Docket No. PF17-4-000 (submitted June 9, 2017); Comment of Wendy Joe at 1, Docket No. PF17-4-000 (submitted June 8, 2017); Comment of Laura Shadley, Docket No. PF17-4-000 (submitted Mar. 17, 2017); CTCLUSI Comments at 23; Sierra Club Comments.

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Report 4. Surveys, resource evaluations, and effects assessments are ongoing.

E. *Socioeconomics (Resource Report 5)*

1. Economic Benefits

- a. *The economic benefits of the Project are overstated in the resource reports.¹²⁰ The economic impact reports are incomplete and must provide more detail in the Application and EIS.¹²¹*

Further economic benefits are described in Section 1.2.3 of JCEP's draft Resource Report 1 and Section 1.1.1.1.3 of PCGP's draft Resource Report 1. These have been produced. Appendices A.5 and B.5 to JCEP's draft Resource Report 5 provide an economic impact analysis for construction and operation for the Project.

- b. *Job creation in the surrounding area would only be temporary and therefore not economically beneficial to the community. The Project will not create jobs.¹²²*

A detailed discussion of the impacts of Project construction and operation on local employment levels is provided in Section 5.2.1 of JCEP's draft Resource Report 5 and Section 5.3 of PCGP's draft Resource Report 5. Construction of the LNG Terminal will require 4,365 full time equivalent jobs over the 53-month construction period. Construction is expected to employ 1,996 workers in the peak month and 1,023 workers in an average month. The construction workforce for the Pipeline is expected to average 646 workers a month over a two-year construction period, and peak at 4,131 workers in the middle of the first construction season for the Pipeline. As discussed in Appendix B.5 to JCEP's draft Resource Report 5, the Project, in total, will employ 215 workers in Oregon during the first full year of operations.

¹²⁰ See, e.g., Comment of Sandra Egleston, Docket No. PF17-4-000 (submitted Mar. 27, 2017); Comment of Alexandra Reid, Docket No. PF17-4-000 (submitted Mar. 30, 2017).

¹²¹ Citizens Against LNG Comments at 35.

¹²² See, e.g., Comment of Avram Chetrom, Docket No. PF17-4-000 (submitted Apr. 3, 2017); Comment of Rob Kyker, Docket No. PF17-4-000 (submitted Mar. 26, 2017).

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- c. *The EIS must address whether there are sufficient worker populations to supply the needed labor force.*¹²³

The Project will increase the number of jobs available in the Project area, and workers are likely to relocate to the Project area for such employment opportunities. The total contribution to the regional population as a result of the LNG Terminal could be an average of about 1,023 workers per month during construction, with 221 of them commuting daily from an existing accommodation. An estimated 57 workers would relocate with their households, which would result in the addition of an estimated 156 people to the area, using an average household size of 2.74 persons. Also, it is estimated that 745 workers would relocate as individuals. This influx of 901 people would represent an approximately 3 percent increase in the combined 2014 population of the cities of Coos Bay and North Bend (25,613). At the peak of construction, the single nonlocal workforce (about 1,462 people without families factored in) would represent about 6 percent of the 2014 combined population of Coos Bay and North Bend.

As discussed in Section 5.3.2 of PCGP's draft Resource Report 5, the construction workforce for the Pipeline is expected to average 646 workers a month over a two-year construction period, and peak at 4,131 workers in the middle of the first construction season. PCGP expects that workers who reside in the Pipeline project area will comprise approximately half of the construction workforce and that non-residents (non-local workers) will comprise the other half.

2. Property

- a. *How will property values be affected?*¹²⁴ *The Project will negatively impact property values of surrounding landowners.*¹²⁵ *The Commission must evaluate the impacts of the Project on property rights generally.*¹²⁶

As reflected in Section 5.3.6 of PCGP's draft Resource Report 5, available studies support the conclusion that construction and operation of the Project will not negatively impact property values. A discussion of the

¹²³ McLaughlin Comments at 5-6.

¹²⁴ CTCLUSI Comments at 48.

¹²⁵ See, e.g., Comment of Kevin D. Jenkins, Docket No. PF17-4-000 (submitted May, 3, 2017); Comment of James Moore, Docket No. PF17-4-000 (submitted June 4, 2017).

¹²⁶ Comment of Fred and Judy Blue, Docket No. PF17-4-000 (submitted Apr. 17, 2017).

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impacts to housing from the LNG Terminal is provided in Appendix D.5 to JCEP's draft Resource Report 5.

- b. *Rent and housing costs will likely increase during construction, causing local residents to pay a higher rate. How will this be addressed?*¹²⁷

A detailed discussion of impacts to housing, including rental costs, is provided in Section 5.2.2 of JCEP's draft Resource Report 5 and Section 5.3.3 of PCGP's draft Resource Report 5.

3. Other Socioeconomic Concerns

- a. *How will transportation and traffic in the local community be impacted during and after construction?*¹²⁸

A detailed discussion of transportation impacts, including traffic impacts, are provided in Section 5.2.7 of JCEP's draft Resource Report 5 and Section 5.3.5 of PCGP's draft Resource Report 5.

- b. *How will the increased workforce in the area affect crime rates?*¹²⁹

Potential effects on crime rates will be addressed in Resource Report 5 for the LNG Terminal and the Pipeline.

- c. *Studies show that introduction of a power plant has negative socio-economic impacts on the surrounding community, including decreases in household income, educational attainment, and the proportion of homes that are owner-occupied. Will the same occur here?*¹³⁰

A discussion of the socioeconomic impacts on the surrounding community from the LNG Terminal is provided in draft Resource Report 5.

- d. *How will the Project affect tourism?*¹³¹

¹²⁷ Oregon Wild Comments at 12; CTCLUSI Comments at 47.

¹²⁸ Oregon Wild Comments at 9; Comment of Clarence Adams at 1, Docket No. PF17-4-000 (submitted July 10, 2017) (“Adams Comments”).

¹²⁹ See, e.g., Comment of Bob Thomas, Docket No. PF17-4-000 (submitted June 26, 2017); Oregon Women's Land Trust Comments at 7; CTCLUSI Comments at 48.

¹³⁰ CTCLUSI Comments at 48.

¹³¹ CTCLUSI Comments at 15.

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A detailed discussion of the Project's impacts on tourism is provided in Section 5.2.11 and Appendix C.5 of JCEP's draft Resource Report 5.

- e. *How will the Project affect local groups' ability to conduct outdoor trainings and events in the Project area?*¹³² *The Project may negatively impact recreational activities, including fishing and ecotourism.*¹³³

A detailed discussion of the Project's impacts on recreational activities, including the ability to use outdoor space for recreational activities and tourism, is provided in Appendix C.5 of JCEP's draft Resource Report 5.

- f. *Local emergency medical and fire services are insufficient to support any future accidents due to the Project.*¹³⁴

JCEP has a reimbursement agreement in place with Coos County to cover any costs associated with public safety during construction and operation. JCEP has committed to building and funding the Southwest Oregon Regional Safety Center ("SORSC") within the LNG Terminal site. The fully operational security and safety complex will include the Jordan Cove Security Center and the Emergency Operations Center serving Coos County and the LNG Terminal. The SORSC will house surveillance, communications, and command and control systems to support security and response operations and provide emergency dispatch capabilities for the entirety of Coos County. A continuously manned Jordan Cove Fire Station will be located at a separate facility between Ingram Yard and South Dunes. The station will be commanded by a Jordan Cove Fire Chief and staffed with fully trained industrial fire fighters. In the event of an accident at the LNG Terminal, the costs of emergency response, containment, damages, remediation, and repairs would be borne by JCEP or its insurance carrier. Other safeguards related to the LNG Terminal are discussed in Section 5.2.4.1 in JCEP's draft Resource Report 5. Further, a detailed description of JCEP's Emergency Response Plan is provided in Section 13.39 of JCEP's draft Resource Report 13.

PCGP will work with local law enforcement, fire departments, and emergency medical services to coordinate effective emergency responses.

¹³² Oregon Women's Land Trust Comments at 3.

