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DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

RECEIVED

By Docket Room at 9:33 am, Oct 11, 2011

October 10, 2011

By Email and U.S. Mail

Ms. Larine A. Moore
Docket Room Manager
FE-34
U.S. Department of Energy
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Office of Fuels Programs, Fossil Energy
U.S. Department of Energy
Docket Room 3F-056
FE-50, Forrestal Building
1000 Independence Avenue, SW
Washington, DC 20585

Re: Application of Jordan Cove Energy Project, L.P. for Long-Term Authorization to Export Liquefied Natural Gas to Free Trade Nations, FE Docket No. 11-127-LNG


Dear Ms. Moore:

Please accept for filing the State of Oregon's Protest in this matter being transmitted to you by email and U.S. mail as indicated above.

Please acknowledge receipt of this Protest by email to jas.adams@state.or.us.

Thank you for your assistance.

Sincerely,


Jas Jeffrey Adams
Attorney-In-Charge
Natural Resources Section

JJA:lal/3039467

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

In the matter of:)

JORDAN COVE ENERGY PROJECT, L.P.)

) Docket No. 11-127-LNG

STATE OF OREGON PROTEST

Communications regarding this matter should be directed to:

Jas Jeffrey Adams, Attorney In Charge
Natural Resources Section
General Counsel Division
Oregon Department of Justice
1162 Court St. NE
Salem, Oregon 97301-4096

The State of Oregon recognizes that the Natural Gas Act provides that applications for exportation of natural gas, to a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas, shall be granted without modification or delay. 15 U.S.C. § 717b(c). However, in the instant case, the application is premature and deficient. Jordan Cove Energy Project, L.P. (Jordan Cove) does not have a facility to export Liquefied Natural Gas (LNG), nor has it commenced the process to obtain the necessary authorization from the Federal Energy Regulatory Commission (FERC) for siting and construction of an export facility. Accordingly, there is currently no exportation of natural gas for which delay must be avoided, and such exportation is years away. The State of Oregon submits this Protest for the limited purpose of asking the Department to defer ruling on the application until Jordan Cove has cured the deficiencies in its application and the public is given an opportunity to participate in accordance with the Department's regulations.

The applicant, Jordan Cove, states it intends to export from “its proposed LNG terminal to be located on Coos Bay in the State of Oregon,” which FERC authorized as an import facility. Application at 1, 3. Petitions for rehearing of FERC’s authorization of the Jordan Cove import facility have been pending before FERC since January, 2010, and the proposed Jordan Cove import facility is not constructed. Jordan Cove has not requested authorization from FERC to site and construct a dual-use, LNG import/export facility. Jordan Cove states it intends to file an application to amend its FERC authorization for an import facility in mid-2012.¹ Application at 4. In comparison, the application of Carib Energy (USA) LLC stated that in the majority of cases no facility modifications will be required for Carib to export LNG from the United States.² Sabine Pass Liquefaction, LLC applied to export from its existing LNG import facility and, prior to applying to the Department for authorization to export, had received approval from FERC to commence the mandatory National Environmental Policy Act pre-filing review process for the Sabine Pass Liquefaction Project.³ In sum, Jordan Cove’s proposal to export LNG is not yet concrete, and Jordan Cove will not be capable of implementing export for some time.

The Department’s regulations require, without exception, that upon receipt of an application the Office of Fossil Energy (FE) shall publish a notice of application in the Federal Register. 10 C.F.R. § 590.205(a). Only when there are emergency circumstances may the FE shorten the 30-day time period for the public to participate. *Id.* Where Jordan Cove does not have an existing export facility, there is no emergency that warrants foregoing publication in the

¹ The State of Oregon submits that an application to amend the existing authorization to site and construct an import facility is not the appropriate procedure. Rather, where the authorized LNG import facility has not been constructed, the proposal for a dual-use, import/export facility is an entirely new project that requires a new application to site and construct it.

² Carib Energy (USA LLC, FE Docket 11-71-LNG, Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas to Free Trade Agreement Nations in Central America, South America, or the Caribbean by Vessel in ISO Containers at 3 (July 27, 2011).

³ Sabine Pass Liquefaction, LLC, FE Docket 10-85-LNG, Order Granting Long-Term Authorization to Export Liquefied Natural Gas from Sabine Pass LNG Terminal to Free Trade Nations at 3 (September 7, 2010).

Federal Register. To date, the State has not located a notice of application in the Federal Register.

The application is deficient. 10 C.F.R. § 590.202. Although the Natural Gas Act provides that an application shall be granted without modification, Jordan Cove's application does not meet the minimal requirements of the Department's regulations, and, as such, is not an application that the Department can presently grant.

For example, the application does not provide the "source and security" of the natural gas supply to be exported, as required by 10 C.F.R. § 590.202(b)(2). The application only generally asserts that the source will be the North American natural gas market. Application at 5. The application omits entirely any description of the gas reserves supporting the project during the term of the requested authorization. 10 C.F.R. § 590.202(b)(2). Jordan Cove has requested a term of 30 years that will begin no later than ten years following the grant of authorization. Application at 4. Therefore, the application must describe the North American reserves supporting the project for nearly 40 years into the future. This information must take into account existing authorizations to export and domestic use that will tap into the same reserves.

The application also does not describe the lack of a national or regional need for the gas. 10 C.F.R. § 590.202(b)(6). The FERC Order authorizing the Jordan Cove LNG import facility determined that there was regional need for imported LNG to meet predicted regional increases in energy demand.⁴ Jordan Cove filed an answer to the petitions for rehearing of the FERC Order and argued that there is a need for imported LNG in the Pacific Northwest that could not be met by domestic reserves or declining imports from Canada.⁵ The Department's regulations

⁴ 129 FERC ¶ 61,234 at PP18-27.

⁵ Jordan Cove Energy Project L.P. Motion for Leave to Answer and Answer at 37-39, FERC Docket No. CP07-444, Accession No. 20100302-5102 ((Marc 2, 2010).

require that Jordan Cove describe the lack of need for the gas domestically and include necessary data or documents to support it to the extent practicable.

Finally, the application does not appear to contain a verified oath or affirmation by the person filing, or by an officer or authorized representative having knowledge of the facts alleged. 10 C.F.R. § 590.103(b). Nor does the application appear to contain the required certification that the signatory is a duly authorized representative of Jordan Cove Energy Project, L.P. 10 C.F.R. § 590.103(b).

I certify that I am a duly authorized representative of the State of Oregon, in accordance with 10 C.F.R. § 590.103(b).



Jas Jeffrey Adams, OSB #780114
Attorney In Charge
Natural Resources Section
General Counsel Division
Oregon Department of Justice

CERTIFICATE OF FILING/SERVICE

I certify that on October 10, 2011, I filed the attached STATE OF OREGON PROTEST by emailing and placing in the United State mail, first class postage prepaid, to the following addresses:

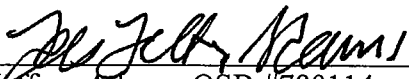
Ms. Larine A. Moore
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Washington, DC 20585

I further certify that on October 10, 2011, I served a copy of the foregoing in accordance with 10 C.F.R. § 590.107 by placing in the United State mail, first class postage prepaid, to the following addresses:

Beth L. Webb
Joan M. Darby
Dickstein Shapiro LLP
1825 Eye Street NW
Washington, DC 20006

Elliott L. Trepper, President
Robert L. Braddock, Vice President
Jordan Cove Energy Project, L.P.
125 Central Avenue, Suite 380
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