

**DICKSTEINSHAPIRO**LLP

1825 Eye Street NW | Washington, DC 20006-5403  
TEL (202) 420-2200 | FAX (202) 420-2201 | dicksteinshapiro.com

**RECEIVED**

By Docket Room at 1:23 pm, Oct 17, 2011

October 17, 2011

**By Email**

larine.moore@hq.doe.gov

fergas@hq.doe.gov

Ms. Larine A. Moore, Docket Room Manager  
Office of Natural Gas Regulatory Activities  
Office of Fossil Energy  
U.S. Department of Energy  
Room 3E-042 (FE-34)  
PO Box 44375  
Washington, D.C. 20585

Re: Response of Jordan Cove Energy Project, L.P. to  
State of Oregon Protest, FE Docket No. 11-127-LNG

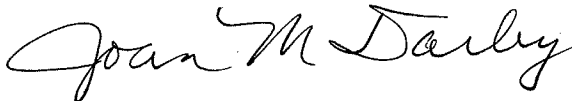
Dear Ms. Moore:

Please accept for filing the accompanying Response of Jordan Cove Energy Project, L.P. to the State of Oregon's Protest that is being transmitted to you on this date by email as indicated above.

Please acknowledge receipt of this Response by email to darbyj@dicksteinshapiro.com. Should you have any questions, please do not hesitate to contact me at (202) 420-2745.

Thank you for your assistance.

Sincerely,



Joan M. Darby

**RECEIVED**

*By Docket Room at 1:23 pm, Oct 17, 2011*

**UNITED STATES OF AMERICA  
DEPARTMENT OF ENERGY  
OFFICE OF FOSSIL ENERGY**

**In the Matter of:**

**JORDAN COVE ENERGY PROJECT, L.P.**

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**Docket No. 11-127-LNG**

**RESPONSE OF JORDAN COVE ENERGY PROJECT, L.P.  
TO STATE OF OREGON PROTEST**

Jordan Cove Energy Project, L.P. (Jordan Cove) hereby responds to the October 11, 2011 Protest of the State of Oregon (Oregon) to Jordan Cove's Application to the U.S. Department of Energy Office of Fossil Energy (DOE/FE) for long-term, multi-contract authorization to export liquefied natural gas (LNG) over a 30-year term to any nation with which the United States currently has, or in the future may enter into, a Free Trade Agreement (FTA) requiring national treatment for trade in natural gas and LNG. As set forth in detail below, Oregon's Protest exhibits a misunderstanding of the statutory requirements and the regulatory processes applicable to "FTA applications" such as Jordan Cove's Application, which Oregon acknowledges is governed by § 3(c) of the Natural Gas Act (NGA) as amended by § 201 of the Energy Policy Act of 1992, 15 U.S.C. § 717b(c). Contrary to Oregon's claims, the Application is neither premature nor deficient and thus it remains, under NGA § 3(c) as amended, entitled to the statutory presumption that exports to FTA nations are "deemed to be within the public interest" and subject to the statutory imperative that it "be granted without modification or delay."

First, it is irrelevant that the Jordan Cove Project is not yet constructed and that Jordan Cove has not yet commenced the pre-filing process at the Federal Energy Regulatory Commission (FERC) for its export proposal. The filing of the Application is only the first step in a multi-step process to develop the Jordan Cove Project and, indeed, it is a necessary first step. As explained in the Application (at p. 6), as well as in the applications of other LNG export applicants, a long-term export authorization is required to attract prospective customers willing to make large-scale, long-term investments in the export arrangements. DOE/FE recognized this reality when it accepted the agency rights and registration procedures proposed by the Freeport Project, observing that the approach “is responsive to current LNG markets and provides an expedited process by which companies seeking to export LNG can do so.” *See Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC*, DOE/FE Order No. 2913 at page 8, FE Docket No. 10-160-LNG (Feb. 10, 2011) (the Freeport Order).

Second, the Application, and DOE/FE’s processing of it, are consistent with DOE/FE’s policy and practice for an FTA application, namely, not to publish a Federal Register notice and not to require a showing on domestic need for the gas. The DOE/FE Regulations at 10 C.F.R. Part 590 were last updated in 1989, prior to the amendment of NGA § 3(c) by the Energy Policy Act of 1992. In the Freeport Order (at note 6), DOE/FE explicitly found that “the requirement for granting the application without delay or modification overrides regulatory requirements for public notice and other hearing-type procedures in 10 CFR Part 590.” Likewise, the Freeport Order (at page 6) states that, “[i]n light of DOE’s statutory obligation to grant the Application without delay or modification, there is no need for DOE to review the other arguments posed by [the Freeport Project] in support of the Application.” In other words, DOE/FE will not analyze items such as those that Oregon claims are deficient in the Jordan Cove

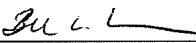
Application, e.g., source and security of supply, description of supporting gas reserves and lack of national or regional need for the gas. Although DOE/FE policy and practice is not yet reflected in the Regulations (revisions are anticipated in the near future), it is most importantly fully consistent with the applicable amended provisions of the NGA.

Finally, for purposes of the Application and this Response, the undersigned certifies that she is a duly authorized representative of Jordan Cove. A verification is attached.

In sum, Jordan Cove respectfully submits that its Application is complete and that DOE/FE should not delay ruling on it.

Dated: October 17, 2011

Respectfully submitted,

By:   
Beth L. Webb  
Joan M. Darby  
Dickstein Shapiro LLP  
1825 Eye Street, N.W.  
Washington, DC 20006  
(202) 420-2200

Attorneys for Jordan Cove Energy Project, L.P.

**VERIFICATION**

DISTRICT OF COLUMBIA

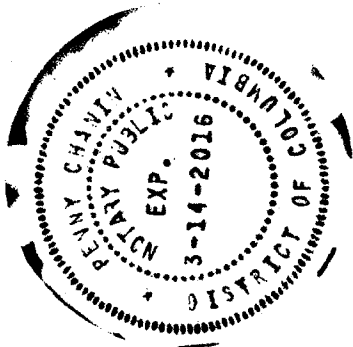
I, Beth L. Webb, being duly sworn on oath, hereby affirm that: I am a duly authorized representative of Jordan Cove Energy Project, L.P.; I am familiar with the contents of the Jordan Cove's Application filed September 22, 2011; and, the matters set forth in the Application are true and correct to the best of my knowledge, information and belief.

Beth L. Webb  
Beth L. Webb

Sworn to and subscribed before me,  
a Notary Public in and for the  
District of Columbia on  
this 17th day of October, 2011

Penny Chanin  
Notary Public

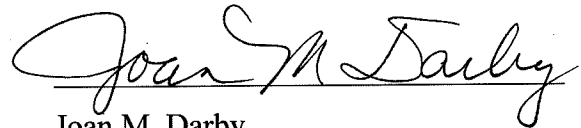
**PENNY CHANIN**  
**NOTARY PUBLIC DISTRICT OF COLUMBIA**  
**My Commission Expires March 14, 2016**



## CERTIFICATE OF SERVICE

I, Joan M. Darby, hereby certify that, in accordance with 10 C.F.R. §590.107 of the DOE Regulations, I have served a true copy of the foregoing "Response of Jordan Cove Energy Project, L.P. to State of Oregon Protest" by email and regular mail this 17th day of October, 2011 upon the following:

Jas Jeffrey Adams  
Attorney In Charge  
Natural Resources Section  
General Counsel Division  
Oregon Depart of Justice  
1162 Court Street NE  
Salem, OR 97301-4096  
[jas.adams@state.or.us](mailto:jas.adams@state.or.us)

  
Joan M. Darby