¹³³ Comment of Nonda Henderson, Docket No. PF17-4-000 (submitted Mar. 30, 2017); Comment of Brandy Charlan, Docket No. PF17-4-000 (submitted June 8, 2017).

¹³⁴ See, e.g., Sierra Club Comments; Comment of John Ketchum, Klamath County Fire Defense Board, Docket No. PF17-4-000 (submitted Mar. 30, 2017); Comment of Sue Hilton, Docket No. PF17-4-000 (submitted June 26, 2017).

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A detailed discussion of other plans to reduce demands on local service providers is provided in Section 5.3.4 of PCGP's draft Resource Report 5.

F. *Geological Resources (Resource Report 6)*

- a. *The geological reports and appendices to Resource Reports 6 are currently missing. This prevents individuals and groups from fully evaluating the proposal.*¹³⁵

The geological reports and appendices to Resource Reports 6 for the LNG Terminal and Pipeline will be provided with the final applications for the Project.

G. *Soils (Resource Report 7)*

- a. *The soil in the LNG Terminal is primarily composed of dune land and fine sand, which presents significant erosion risks from both water and wind. The EIS must analyze these conditions.*¹³⁶

A detailed discussion of soil characteristics, including dune land and fine sand, is provided in Section 7.2.2 of draft JCEP's draft Resource Report 7. A discussion of potential erosion control issues is provided in Section 7.3.2.1 of JCEP's draft Resource Report 7.

H. *Land Use, Recreation, and Aesthetics (Resource Report 8)*

1. Land Use

- a. *Will the EIS document all land cover and uses in the Project area, impacts to the land cover and uses, and mitigation measures that would be implemented to reduce those impacts?*¹³⁷

A description of land uses affected by construction and operation of the LNG Terminal is provided in Table 8.1-2 of JCEP's draft Resource Report 8 and a description of land uses crossed by the Pipeline is provided in Table 8.3-1 of PCGP's draft Resource Report 8. A detailed discussion of impacts and proposed mitigation to land use from the LNG Terminal is provided in Section 8.3.4 of JCEP's draft Resource Report 8, and the JCEP Project Area would have no temporary or long-term adverse impacts to

¹³⁵ CTCLUSI Comments at 17.

¹³⁶ CTCLUSI Comments at 17.

¹³⁷ EPA Comments at 9.

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residential, commercial, or mineral land uses in the JCEP project area. A detailed discussion of impacts and proposed mitigation associated with the Pipeline is provided in Section 8.7 of PCGP’s draft Resource Report 8.

2. Recreation

- a. *The LNG Terminal borders a highly used dune national recreation area. What restrictions or impacts will be imposed on the recreational and tourism industry surrounding the Oregon Dunes National Recreational Area (“ODNRA”)?¹³⁸*

The Project will not restrict use of the ODNRA, since neither construction nor operational activities would occur within the ODNRA. The LNG Terminal site, which is south of the Trans-Pacific Parkway, has been under private ownership, and there are no known conflicts in use between the ODNRA and the previous uses of the site, which included a mill, ranch, dairy, log sorting, and material disposal (such uses are described in Section 8.1.1.3 of JCEP’s draft Resource Report 8). Section 8.3.4.3 of JCEP’s draft Resource Report 8 concludes that “[o]peration and maintenance of the LNG Terminal would have no direct adverse effects on nearby recreational areas, including the Oregon Dunes and the Shorelands [Special Resource Management Area].”

3. Aesthetics

- a. *Will FERC analyze how the Project will degrade the quality of scenic vistas in the area? Will the EIS address light pollution?¹³⁹*

A discussion of the effects of the LNG Terminal on visual resources will be provided in Section 8.6 of JCEP’s Resource Report 8, to be filed with its application. A detailed discussion of the effects of the Pipeline on visual resources and aesthetics is provided in Section 8.7.13 of PCGP’s draft Resource Report 8.

I. *Air and Noise Quality (Resource Report 9)*

1. Air

- a. *Will the Project degrade local air quality at the LNG Terminal and surrounding communities? Project operations will emit air pollution from*

¹³⁸ Citizens Against LNG Comments at 43.

¹³⁹ CTCLUSI Comments at 40.

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*compressors, vaporizers, ships, harbor tugs, equipment, support vehicles gas flares, construction dust, and other sources, all of which must be included in the analysis.*¹⁴⁰

Air quality impacts associated with the construction of the LNG Terminal can be classified as impacts associated with fugitive dust emissions (particulate matter emissions suspended in air) during site preparation and impacts associated with operating fossil fuel burning equipment. The construction of the LNG Terminal would result in a temporary increase in emissions. The operation of the LNG Terminal would include operating the compressor-direct drive combustion turbines, a thermal oxidizer for the gas conditioning system, an auxiliary boiler, diesel generator engines, diesel backup engines, flares, and firewater pump engines. The LNG Terminal equipment would combust fossil fuels and would release combustion emissions that include NOX, CO, PM, VOCs, SO₂, GHGs, and hazardous air pollutants. A more detailed discussion of impacts from the LNG Terminal is provided in Section 9.2 of JCEP's draft Resource Report 9.

- b. *Will the EIS detail ambient air conditions (baseline or existing conditions), National Ambient Air Quality Standards (“NAAQs”), and criteria pollutant nonattainment areas?*¹⁴¹

For the LNG Terminal, ambient air quality is discussed in Section 9.1.3, NAAQs are discussed in Section 9.1.2.1, and attainment status is discussed in Section 9.1.2.2 of JCEP's draft Resource Report 9. For the Pipeline, ambient air quality baseline or existing conditions, NAAQS and criteria pollutant nonattainment areas are discussed in Section 9.3. Appendix I.9 of PCGP's Resource Report 9 will contain criteria pollutant nonattainment area maps.

- c. *Will the EIS incorporate mitigation strategies to minimize fugitive dust and toxic emissions, and emission controls for particulate matter and ozone precursors for construction-related activity?*¹⁴²

The LNG Terminal would include items to minimize the air quality impacts during construction and operation of the LNG Terminal. A

¹⁴⁰ CTCLUSI Comments at 40; Comments of Oregon Physicians for Social Responsibility at 1-2, Docket No. PF17-4-000 (submitted July 7, 2017) (“Oregon Physicians Comments”); WELC Comments at 12.

¹⁴¹ EPA Comments at 7; WELC Comments at 12.

¹⁴² EPA Comments at 7.

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discussion of mitigation measures is provided in Section 9.2.3 of JCEP's draft Resource Report 9.

- d. *Will the LNG Terminal require the ability to flare gas? Will this degrade air quality?*¹⁴³

A discussion of air impacts from flaring is provide in Section 9.2.2 of draft Resource Report 9.

- e. *Will the EIS include an assessment of ambient levels of air toxics currently listed under the Clean Air Act's air toxics program (NESHAPS)?*¹⁴⁴

A discussion of NESHAPs is provided in Section 9.1.2.5 of JCEP's draft Resource Report 9.

2. Noise

- a. *FERC must investigate negative impacts of noise pollution. FERC should conduct a noise and vibration impact assessment.¹⁴⁵ What are the noise effects from LNG ship traffic in the area? Noise from construction and operation of the Project will have lasting and unpredictable impacts to the environment, ecosystem, and human health.¹⁴⁶*

A detailed discussion of the impacts to noise quality from the LNG Terminal is provided in Section 9.4 of JCEP's draft Resource Report 9. Facility operational noise levels are being evaluated and will be updated in the final application. A detailed discussion of the impacts to noise quality from the Pipeline is provided in Section 9.8 of PCGP's draft Resource Report 9.

As described in Section 9.4.2.2 of JCEP's draft Resource Report 9, underwater noise levels from large commercial ships are fairly consistent, ranging from about 177 dB to 188 dB re 1 μ Pa at one meter. The Coos Bay area has therefore historically, and currently, experienced elevated underwater noise levels due to shipping. LNG carriers travelling at half speed generate underwater noise levels of about 175 dB re 1 μ Pa at one meter. Considering both peak noise levels and cumulative sound exposure, vessel noise is not expected to exceed the National Marine Fisheries

¹⁴³ Oregon Physicians Comments at 2.

