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VIA E-MAIL

October 5, 2015

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First St NE Rm 1A
Washington DC 20426

Re: **Docket Nos. CP09-6-001, et al.**
Oregon LNG - FERC Proceedings
Our File No. 44548-71713

Dear Ms. Bose:

This office represents Clatsop County, Oregon. This letter is to provide written comments on the Draft EIS, and please include this letter in the record.

The terminal and pipeline are required to comply with the federal Coastal Zone Management Act (CZMA), and Oregon's Coastal Management Program (OCMP) is Oregon's federally approved coastal management program under the CZMA. The Oregon Department of Land Conservation and Development (DLCD) is Oregon's lead coastal zone management agency pursuant to the CZMA.

DLCD administers the OCMP, and is responsible for reviewing the pipeline's Consistency Certification. The OCMP includes the Clatsop County Land and Water Development and Use Ordinance (LWDUO) in the list of "Enforceable Policies".¹ Because the pipeline application does not comply with the LWDUO, the pipeline does not comply with the enforceable policies of the OCMP.

It is important to understand the structure of Oregon's state-driven land use system, and how that system relates to the Coastal Zone Management Act. In Oregon, rural land is generally defined as all land outside of incorporated cities, and Clatsop County has land use jurisdiction over all land in the county that is outside of incorporated cities, including miles of ocean coast line and several estuaries.

The County's land use regulations follow the mandates in state law, especially Oregon Revised Statutes Chapters 197 and 215. For example, ORS 197.175(1) requires that "Cities and counties shall exercise their planning and zoning responsibilities ... in accordance with ORS chapters 195, 196 and 197 and the goals approved under ORS chapters 195, 196 and 197." The approved goals, which are adopted by the Land Conservation and Development Commission as Oregon Administrative Rules, include Goal 4 regarding Forest Lands, Goal 16 regarding Estuarine Resources and Goal 17, regarding Coastal Shorelands.

¹ http://www.oregon.gov/LCD/OCMP/Pages/OCMP_Enforceable-Policies.aspx

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Oregon Pipeline Company, LLC submitted a land use application to Clatsop County for the 41 mile pipeline that crosses numerous estuaries and rivers, in addition to uplands. Following a lengthy process, that application was denied by the county on October 16, 2013, and the county decision is attached. Oregon Pipeline Company, LLC then appealed that denial to the Oregon Land Use Board of Appeals (LUBA). On April 29, 2015, LUBA affirmed the county decision to deny the application, and their Final Opinion and Order is attached. In other words, LUBA agreed with Clatsop County that the application did not comply with state land use law as implemented by the county. LUBA's decision was not appealed, and therefore the decision denying the application is final under Oregon law.

Section 2.090 of the LWDUO allows a revised application to be submitted for the pipeline, but as of this writing no new application has been received by the county. Because the prior application was denied and no new application has been submitted, the pipeline lacks authority to proceed under Oregon law.

FERC should recognize that in Oregon, the land use system works both ways. City and county land use regulations must follow state law and administrative rules, and state agencies are required to act consistent with city and county land use regulations that have been acknowledged by the state as complying with state law. ORS 197.040 (1)(d) and (2)(e).

Here, LUBA ruled that the county decision, which weighed the application against the standards and criteria of the LWDUO, complies with state land use law. The DLCD had the opportunity to appeal both the county's denial of the pipeline application, and LUBA's decision that the denial complied with state law. ORS 197.090(2). It declined to do so in either case. Again, the decision that the pipeline application does not comply with state land use law is final, and thus the DLCD is precluded from asserting otherwise in its review of the Consistency Certification or in any other process. Since the pipeline does not comply with the LWDUO, we anticipate the DLCD will soon inform FERC that the pipeline does not comply with the enforceable policies of the OCMP or the CZMA.

Clatsop County respectfully requests that FERC recognize that the pipeline does not comply with Oregon's OCMP, and therefore violates the CZMA. Thank you for your assistance.

Sincerely,

JORDAN RAMIS PC



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cc: Clatsop County