

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

**IN THE MATTER OF** )  
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**Jordan Cove Energy Project, L.P.** ) **FE DOCKET NO. 12-32-LNG**  
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Sierra Club hereby protests Jordan Cove Energy Project, L.P.,’s February 6, 2018, application to modify the authorization issued in F.E. Docket No. 11-127-LNG and the conditional authorization issued in F.E. Docket No. 12-32-LNG. This protest is submitted in response to the notice issued by DOE on April 19, 2018, 83 Fed. Reg. 17,406. Sierra Club has already been granted intervenor status in 12-32-LNG.<sup>1</sup>

**I. DOE’s Notice Inappropriately Limits the Scope of Comments**

The current application makes two distinct requests. First, Jordan Cove seeks to modify its pending application regarding exports to non-free trade agreement countries, seeking a 35% increase in the amount of gas to be exported (from the previously-requested and conditionally-authorized 0.8 bcf/d to the newly-proposed 1.08 bcf/d).<sup>2</sup> Second, Jordan Cove *also* seeks to extend the deadlines established in the conditional NFTA authorization and in the final FTA authorization, both of which previously required that exports begin no later than 2021 (respectively, March 24 and December 7). As we explain below, this request to extend deadlines

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<sup>1</sup> Order 3413 at 158.

<sup>2</sup> On October 5, 2015, Jordan Cove sought an intermediate modification in its non-FTA application, from 0.8 bcf/d to 0.96 bcf/d. Sierra Club filed a timely protest of this application on March 23, 2016. DOE has yet to take any action on the 2015 application.

We note that our protest was previously available in DOE’s online docket for Jordan Cove’s nFTA application, [https://fossil.energy.gov/ng\\_regulation/applications-2012-jordancoveenergyproject12-32](https://fossil.energy.gov/ng_regulation/applications-2012-jordancoveenergyproject12-32). DOE’s summary of LNG export applications continues to provide this link, and we are not aware of any other. However, this website has been unavailable for much, if not all, of the present comment period. Removal of this material (in particular, Order 3413) is inappropriate and interferes with the public’s ability to meaningfully comment.

has impacts distinct from any change in the volume of exports authorized. It was therefore inappropriate for DOE to state, in the notice of this application, that DOE would only accept comments on issues relating to the request to increase authorized export volumes. 83 Fed. Reg. at 17,407. DOE must accept and consider the comments we provide below on this issue. In addition, DOE must provide a renewed and corrected notice that makes it clear that DOE will also accept comment on issues relating to the deadline for commencement of exports. In light of DOE's explicit statement that it would not consider comments on issues, it is likely that some members of the public withheld comments on the timing question.

We separately note that, to date, DOE has provided no analysis whatsoever of the environmental impacts of the conditionally-authorized exports, nor has DOE explained how those impacts influence its tentative public interest conclusion. Indeed, this is why the conditional authorization is conditional. It is therefore inappropriate for DOE to suggest, in any way, that this issue is settled or that the public has already had sufficient opportunity to comment thereon. As DOE recognizes, environmental impacts must be considered as part of the public interest determination: because environmental analysis is still underway, Sierra Club and others must be permitted to continue to argue, as part of the renewed NEPA process, that the environmental impacts of the conditionally-approved exports demonstrate that they are contrary to the public interest, and that the conditional authorization must not be finalized.

## **II. DOE Cannot Extend the Deadlines Provided in Orders 3041 and 3413 without Fully Revisiting the Analyses Therein**

In determining whether to conditionally authorize exports, in DOE Order 3413 and elsewhere, DOE has considered a wide range of factual issues, including domestic gas supply, consumption, and prices, global gas markets, the state of U.S. industry and employment,

questions of international policy (including trade, security, and climate), and (although not in the conditional authorization here) environmental impacts. The facts informing this analysis are not evergreen: for example, energy markets in the U.S. and globally look very different now than they did when Jordan Cove's initial export applications were filed. Potential importing nations have joined the Paris climate agreement, which in many cases will limit their appetite for LNG imports, as meeting the Paris goals will, in the coming decades, require a transition away from all fossil fuels. Domestically, while Jordan Cove's initial application was one of the first considered by DOE, it is now clear that if Jordan Cove enters operation at all, it will come on the heels of a truly vast expansion of prior export capacity. As of April 9, 2018, DOE had issued *final* approval to roughly 23 bcf/d of exports to non-FTA countries. Many of these other authorizations pertain to facilities that are already operational or under construction.

