

January 22, 2019

Christopher Stine  
Water Quality Engineer  
Oregon Department of Environmental Quality  
165 East 7<sup>th</sup> Avenue, Suite 100  
Eugene, OR 97401

Re: *Jordan Cove Energy Project L.P. and Pacific Connector Gas Pipeline, L.P.*  
Section 401 Water Quality Certification  
Response to ODEQ December 20, 2018 Additional Information Request

Dear Mr. Stine:

This letter continues the Jordan Cove Energy Project L.P.'s ("JCEP") and Pacific Connector Gas Pipeline, LP (PCGP and together with JCEP "Jordan Cove") responses to the Oregon Department of Environmental Quality ("ODEQ") comments and additional information requests with respect to Jordan Cove's application for a Section 401 Water Quality Certification. Jordan Cove originally submitted the application on October 22, 2017 and supplemented it on February 6, 2018, May 21, 2018 and November 21, 2018. In addition, responses to ODEQ Information Requests were submitted on October 8 and 25, 2018. This letter is in response to ODEQ's December 20, 2018 Supplemental Information Request, which is the third information request ("IR") received from ODEQ in the past five months (and ODEQ has indicated verbally that an additional IR is in process).

The December 20th IR sought a response from Jordan Cove by January 22, 2019. In the interim, however, ODEQ and Jordan Cove scheduled a technical meeting for the following week (January 31st) to walk through the IR and discuss Jordan Cove's proposed responses. In the interest of efficiency, and to ensure the final written response adequately addresses ODEQ's request, it now makes the most sense to await the outcome of the January 31st meeting before finalizing Jordan Cove's written submittal. To that end, Jordan Cove will finalize its written submittal promptly following our meeting on the 31st instead of submitting it on January 22nd (only to have to revisit the submittal after our meeting).

Prior to our meeting, however, I wanted to share Jordan Cove's significant concern over certain of the IRs and request a meeting with ODEQ Water Quality Management and legal counsel to discuss. This consternation arises from these IRs exceeding ODEQ's Section 401 authority and/or otherwise being unprecedentedly, and impractically, overbroad and onerous.

Under Section 401 of the Clean Water Act, a federal agency cannot issue a permit authorizing an activity that could result in a discharge absent receiving a Section 401 certification from the state wherein the discharge will occur. In exercising its Section 401

authority, a state is limited to evaluating only the impacts of potential discharges that result from the relevant federal authorization. For example, in the context of Jordan Cove's application for a permit from the U.S. Army Corps of Engineers ("USACE") for the Jordan Cove project and associated Pacific Connector pipeline, ODEQ's Section 401 certification authority--the scope of its analysis--is confined to discharges from activities that require the USACE permit.

Several of ODEQ's IRs are outside the scope of this clear Section 401 mandate. The extensive information being requested around the use of public roads is one example as use of the public roads does not require a federal authorization. This same rationale applies the ODEQ's request for information surrounding private disposal sites--these clearly do not implicate a federal authorization that could result in a discharge and thus are not relevant to a Section 401 analysis. These are just a couple of examples, and we will discuss more at our meeting.

In addition, several of the IRs are unnecessarily overbroad and onerous. As just one of many examples, the information requested about the application of construction best management practices ("BMPs") to each pipeline crossing, detailed design information and modeling of the effectiveness of the BMPs, would require Jordan Cove to move forward with near final design at this early stage in project development, a level of design that is not at all mandated by the USACE (and other relevant federal and state agencies) in order to issue its permit. Moreover, the BMPs that will be applied are ODEQ's BMPs; presumably their effectiveness has been assessed and even modeled or else the agency would not have adopted them as required BMPs. Finally, it is noteworthy that this type of information request is not just overbroad and burdensome, but, based on our review of past ODEQ Section 401 certifications of large projects, it is unprecedented.

In light of the significant concerns expressed herein, Jordan Cove requests a meeting with ODEQ Water Quality management and legal counsel so we can attempt to reach mutual resolution of these issues. Because these matters have bearing on how we respond to certain of the IRs, it would be ideal if that meeting could occur prior to our scheduled January 31st technical discussion.

We appreciate you considering this request and look forward to working with ODEQ to achieve timely issuance of the Section 401 water quality certification. Should you have any questions, please contact Derik Vowels at [dvowels@pembina.com](mailto:dvowels@pembina.com) or 971-940-7800.

Regards,



Natalie Eades  
Manager, Environment and Regulatory

Cc: Mary Camarata