¹⁴⁴ WELC Comments at 15.

¹⁴⁵ Oregon Physicians Comments at 2; Citizens Against LNG Comments at 25.

¹⁴⁶ WELC Comments at 35; CTCLUSI Comments at 41.

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Service guideline thresholds for the onset of permanent threshold shift for cetaceans and pinnipeds.

J. *Alternatives (Resource Report 10)*

1. Alternatives generally

- a. *FERC must consider whether other site locations will meet the purpose and need and minimize impacts.¹⁴⁷ FERC must consider all reasonable alternatives to the Project as a whole and consider alternative designs to avoid potential impacts.¹⁴⁸*

JCEP's and PCGP's drafts of Resource Report 10 each contain a discussion of the methodology used to identify reasonable alternatives to the construction and operation of the LNG Terminal at Coos Bay and the Pipeline, respectively (proposed action) and an evaluation of the comparative environmental impacts the proposed action and reasonable alternatives that could achieve the Project's overall purpose and need.

- b. *FERC must consider whether alternative Project configuration will minimize the potential for hazards and impacts to property.¹⁴⁹*

Sections 10.3.3 and Section 10.4 of JCEP's draft Resource Report 10 compare the potential environmental impacts of the proposed Project with the identified reasonable site alternatives and design configurations.

- c. *FERC should consider and adopt alternatives that do not impact or minimize impacts to special status species.¹⁵⁰*

JCEP's and PCGP's drafts of Resource Report 10 include an evaluation of endangered or threatened species habitats in the comparison of environmental impacts of reasonable alternatives.

¹⁴⁷ CTCLUSI Comments at 20-21.

¹⁴⁸ EPA Comments at 2; Trout Unlimited Comments at 2; Comments of Daniel Black at 1, Docket No. PF17-4-000 (submitted July 6, 2017); Oregon Wild Comments at 7; WELC Comments at 5.

¹⁴⁹ CTCLUSI Comments at 21.

¹⁵⁰ Comment of Klamath Siskiyou Wildlands Comments at 7, Docket No. PF17-4-000 (submitted July 7, 2017) ("KS Wild Comments"); Oregon Wild Comments at 7.

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- d. *Will FERC analyze the environmental consequences of the proposed alternatives on aquatic resources?*¹⁵¹

JCEP's draft Resource Report 10 evaluate the comparative environmental impacts of reasonable alternatives, including aquatic resources as screening criteria for Port site selection in Section 10.3.3 and within evaluation of site alternatives in Section 10.3.4.

2. Non-Pipeline System Alternatives

- a. *Investments should be made in renewable energy rather than natural gas infrastructure.*¹⁵²

Renewable alternatives are not reasonable alternatives to the Project within the meaning of NEPA because they do not meet the Project's purpose and need. Under NEPA, federal agencies must consider reasonable alternatives to proposed actions. CEQ regulations require that an EIS "briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action."¹⁵³ When an agency evaluates alternatives to a proposed project, it "must answer three questions in order. First, what is the purpose of the proposed project? Second, given that purpose, what are the reasonable alternatives to the project? And third, to what extent should the agency explore each particular alternative?"¹⁵⁴ Thus, to be considered a reasonable alternative under NEPA, the alternative must satisfy the underlying purpose of and need for the proposal.

Draft Resource Report 1 correctly identifies the purpose and need as "to construct a natural gas liquefaction and deep-water export terminal capable of receiving and loading ocean-going LNG carriers that receives its natural gas supply from a point near the intersections of the GTN Pipeline system and Ruby Pipeline system in Malin, Oregon."

Certain commenters assert that the Commission should consider renewable energy alternatives in evaluating the Project. This argument

¹⁵¹ EPA Comments at 5.

¹⁵² See, e.g., Comment of Nina Friedman, Docket No. PF17-4-000 (submitted Mar. 30, 2017); Comment of Jenet Johnson, Docket No. PF17-4-000 (submitted Apr. 27, 2017); Comment of Tim Ream, Docket No. PF17-4-000 (submitted June 15, 2017); Oregon Wild Comments at 7.

¹⁵³ 40 C.F.R. § 1502.13.

¹⁵⁴ *Habitat Education Ctr., Inc. v. U.S. Forest Service*, 593 F. Supp. 2d 1019, 1026-27 (E.D. Wis. 2009), *aff'd*, 609 F.3d 897 (7th Cir. 2010).

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misunderstands the Commission’s NEPA obligations in the context of its Section 3 and Section 7 process under the NGA. As noted above, and as further discussed in response to Section II(A)(2)(C), under CEQ regulations, the Commission must “briefly specify the underlying purpose and need to which the agency is responding.”¹⁵⁵ Non-pipeline energy alternatives do not meet the purpose and need of the project and are not *reasonable* alternatives. Increasing renewable energy in the area, for example, will not provide natural gas supply to a natural gas liquefaction and export terminal.

- b. *The EIS must include a serious no-action alternative. FERC must consider whether conservation, efficiency improvements, and renewable energy can meet all or part of the energy demand the Project proposes to address.*¹⁵⁶

A detailed discussion of the No Action Alternative is provided in Section 10.1.1 of JCEP’s draft Resource Report 10 and Section 10.2.1 of PCGP’s draft Resource Report 10.

K. Reliability and Safety (Resource Report 11) and Engineering and Design Material (Resource Report 13)

1. Tsunami and Earthquake Safety

- a. *The Project is located in an area prone to earthquakes and tsunamis. Information provided in the resource reports is insufficient to analyze the potential impacts of an 8.5-9.0 scale earthquakes.*¹⁵⁷

The Seismic Ground Motion Hazard Study (J1-000-GEO-RPT-KBJ-00002-00) for the proposed LNG Terminal will be included in Appendix I.13 to JCEP’s draft Resource Report 13 and will describe the regional and site geology, fault identification and related studies, and development of site-specific ground motions. In addition, a detailed discussion of seismic design basis and criteria for the LNG Terminal structures is provided in Section 13.3.1 of JCEP’s draft Resource Report 13.

¹⁵⁵ 40 C.F.R. § 1502.13.

¹⁵⁶ WELC Comments at 4; McLaughlin Comments at 3; CTCLUSI Comments at 20-21.

¹⁵⁷ See, e.g., Sierra Club Comments; Comment of Sandra Egleston, Docket No. PF17-4-000 (submitted Mar. 27, 2017); Comment of Amy Patton Docket No. PF17-4-000 (submitted Mar. 28, 2017); Comment of John Stadter, Docket No. PF17-4-000 (submitted June 26, 2017); CTCLUSI Comments at 16.

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- b. *Commenters raised concerns about the Project’s location in the Cascadia Subduction Zone (“CSZ”). The LNG Terminal sits in an at-risk area right on the Pacific Fault Line and within a known tsunami inundation zone. Applicants have failed to identify critical engineering and safety measures to protect against a large tsunami.¹⁵⁸*

Given the proximity of the CSZ and the subsequent risk of tsunami, design of the LNG Terminal mitigates the tsunami hazard (hydrodynamic/debris loads) by elevating those parts of the LNG Terminal considered critical to the safety and integrity of the facility above the design tsunami event inundation or by provision of protective berms. A description of the tsunami risks and related engineering design is provided in Section 13.3.2 of draft Resource Report 13. The detail modeling of the CSZ rupture scenarios is provided in the Tsunami Maximum Runup Modeling (J1-000-MAR-RPT-MON-00002-00) included in Appendix I.13.2 of draft Resource Report 13.

- c. *The GRI Report is flawed due to not including all earthquake fault lines in the area.¹⁵⁹*

An updated discussion of all active fault lines around the area will be included in the Seismic Ground Motion Hazard Study (J1-000-GEO-RPT-KBJ-50002-00) for the LNG Terminal. This report will be included in Appendix I.13 of Resource Report 13.