We recognize that, as DOE explained in Order 3413, there will always be new data available, and that if an agency is ever to reach a final decision rather than indefinitely revise its analysis, the agency must at some point be permitted to close the book. Order 3413 at 88 (explaining DOE's decision to use projections from Annual Energy Outlook 2011, rather than 2012 or 2013). However, requiring consideration of new evidence when the project proponent seeks to extend the deadline for action is common sense and creates no risk of perpetual re-analysis. The seven-year deadline to commence operations effectively places a limit on how stale the data and analysis underlying the authorization can be before the activity commences. Here, Jordan Cove asks that it be allowed to commence exports in 2024 on the basis of market analyses completed thirteen years prior, in 2011. This is unreasonable: DOE cannot extend the deadline for the previously-conditionally-authorized 0.8 bcf/d without revisiting the conditional authorization, in its entirety, in light of the changes in the underlying facts.

Revising the conditional authorization’s analysis in considering the request to extend the deadline is further consistent with Order 3413’s statement that the purpose of the deadline is “to ensure that other entities that may seek similar authorizations are not frustrated in their efforts to obtain those authorizations by authorization holders that are not engaged in actual export operations.” Order 3413 at 147. We strongly support the principles underlying this limitation: first, that DOE cannot authorize exports unless it concludes, after careful analysis, that cumulatively-authorized exports would not be inconsistent with the public interest, and second, the assumption that at some point, further increases in exports will cease to be in the public interest. Prolonging the authorization for what remains a speculative project undermines DOE’s ability to accurately evaluate future applications, because DOE relies on EIA analysis, which is based on estimates of the volume of exports that are *likely* to occur, but DOE must also consider the full scope of its existing authorizations.

### **III. Existing DOE Analyses Do Not Consider the Cumulative Impact of Jordan Cove’s Exports**

In evaluating Jordan Cove’s application (whether with regard to the increase in exports or in its entirety), DOE must consider the cumulative impact of all DOE-approved exports. To date, DOE has issued *final*<sup>3</sup> nTFA authorization for roughly 23 bcf/d of exports.<sup>4</sup> However, DOE’s most recent analyses of supply and macroeconomic impacts (EIA’s October 2014 LNG Export Study<sup>5</sup> and the 2015 Macroeconomic Study<sup>6</sup>) do not discuss export volumes in excess of 20 bcf/d; EIA’s 2017 and 2018 Annual Energy Outlooks indicate that through 2040, a much lower volume

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<sup>3</sup> *I.e.*, entirely excluding Jordan Cove.

<sup>4</sup> [https://www.energy.gov/sites/prod/files/2018/04/f50/Summary%20of%20LNG%20Export%20Applications\\_0.pdf](https://www.energy.gov/sites/prod/files/2018/04/f50/Summary%20of%20LNG%20Export%20Applications_0.pdf)

<sup>5</sup> <https://www.eia.gov/analysis/requests/fe/pdf/lng.pdf>

<sup>6</sup> [http://energy.gov/sites/prod/files/2015/12/f27/20151113\\_macro\\_impact\\_of\\_lng\\_exports\\_0.pdf](http://energy.gov/sites/prod/files/2015/12/f27/20151113_macro_impact_of_lng_exports_0.pdf)

of LNG exports is likely. Roughly 12 bcf/d of export capacity is either complete or is under construction; another 6.79 bcf/d has already received final FERC approval. Because these projects are ahead of Jordan Cove in the approval and construction process (and most, if not all, of these projects have demonstrated actual customers), Jordan Cove is unlikely to find market support. If Jordan Cove exports LNG at all, it is likely to be *in addition* to this other, earlier-completed capacity. Because *additional* exports, beyond the 23 bcf/d DOE has already granted final approval, are only likely to occur if DOE and EIA's current assumptions about U.S. and global gas markets are wrong, the agencies' existing analysis do not address the consequences of Jordan Cove's proposed additional exports.