2. Fire

- a. *Explosions near the Project could lead to wildfires in the surrounding area.¹⁶⁰*

Natural hazards, such as wildfire, volcanoes, and landslides, are discussed in Section 13.3.7 of JCEP’s draft Resource Report 13, although these hazards have not been identified as significant risks to the LNG Terminal.

A description of Pipeline hazards is included in Section 13.3 of PCGP’s draft Resource Report 11, however forest fires are not considered a direct

¹⁵⁸ CTCLUSI Comments at 16; Comment of Amy Patton, Docket No. PF17-4-000 (submitted Mar. 28, 2017); Oregon Physicians Comments at 2.

¹⁵⁹ Comment of Bob McCaffrey at 9.

¹⁶⁰ Comment of Kayte Wehmiyer, Docket No. PF17-4-000 (submitted June 8, 2017).

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threat to underground pipelines due to the insulating effects of soil cover over the Pipeline.

3. Hazardous Materials

- a. *Will the EIS address potential direct, indirect, and cumulative impacts of hazardous waste from construction and operation of the Project?¹⁶¹ What backup control systems will be used onsite and used for any process with regard to hazardous waste generated by the Project?¹⁶²*

The EIS will address potential direct, indirect, and cumulative impacts of hazardous waste from construction and operation of the Project. Hazardous materials are described in Section 11.2.1 of JCEP's draft Resource Report 11.

- b. *The Commission should evaluate the worst-case LNG spill and fire near the LNG Terminal. Will the EIS evaluate LNG hazardous burn zones?¹⁶³*

As an initial matter, NEPA does not require agencies to analyze theoretical worst-case outcomes. Rather, the regulations only require agencies to discuss uncertainties in their analysis, which the Commission will undertake.¹⁶⁴

In this light, FERC will evaluate the siting of the LNG Terminal with regards to potential off-site public safety consequences. JCEP has evaluated the accidental LNG leakage scenarios and associated design spill rates to determine thermal radiation and flammable vapor-gas dispersion exclusion zones for the LNG Terminal in accordance with 49 C.F.R. 193.2057 and 49 C.F.R. 193.2059. A preliminary Facility Siting Hazard Analysis (J1-000-ADM-RPT-KBJ-50132-00) detailing the results of the thermal radiation model and methodology for the vapor-gas dispersion modeling is included in Appendix H.13.3 of draft Resource Report 13. The vapor-gas dispersion modeling results will be presented in a subsequent revision of the Facility Siting Hazard Analysis with Resource Report 13.

¹⁶¹ EPA Comments at 10.

¹⁶² Citizens Against LNG Comments at 21.

¹⁶³ Sierra Club Comments; Oregon Wild Comments at 9; Citizens Against LNG Comments at 38, 42.

¹⁶⁴ 40 C.F.R. § 1502.22(b).

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4. Other Safety Issues

- a. *Will the area around the LNG Terminal be stabilized or engineered before construction to mitigate liquefaction, lateral spreading, and seismic slope stability?*¹⁶⁵

Ground improvements to mitigate soil liquefaction, lateral spreading and seismic slope stability will be performed during the construction phase of the LNG Terminal. The scope and methods of ground improvements are described in the LNG Terminal Geotechnical Report (J1-000-GEO-RPT-KBJ-50001-00) included in Appendix J.13.4 of Resource Report 13.

- b. *Project construction may increase vulnerabilities related to terrorism and national security.*¹⁶⁶

The LNG Terminal will be designated as a Marine Transportation Related Facility and will comply with the requirements of the Marine Transportation Security Act of 2002 (“MTSA”). Under the MTSA, the U.S. Coast Guard (“USCG”) is the lead agency and has jurisdictional authority over the security of the facility and for approval of security plans for the entire LNG Terminal, including the marine terminal and the receiving, processing, and storage portions of the LNG Terminal, as designed.

A Facility Security Assessment (“FSA”) would be prepared for the entire facility as required by 33 C.F.R. Part 105 prior to facility startup, as well as a Facility Security Plan (“FSP”) drafted and submitted for approval to the USCG Captain of the Port (“COTP”), as required by 33 C.F.R. Part 105, a minimum of sixty days before commencing operations. Once approved, the FSP is revalidated every five years. The LNG Terminal is subject to inspections by the USCG for verification of compliance with the approved FSP as well as for the conduct of drills and exercises.

Section 13.32 of draft Resource Report 13 provides a description of the process for the development of the LNG Terminal security plans.

¹⁶⁵ CTCLUSI Comments at 17.

¹⁶⁶ *See, e.g.*, Comment of Tom Bender, Docket No. PF17-4-000 (submitted June 15, 2017); Comment of Amy Patton, Docket No. PF17-4-000 (submitted Mar. 28, 2017).

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- c. *The Project could have negative impacts to public health. The EIS should consider potential health impacts to the greater community of Coos Bay.*¹⁶⁷

The EIS will consider potential health impacts to the greater community of Coos Bay. Public safety concerns associated to the LNG Terminal are addressed in Resource Report 11.

- d. *Will the EIS address the impacts of construction and operation of the Project, including potential hazardous events, at a site with known contamination (Weyerhaeuser Property)?*¹⁶⁸

The EIS will address the impacts of construction and operation of the Project, including potential hazardous events and known site contaminants. Potential hazardous events and soil contamination are described in draft Resource Report 11 and draft Resource Report 7, respectively.

JCEP has prepared a Contaminated Media Management Plan for handling known and unanticipated soil contamination discovered during construction of the LNG Terminal, this plan will be included in Appendix I.7 of Resource Report 7.

- e. *How much mercury will be collected or emitted due to the Project?*¹⁶⁹

As described in Sections 11.2.1.8, 11.2.2.10, and 11.3.10 of JCEP's draft Resource Report 11, mercury may be present in very small quantities in the feed gas. Mercury is reactive with aluminum, which is used as the material of construction for the heat exchangers in the liquefaction system. Therefore, mercury will be removed via a mercury guard bed during the pretreatment process. Mercury is removed from the feed gas with a mercury guard bed, which chemically absorbs the mercury to form mercury sulfide. This stable compound remains in the guard bed. The guard bed is disposed of off-site at a licensed facility in accordance with applicable regulations and replaced properly at the end of its life by qualified personnel.

¹⁶⁷ See, e.g., Comment of Sheyenne Markley, Docket No. PF17-4-000 (submitted June 8, 2017); Comment of Wainawid Schroeder, Docket No. PF17-4-000 (submitted June 8, 2017); WELC Comments at 51; CTCLUSI Comments at 20.

¹⁶⁸ WELC Comments at 16.

¹⁶⁹ Citizens Against LNG Comments at 21.

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- f. *The LNG Terminal places the Southwest Regional Airport and local air pilots at extreme risk. Will this risk be fully analyzed, including the risk of an airplane hitting the LNG vessel or facility?*¹⁷⁰

A detailed discussion of the impacts of the LNG Terminal on the regional airport is provided in Section 11.2.3.7.3 of JCEP's draft Resource Report 11. The Federal Aviation Administration ("FAA") and USCG have been in discussions over the past two years and have made arrangements for ship agents and the airport tower to notify FAA Renton when a ship will be crossing the runway. This new requirement applies to both existing ships using the channel and any future LNG carriers. Further, the LNG Terminal's design does not include any structure over approximately 167 feet North American Vertical Datum of 1988 ("NAVD88") except the LNG storage tanks and amine regenerator, and JCEP does not anticipate any hazard to air travel from structures or ground flare operation during startup, shutdown or upset conditions. Structures over 167 feet NAVD88 will be provided with mitigations in accordance with consultations to be conducted with the FAA.

¹⁷⁰ Oregon Wild Comments at 9.

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III. ENVIRONMENTAL COMMENTS – PIPELINE

Many stakeholders submitted comments concerning the environment and the Pipeline. The questions and answers have been organized by resource report.

A. *General Project Description (Resource Report 1)*

1. Purpose and Need

- a. *Southern Oregon has sufficient natural gas supplies and a Pipeline is unnecessary.*¹⁷¹

The overall Project purpose and need is to construct a natural gas liquefaction and deep-water export terminal capable of receiving and loading ocean-going LNG carriers that receives its natural gas supply from a point near the intersections of the GTN Pipeline system and the Ruby Pipeline system in Malin, Oregon. The Pipeline fits the Project's purpose and need by enabling access to these supplies to transport them to the LNG Terminal for export of 7.8 mtpa of LNG.

B. *Water Use and Quality (Resource Report 2)*

1. Surface and Groundwater

- a. *How will Applicants minimize impacts to key watersheds including the South Umpqua River, North and South Forks, Little Butte Creek, Spencer Creek, and Clover Creek?*¹⁷²

PCGP discusses surface water impacts and mitigation measures in Section 2.2.6 of draft Resource Report 2. This section describes the construction measures and BMPs that will be applied within all watersheds crossed by the Pipeline, including key watersheds. Mitigation measures to address potential impacts will be developed through the NEPA process with input from the cooperating federal agencies. PCGP will address funding for the BLM and Forest Service to implement mitigation projects that would minimize short-term adverse effects and provide long-term beneficial effects within watersheds in its compensatory mitigation plan. Previous mitigation projects included road decommissioning, road closures to reduce road densities, road surfacing and drainage improvements to minimize sedimentation, fish passage culvert

¹⁷¹ Comment of Melanie Mindlin at 1, Docket No. PF17-4-000 (submitted Mar. 30, 2017) (open house comment).

¹⁷² CTCLUSI Comments at 39.

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replacement projects, instream large woody debris projects, riparian planting projects. These and any other mitigation measures will be addressed in the NEPA process.

- b. *The crossing of the South Umpqua River will use diverted open cut which will harm the surrounding habitat.*¹⁷³

A diverted open cut crossing method will minimize impacts to the river during installation of the Pipeline. Areas disturbed adjacent to the river will be restored following construction using the procedures outlined in the Erosion Control and Revegetation Plan; impacts will be temporary and localized.

- c. *The Commission must evaluate impacts to water quality for each stream impacted and any possible stream disturbance from the Pipeline.*¹⁷⁴

A detailed discussion of surface water impacts and mitigation, including impacts to streams, is provided in Section 2.2.6 of PCGP's draft Resource Report 2.

- d. *The Commission must evaluate all stream crossing methods.*¹⁷⁵

A detailed discussion of stream crossing measures is provided in Section 2.2.5 of PCGP's draft Resource Report 2.

- e. *The Project may negatively impact the Klamath Basin, including hot springs and geothermal hot spots.*¹⁷⁶ *FERC should comprehensively analyze impacts to groundwater resources from the Pipeline.*¹⁷⁷

A detailed discussion of groundwater impacts, including a discussion of the Klamath Basin, is described in Section 2.4.4 of PCGP's draft Resource Report 2. The Pipeline does not cross any recorded hot springs or geothermal hot spots.

¹⁷³ Adams Comments at 2.

¹⁷⁴ Sierra Club Comments; Comment of Paula Sohl Docket No. PF17-4-000 (submitted Mar. 30, 2017).

¹⁷⁵ Comment of James and Archina Davenport, Docket No. PF17-4-000 (submitted June 26, 2017); WELC Comments at 119; KS Wild Comments at 7-8; Oregon Wild Comments at 7.

¹⁷⁶ Comment of Sandra Egleston, Docket No. PF17-4-000 (submitted Mar. 27, 2017).

¹⁷⁷ WELC Comments at 130.

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- f. *The Pipeline will likely cause significant impacts to water quality from increased sedimentation. Will FERC analyze catastrophic sedimentation from landslides associated with Pipeline construction?*¹⁷⁸

A detailed discussion of sedimentation control is provided in Section 2.2.6.3 of PCGP's draft Resource Report 2. Further, Construction activities can cause disturbance to the surface soils and subsequent erosion into adjacent wetlands. Erosion will be minimized by the installation of temporary erosion control devices between upland construction areas and wetlands. Permanent erosion control measures, including regrading or re-contouring to re-establish pre-construction drainage patterns; installation of slope breakers; use of interceptor diversion dikes; and re-establishment of vegetative cover will be utilized on adjacent upland areas to minimize long-term sedimentation of the wetlands. Energy dissipation devices may be installed at the down-slope end of slope breakers to prevent erosion off the right-of-way into wetlands

- g. *The tidal sands in Haynes Inlet are unstable and the Pipeline will cross through a slide area. How will this be addressed?*¹⁷⁹

The Pipeline will cross Haynes Inlet using a trenchless crossing technique (horizontal directional drilling ("HDD")), and a site-specific crossing plan that will be provided in Appendix G.2 to PCGP's draft Resource Report 2.

- h. *The EIS must identify and evaluate the impacts and risks of HDD through an unintentional release of drilling mud and through the potential for a blockage.*¹⁸⁰

A detailed discussion of the HDD crossing method and associated risks and mitigation measures for addressing unintentional drill fluid release is provided in Section 2.2.5.2 of PCGP's draft Resource Report 2.

- i. *How will the Project affect local lakes, including Lake of the Woods?*¹⁸¹

The Pipeline does not cross any lakes. During construction, PCGP may apply to Oregon Department of Water Resources to withdraw water for dust control and hydrostatic testing from various surface water sources.

¹⁷⁸ WELC Comments at 103, 107.

¹⁷⁹ Citizens Against LNG Comments at 23.

¹⁸⁰ WELC Comments at 117-18.

¹⁸¹ Comment of John Aspell at 1, Docket No. PF17-4-000 (submitted June 28, 2017).

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Lake of the Woods is identified as a possible water source. GeoEngineers (2015) prepared a Hydrostatic Test Plan Impacts Assessment, which included six lakes and reservoirs identified as potential hydrostatic test water and dust control water sources, including Lake of the Woods. This assessment concluded that the relative quantities of withdrawals in the open waterbodies are insignificant and not expected to have thermal or other impacts beyond that experienced by typical lake level fluctuations during the period of use.

- j. *The EIS must consider cumulative impacts from dredging and trenching throughout the route in the Coos Estuary.*¹⁸²

The Pipeline will cross Haynes Inlet using a trenchless crossing technique (HDD), therefore cumulative impacts of dredging and trenching will be avoided. A site-specific crossing plan is provided in Appendix G.2 to PCGP's draft Resource Report 2.

2. Water Supply

- a. *The Pipeline will cross Klamath, Rogue, and the South Umpqua Rivers. Numerous commenters raised issues about the impacts to these rivers and concerns about water supply.*¹⁸³ *FERC should identify and analyze all direct, indirect, and cumulative impacts to drinking water sources from construction, operation, and maintenance of the Pipeline.*¹⁸⁴

A detailed discussion of impacts and mitigation measures to groundwater and water supply is provided in Section 2.4.4 of PCGP's draft Resource Report 2.

- b. *The Pipeline could disrupt water tables and wells, negatively impacting landowners' water supplies.*¹⁸⁵

A detailed discussion of groundwater wells is provided in Section 2.4.2 of PCGP's draft Resource Report 2.

3. Water Use

¹⁸² Oregon Wild Comments at 4.

¹⁸³ Comment of Seth Sundancer, Docket No. PF17-4-000 (submitted Mar. 2, 2017); Comment of Dana Colegrove, Docket No. PF17-4-000 (submitted June 8, 2017).

¹⁸⁴ WELC Comments at 129.

¹⁸⁵ Oregon Wild Comments at 2.

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- a. *Will FERC fully analyze the impacts of water use related to construction, operations, and maintenance of the Pipeline, including climate change modeling, impacts to water quality in affected waterways, impacts to ESA-listed species, and cumulative impacts of water withdrawals?*¹⁸⁶

Water use by the Pipeline is described in Section 1.3 of PCGP's draft Resource Report 1

4. Wetlands

- a. *The Commission must evaluate impacts to water quality for each wetland impacted by the Pipeline.*¹⁸⁷

A detailed discussion of groundwater quality, impacts, and proposed mitigation measures is provided in Sections 2.4.3 and 2.4.4 of PCGP's draft Resource Report 2.