As Sierra Club and others have explained here and in the related FERC proceedings, Jordan Cove has failed to identify a buyer for its proposed exports. Jordan Cove's continued failure to do so indicates that something significant would need to change in global markets for this project to become viable and for the proposed exports to actually occur. But this, in turn, raises the question of what those conditions would be, and whether, in that hypothetical situation, exports would be in the public interest. For example, it may be that the market would only support exports from Jordan Cove (on top of other already-approved US exports) in the case of a severe global supply shock or surge in demand. DOE has provided no basis to conclude that, in such a situation, DOE's assumption that exports will not significantly increase US gas prices would still be valid. DOE must consider what would need to for Jordan Cove's exports to occur, and whether exports would still be a good idea if those precedent conditions were satisfied.

#### **IV. Jordan Cove's Proposed Exports Are Contrary to the Public Interest**

For the reasons Sierra Club and others previously explained, Jordan Cove's proposed exports (both the proposed increase and as a whole) are contrary to the public interest, and should

be denied. These exports will have severe environmental impacts at every step of the export life-cycle, from the additional exploration and production that will occur in order to supply the exports, through construction and operation of the pipeline and export facility, extending to shipping and end use of the exported LNG. DOE's conditional authorization reached no analysis or conclusions regarding these impacts.

In addition, the proposed exports will have adverse economic, employment, and other non-environmental effects. As Sierra Club explained in comments on the 2012 and 2015 macroeconomic studies, LNG exports will have redistributive effects far greater than their net impact on GDP. Sierra Club Feb. 26, 2016 Comment at 3.

In considering economic impacts, DOE must account for the fact that Jordan Cove is now entirely owned by a foreign company, and that much, if not all, of the feed gas exported by the project is likely to be produced in Canada rather than the United States. At the time the conditional authorization was issued, in contrast, Jordan Cove was 25% U.S. owned. This foreign ownership distinguishes many of the conclusions in the macroeconomic analysis regarding purported benefits to the United States. Insofar as DOE considers benefits to foreign entities in its analysis (whether directly or by concluding that benefiting to foreign entities in turn indirectly benefits the United States), this provides an additional reason why DOE must also consider adverse *environmental* impacts occurring outside the U.S.—in particular, effects of climate change.

Finally, we note that Jordan Cove's present request to modify its application provides *no* support for its assertion that the proposed exports are strongly supported in the local community. As has been amply demonstrated in this proceeding, the FERC dockets, and elsewhere, there is extensive opposition to this project across the affected communities.

## V. Conclusion

For the reasons stated above, and in Sierra Club's previous filings in this docket, the related FERC dockets, and in response to DOE's solicitation of comments regarding general export studies, Jordan Cove's requested exports are contrary to the public interest. DOE should deny the recent request to increase the authorized export volumes and to postpone the in-service date; DOE should also deny Jordan Cove's prior request to increase export volumes, and DOE should deny, rather than finalize, the outstanding conditional authorization. Sierra Club will provide additional comment on the environmental impacts of Jordan Cove's proposed exports as part of the NEPA process, which DOE is participating in as a cooperating agency.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that I caused the above documents to be served on the applicant and all others parties in this docket, in accordance with 10 C.F.R. § 590.107, on May 9, 2018.

Dated at Oakland, CA, this 9<sup>th</sup> day of May, 2018.



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**VERIFICATION**

OAKLAND §  
 §  
CALIFORNIA §

Pursuant to C.F.R. §590.103(b), Nathan Matthews, being duly sworn, affirms that he is authorized to execute this verification, that he has read the foregoing document, and that facts stated herein are true and correct to the best of his knowledge, information, and belief.



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