C. *Fish, Wildlife, and Vegetation (Resource Report 3)*

1. Fisheries

- a. *How will the Pipeline affect aquatic impacts, including oyster harvesting and estuary effects? The EIS should implement watershed or aquatic habitat restoration activities to compensate for past impacts to water resources.*¹⁸⁸

Impacts to aquatic habitats are described in Section 3.2.3 of PCGP's draft Resource Report 3. In regards to commercial oyster harvesting, as described in Section 3.2.1.6, all oyster growing areas have been avoided by re-routing the Pipeline with no construction occurring near any commercial oyster growing sites.

2. Vegetation

- a. *The Pipeline would further remove riparian vegetation in the right of way for all pipeline crossings.*¹⁸⁹

¹⁸⁶ WELC Comments at 128.

¹⁸⁷ Sierra Club Comments; Comment of Paula Sohl Docket No. PF17-4-000 (submitted Mar. 30, 2017).

¹⁸⁸ WELC Comments at 58-59; EPA Comments at 4.

¹⁸⁹ WELC Comments at 100-01.

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A detailed discussion of riparian vegetation and habitat removal and modification is provided in Section 3.2.3.2 of PCGP's draft Resource Report 3.

- b. Motorized vehicles used during construction of the Pipeline may damage erosion prevention measures and newly planted vegetation.¹⁹⁰*

As required by FERC's Upland Plan, PCGP will monitor revegetation efforts following construction and will provide reports to FERC until revegetation is successful. PCGP has also developed a Recreation Management Plan as part of the Plan of Development (appended to Resource Report 1) in consultation with the BLM and Forest Service, which includes measures to deter potential resource damage caused by unauthorized Off-Highway Vehicle Control and right-of-way access.

3. Wildlife

- a. The Commission must review concerns regarding endangered species.¹⁹¹*

A detailed discussion of impacts and concerns regarding ESA-listed species is provided in Sections 3.5.2 and 3.5.3 of PCGP's draft Resource Report 3. Potential effects on endangered species will also be addressed in the context of agency consultation under Section 7 of the Endangered Species Act.

- b. The Project may negatively affect Coho salmon habitats.¹⁹²*

Specific impacts to fisheries resources, including impacts to Coho salmon, are provided in Section 3.2.3 of PCGP's draft Resource Report 3.

- c. How will the Pipeline affect a known owl habitats?¹⁹³*

A detailed discussion of impacts to owl habitats is provided in Sections 3.4.9 and 3.5.2 of PCGP's draft Resource Report 3.

¹⁹⁰ WELC Comments at 108.

¹⁹¹ Comment of Mike Sawicky, Docket No. PF17-4-000 (submitted June 26, 2017).

¹⁹² Comment of Larry Mangan, Docket No. PF17-4-000 (submitted Apr. 11, 2017); Comment of Millie Anderson, Docket No. PF17-4-000 (submitted June 17, 2017); Comment of Leslie Adams, Docket No. PF17-4-000 (submitted June 15, 2017).

¹⁹³ Oregon Women's Land Trust Comments at 2.

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- d. *The EIS must consider how an electrified pipe affects below-ground ecosystems and ground-dwelling organisms.*¹⁹⁴

Section 3.4.3 of PCGP’s draft Resource Report 3 discusses impacts on ecosystems from the Pipeline.

D. *Socioeconomics (Resource Report 5)*

1. Property

- a. *Eminent domain should not be permitted for a foreign corporation. There is a potential for abuse of the right of eminent domain. It may be impossible to determine the appropriate compensation for condemnation proceedings.*¹⁹⁵

A certificate of public convenience and necessity granted by the Commission conveys a right of eminent domain in accordance with Section 7(h) of the Natural Gas Act.¹⁹⁶ In deciding whether to grant a certificate, the Commission’s stated goal “is to appropriately consider the enhancement of competitive transportation alternatives, the possibility of overbuilding, the avoidance of unnecessary disruption of the environment, and the unneeded exercise of eminent domain.”¹⁹⁷ Further, the Commission’s standard environmental conditions require that the eminent domain authority must be consistent with the facilities and locations approved in the certificate order and that the right cannot be used for future needs or other purposes. Thus, the Commission protects landowners from the potential for abuse by limiting the right of eminent domain.

Applicants will compensate landowners fairly given readily available data on local property values and considering the potential use of the affected areas. An early and ongoing dialogue with property owners will allow Applicants to route the Pipeline in mutually acceptable areas where

¹⁹⁴ Oregon Women’s Land Trust Comments at 7.

¹⁹⁵ See, e.g., Comment of Diane Narwell Meyer, Docket No. PF17-4-000 (submitted June 22, 2017); Comment of Sara Holland, Docket No. PF17-4-000 (submitted June 22, 2017); Comment of Larry Mangan, Docket No. PF17-4-000 (submitted Mar. 27, 2017); Sierra Club Comments; Oregon Wild Comments at 5; Oregon Women’s Land Trust Comments at 4.

¹⁹⁶ 15 U.S.C. § 717f(h) (2012).

¹⁹⁷ Certification of New Interstate Natural Gas Pipeline Facilities, 88 FERC ¶ 61,227, at p. 61,746 (1999) (“Certificate Policy Statement”), order clarifying Statement of Policy, 90 FERC ¶ 61,128 (2000), order further clarifying Statement of Policy, 92 FERC ¶ 61,094 (2000).

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practicable to minimize impacts to properties. This process has been successfully employed for decades.

E. *Geological Resources (Resource Report 6)*

- a. *The EIS must include a comprehensive analysis of actual terrain, geology, and soils along the Pipeline route.¹⁹⁸*

PCGP's draft Resource Reports 6 and 7 address terrain, geology, and soils along the Pipeline route.

- b. *Blasting may be required in certain areas along the Pipeline route, how will blasting effects be controlled and mitigated?¹⁹⁹*

A detailed discussion of blasting, impacts from blasting, and proposed mitigation measures is provided in Section 5.0 of Appendix 6A to PCGP's draft Resource Report 6.

- c. *The Pipeline route is through unique geological features of the rugged Cascade and Coastal mountain ranges, including steep and unstable slopes and rocky terrain. How will PCGP mitigate associated risks?²⁰⁰*

A detailed discussion of geologic hazards, including landslide hazard and erosion hazards is described in Section 4.0 of Appendix 6A to PCGP's draft Resource Report 6.

F. *Soils (Resource Report 7)*

- a. *Will herbicides or pesticides be used on the pipeline ROW?²⁰¹*

As provided in Section 1.4 of PCGP's draft Resource Report 1, "[n]o herbicides will be used for brush control to maintain the permanent Pipeline easement. Vegetation at aboveground facilities will be periodically maintained using mowing, cutting, trimming, and herbicides (selectively)." PCGP has developed an Integrated Pest Management ("IPM") Plan as part of the Plan of Development in consultation with BLM, Forest Service and Oregon Department of Agriculture (appended to Resource Report 1). The IPM Plan provides the BMPs to address the

¹⁹⁸ League of Women Voters Comments at 1.

¹⁹⁹ EPA Comments at 10.

²⁰⁰ WELC Comments at 57.

²⁰¹ Oregon Women's Land Trust Comments at 3.

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control of noxious weeds and invasive plants. The BMPs have been created to minimize the potential spread of invasive species and minimize the potential adverse effects of control treatments. The potential use of herbicides on the Pipeline ROW is discussed in Section 7.3.5 of draft Resource Report 7.

- b. The EIS should consider alternatives that do not result in adverse effects on soil resources.²⁰²*

PCGP's draft Resource Report 10 describes the reasonable alternatives considered by PCGP and evaluates environmental impacts, including soil resources.

G. Land Use, Recreation, and Aesthetics (Resource Report 8)

- a. The Pipeline will permanently impair farm, recreational, and residential uses of the land. How will this be addressed?²⁰³*

Detailed discussions of the Pipeline's permanent impacts to farm, recreational, and residential land use are provided in Sections 8.7.2 and 8.7.3 of draft Resource Report 8.

- b. The Pipeline will negatively affect aesthetic value of the surrounding area.²⁰⁴*

A detailed discussion of the Pipeline's effects on aesthetics during and after construction is provided in Section 8.7.13 of draft Resource Report 8.

H. Air and Noise Quality (Resource Report 9)

1. Air

- a. The Project may negatively impact air quality in the area.²⁰⁵*

²⁰² KS Wild Comments at 7; Oregon Wild Comments at 7.

²⁰³ Comment of Alan Smith at 2, Docket No. PF17-4-000 (submitted July 7, 2017); Our Children's Trust Comments at 4.

²⁰⁴ Our Children's Trust Comments at 5.

²⁰⁵ Comment of Joy Green, Docket No. PF17-4-000 (submitted June 8, 2017).

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A detailed discussion of impacts of the Project on air quality is provided in the draft Resource Report 9 for the LNG Terminal and the Pipeline.

2. Noise

a. *How will noise from the compressor station be mitigated?*²⁰⁶

A detailed discussion of noise control measures for the compressor station is provided in Section 9.8.1.5 of draft Resource Report 9.

I. **Alternatives (Resource Report 10)**

a. *A full range of alternative routes and impacts should be part of the alternative analysis, including routes that would avoid private lands and rural businesses, watersheds, and waterbodies.*²⁰⁷

A detailed discussion of reasonable alternative routes is included in draft Resource Report 10 for the LNG Terminal and the Pipeline.

b. *Will the EIS consider an alternative that does not impact the Coos Bay Estuary?*²⁰⁸

A detailed discussion of alternatives for the crossing of Haynes Inlet/Coos Bay estuary is described in Section 10.4.1.1 of draft Resource Report 10.

c. *A number of landowners raised proposed alternate routes.*²⁰⁹

Applicants are considering these alternate routes, and an alternatives analysis is provided in draft Resource Report 10.

d. *It was an error in the previous iteration of the project to decline to adopt the Blue Ridge Alternative. Comparison of the Blue Ridge Alternative demonstrates the environmental advantages of it.*²¹⁰

²⁰⁶ See, e.g., Comment of Cynthia Jane Cooper at 3, Docket No. PF17-4-000 (submitted July 1, 2017).

²⁰⁷ Citizens Against LNG Comments at 16.

²⁰⁸ Citizens Against LNG Comments at 16.

²⁰⁹ See, e.g., Comments of Larry Mangan, Docket No. PF17-4-000 (submitted Apr. 11, 2017); Oregon Women's Land Trust Comments at 1; Comment of Gail L. Roudebush at 1, Docket No. PF17-4-000 (submitted July 6, 2017); Comment of Michael Sawicky, Docket No. PF17-4-000 (submitted June 26, 2017).

²¹⁰ Comment of Mark Sheldon, *et al.*, Docket No. PF17-4-000 (submitted July 6, 2017); Comment of James and Archina Davenport, Docket No. PF17-4-000 (submitted Mar. 6, 2017).

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As discussed in draft Resource Report 1, particularly Section 1.1.2.2.1, PCGP has adopted the Blue Ridge Alternative as part of its proposed route for the Pipeline.

J. *Reliability and Safety (Resource Report 11)*

1. Pipeline incidents

- a. *The Pipeline is at risk for spills or leaks which will endanger the surrounding area.*²¹¹

A detailed discussion of the steps PCGP will take to prevent damage to the pipeline and detect any leaks is described in Sections 11.5.2 and 11.5.3 of draft Resource Report 11.

- b. *The Commission should require a heavy wall pipe to be used in small stream and wetland crossings to prevent pipeline leaks or spills.*²¹²

As described in Section 11.4.2 of draft Resource Report 11, PCGP will design the steel pipe in accordance with 49 CFR §§192.101-192.115, to determine the required wall thicknesses for the required maximum allowable operating pressure.

- c. *A number of comments raised concerns regarding possible pipeline explosions and safety concerns related to possible explosions.*²¹³

A detailed discussion of pipeline hazards is included in Section 11.3 of draft Resource Report 11.

- d. *The pressure test used is not rigorous enough to ensure that there will not be pipeline leaks.*²¹⁴

²¹¹ See, e.g., Comment of Sue Hilton, Docket No. PF17-4-000 (submitted June 26, 2017); Comment of Amy Patton, Docket No. PF17-4-000 (submitted Mar. 28, 2017); Comment of Avram Chetron, Docket No. PF17-4-000 (submitted Apr. 3, 2017).

²¹² Comment of Tim Ryan, Docket No. PF17-4-000 (submitted Mar. 24, 2017).

²¹³ See, e.g., Comment of Tom Bender, Docket No. PF17-4-000 (submitted June 15, 2017); Comment of James and Archina Davenport, Docket No. PF17-4-000 (submitted June 26, 2017); Comment of Nina Friedman, Docket No. PF17-4-000 (submitted Mar. 30, 2017).

²¹⁴ Comment of Geoffrey Robinson, Docket No. PF17-4-000 (submitted Mar. 30, 2017).

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A detailed discussion of pipeline strength testing is described in Section 11.4.7 of draft Resource Report 11.

- e. The EIS must consider impacts of different safety standards required for the Pipeline in rural areas; Class 1 is not sufficient.*²¹⁵

The U.S. Department of Transportation (“USDOT”) mandates the design of any pipeline based on Class Locations (e.g., Class 1, 2, 3, and 4) depending on the types of structures and human occupancy close to the pipeline. As discussed in draft Resource Report 11 – Reliability and Safety, the overall design for the pipeline will meet or, in most areas, exceed USDOT requirements.

A detailed discussion of safety measures in the design and construction of the Pipeline is described in Section 11.4 of draft Resource Report 11, including a listing of the Class Locations in Section 11.4.1.

- f. FERC must consider an alternative that would finance rural emergency response services during leaks or explosions.*²¹⁶

A detailed discussion of emergency response procedures is described in Section 11.5.4 of draft Resource Report 11.

2. Other Safety Concerns

- a. The EIS should identify potentially active and inactive fault zones where the Pipeline may cross.*²¹⁷

A detailed discussion of fault zones crossing the Pipeline route is described in Section 4.1.3 of draft Resource Report 6.

- b. Clear-cuts could contribute to wildfires and may increase the risk of fire hazards.*²¹⁸

²¹⁵ Oregon Women’s Land Trust Comments at 5; Oregon Wild Comments at 6; WELC Comments at 56-57; Hair on Fire Oregon Comments at 1.

²¹⁶ Oregon Women’s Land Trust Comments at 5; Sierra Club Comments at 2.

²¹⁷ EPA Comments at 10.

²¹⁸ Oregon Women’s Land Trust Comments at 6; KS Wild Comments at 5; Oregon Physicians Comments at 2; WELC Comments at 136.

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A detailed discussion of Pipeline impacts on wildfires is described in Section 3.3.3.2 of draft Resource Report 3

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IV. PROCEDURAL COMMENTS AND MISCELLANEOUS ISSUES

Many stakeholders submitted comments concerning the scoping period, procedural issues regarding the pre-filing review process, and other miscellaneous issues.

A. *Scoping Period and Meetings*

1. Comment Period

- a. *The comment period should be extended to provide more time to review the record.²¹⁹ The public requires more time to review the resource reports during the scoping period.²²⁰ Commenters requested the full environmental reports to review during the scoping period.²²¹*

The FERC process and procedures are designed to ensure that Applicants provide complete and accurate information about the Project. In addition, the schedule will allow sufficient time for interested stakeholders to comment on the Project. The purpose of scoping, however, is not to analyze the contents of draft resource reports as noted in many requests for extension of the scoping period. Instead, the scoping process is intended to assist the FERC staff in “determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action.”²²²

The Project is currently in the pre-filing review process, which began on February 10, 2017, pursuant to a letter from the Director of FERC’s Office of Energy Projects. The purpose of the pre-filing review process is to encourage early involvement of interested stakeholders and to identify and resolve issues before the applications are filed with the FERC. There have been multiple opportunities for stakeholders to raise their concerns, including at open houses and scoping meetings, as well as through written scoping comments. In fact, the robust number of comments to date is evidence that this early pre-filing review process is effective. Applicants

²¹⁹ See, e.g., Comment of Klamath Riverkeeper, Docket No. PF17-4-000 (submitted June 26, 2017); Comment of Citizens Against LNG, Docket No. PF17-4-000 (submitted June 15, 2017); Sierra Club Comments; Comments of Senator Ron Wyden and Senator Jeffrey Merkley, Docket No. PF17-4-000 (submitted June 21, 2017); Comment of Jackson County Board of Commissioners, Docket No. PF17-4-000 (submitted June 26, 2017).

²²⁰ Comment of Katy Eymann, Docket No. PF17-4-000 (submitted June 13, 2017).

²²¹ See, e.g., Comment of Evans/Schaaf at 3; Comment of Stacey McLaughlin at 2; Comment of Citizens Against LNG, Docket No. PF17-4-000 (submitted June 15, 2017).

²²² 40 C.F.R. § 1501.7; see also 40 C.F.R. § 1501.7(a)(3) (noting that the scoping process should also “Identify and eliminate from detailed study the issues which are not significant or which have been covered by prior environmental review.”).

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are able to disseminate the most current information about the Project through public filings and meetings as part of the Pre-filing Review Process, and to gather stakeholder comments to be considered in the further development of this Project. Moreover, FERC previously prepared two Environmental Impact Statements for prior versions of the Project that included largely similar facilities and potential impacts. Accordingly, FERC has a greater awareness of the scope of the analysis to be done, and the significant environmental issues that need to be considered, than in almost any other natural gas proceeding.

FERC will begin its formal review of the Project when Applicants file an application for authorization under Section 3 of the NGA and an application for a certificate of public convenience and necessity under Section 7 of the NGA. The applications will provide the most accurate and complete information on the Project from which FERC can make a determination regarding the Project need and consider the effect of the Project on the environment. To the extent that there is additional information that FERC believes is relevant to its determination on the need for, or its environmental review of, the Project, FERC will make requests, and Applicants will provide, such information.

Interested stakeholders will continue to have multiple opportunities during the FERC proceeding to comment on the complete Project details. FERC's proceeding and the NEPA review will consider all stakeholder comments in determining whether to authorize the Project and in establishing any conditions to mitigate potential adverse environmental effects of the Project.

2. Scoping Meetings

- a. *The Commission should hold a scoping meeting in Jackson County.²²³ The Commission should hold a scoping meeting in Multnomah County, Portland, Salem, or Eugene.²²⁴*

²²³ Comment of Evans/Schaaf at 3; Comment of Stacey McLaughlin, Docket No. PF17-4-000 (submitted June 14, 2017); Comment of Citizens Against LNG, Docket No. PF17-4-000 (submitted June 15, 2017); Sierra Club Comments; Comment of Senator Ron Wyden and Senator Jeffrey Merkley, Docket No. PF17-4-000 (submitted June 21, 2017); Comment of Jackson County Board of Commissioners, Docket No. PF17-4-000 (submitted June 26, 2017); Brown Comments at 1-2.

²²⁴ Sierra Club Comments; Comment of Stacey McLaughlin, Docket No. PF17-4-000 (submitted June 14, 2017); Comment of Suzanne Cook, Docket No. PF17-4-000 (submitted June 22, 2017).

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FERC held three scoping meetings for the Project, in Coos Bay, Roseburg, and Klamath Falls. These locations were spread along the entirety of the Project route and provided an opportunity for hundreds of interested parties to provide comments. Parties could also provide written comments to FERC, and over 800 such written comments were filed during the scoping period.

FERC is not required to hold any scoping meetings, so the three held in this proceeding are above the Commission's minimum obligation.²²⁵ The scope of the environmental analysis for the Project is well known because FERC has already prepared two EISs for similar projects in the past.

The high level of response in this proceeding, and FERC's familiarity with the Project from prior proposals, mean that an additional scoping meeting is not necessary.

Moreover, Multnomah County, Portland, Salem, and Eugene are not located along or particularly close to the LNG Terminal or the Pipeline route. Interested parties in these areas may still submit comments in written form.

- b. *The format of the scoping meetings should be a public hearing with the ability to testify in front of the public group.*²²⁶

The purpose of scoping meetings, as stated in FERC's notice in Docket No. PF17-4, is to "identify the specific environmental issues and concerns that should be considered in the EIS to be prepared for this project."²²⁷ The purpose of scoping meetings is not to debate the Project's merits. FERC's process for scoping meetings is intended to record as many comments as possible in the time permitted. Using a public hearing format would reduce the number of individuals who could provide comments during the available time, which would be counterproductive to the purpose of the scoping meeting.

²²⁵ Federal Energy Regulatory Commission, Guidance Manual for Environmental Report Preparation, Vol 1 at p 3-4 ("FERC Guidance Manual").

²²⁶ Sierra Club Comments; Comment of M.A. Rohrer, Docket No. PF17-4-000 (submitted June 26, 2017).

²²⁷ Notice of Intent to Prepare an Environmental Impact Statement for the Planned Jordan Cove LNG Terminal and Pacific Connector Pipeline Projects, Request for Comments on Environmental Issues, and Notice of Public Scoping Sessions, Docket No. RP17-4-000, at p 3 (June 9, 2017).

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B. *Landowner Notification*

- a. *A number of landowners notified the Commission that they were not notified during the timeframe provided in the regulations.*²²⁸

Applicants described the landowner notification process in Monthly Progress Report No 1, filed on March 13, 2017 in Docket No PF17-4.

C. *Miscellaneous Issues*

- a. *Oregon state agencies reviewed the prior EIS and it was insufficient to rely on for permitting. Oregon state agencies may not have sufficient time to review the NEPA document.*²²⁹

Oregon does not have a state statute that is equivalent to NEPA and is not required to review or employ the analysis in the EIS to process state permit applications. Applicants will be working with respective State agencies to provide information sufficient to process State permits under the applicable state statutes and regulations. To the extent that the data and analyses are also relevant for the purpose of NEPA, this information will be provided in Resource Reports as applicable.

- b. *The EIS must disclose any conflicts of interest, federal subsidies, or other ways in which FERC's duty of loyalty is compromised. Will Applicants receive any federal funding or tax breaks? Will the EIS be prepared with the assistance of a contractor and if so, will it have a financial interest in the outcome of the Project?*²³⁰

Applicants will not receive federal funding for the Project. To the extent Applicants receive any tax breaks, it will be because Applicants qualify for those tax breaks under the applicable laws and regulations. FERC does not control any sources of federal funding or tax breaks that would be applicable to Applicants or the Project. Thus, FERC's "duty of loyalty", to the extent it exists, would not be compromised as suggested.

Consistent with the Commission's and CEQ's regulations and guidance, a third-party contractor is involved in the preparation of the EIS for the Project. Applicants are paying the costs of the contractor, but the Commission Staff directs the contractor's activities. Applicants submitted

²²⁸ See, e.g., Comment of Acosta; Pallin; McLaughlin; Evans and Schaaf.

²²⁹ Comment of Governor Kate Brown, Docket No. PF17-4-000 (submitted June 28, 2017) ("Brown Comments").

²³⁰ Our Children's Trust Comments at 22; Citizens Against LNG Comments at 46.

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a conflict of interest disclosure form for the third-party contractor in Docket No. PF17-4 on February 7, 2017.

- c. *Applicants have conducted ground disturbances during the pre-filing review process.*²³¹

Preparation of the environmental resource reports that must be filed during the pre-filing review process and included as part of Applicants' FERC applications requires certain testing and analysis. Such testing includes geotechnical testing of the soil at the LNG Terminal site and along the Pipeline route. As these tests involve taking soil and rock samples and investigating below-ground features of the Project site, Applicants were required to undertake certain ground disturbing activities. All such activities were consistent with Applicants' testing obligations, and were undertaken in accordance with applicable state and local regulations. Applicants have not undertaken any ground disturbances that constitute construction of the Project that would be subject to FERC's jurisdiction.

²³¹ CTCLUSI Comments at 35.

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