



# United States Department of the Interior

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FERC FORM ENERGY  
REGULATORY ENERGY DIVISION

2011 NOV 22 A 10:09

SECRETARY OF THE  
ENERGY DIVISION

Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

**Subject:** Request to Initiate Endangered Species Act Section 7 Formal Consultation for Jordan Cove Energy and Pacific Connector Gas Pipeline (CP07-441-000, CP07-444-000)

Dear Ms. Bose:

As a result of the phone conversation on October 25, 2011, between our agencies, I am following up on my commitment to respond to you in writing. The purpose of my letter is to review with you the Fish and Wildlife Service's (Service) informal consultation history between our offices on the proposed Jordan Cove LNG Terminal and Pacific Connector Gas Pipeline projects (Project) and to reiterate the Service's position that the Federal Energy Regulatory Commission's (FERC) biological assessment (BA) is not ready for Section 7 Formal Consultation. Our position is based on an insufficient description of the proposed action, leading to an incomplete consideration of all direct and indirect effects of the action, as discussed below.

The Service initially received FERC's BA for the proposed Project on May 8, 2009. In a letter to you on July 2, 2009, the Service provided substantive comments on the BA and stated the BA was inadequate to initiate consultation based on: important federal land use and recovery plans were in flux; the final outcome and application of those plans was unpredictable; and any changes in these plans or their application would have significant implications to the effects of the Project. We also clearly identified the need for the Project's Compensatory Mitigation Plan (CMP) to provide reasonable levels of detail and assurance about their nature, location, effects, and implementation.

On October 15, 2010, the Service received an updated BA from FERC. On January 25, 2011, the Service transmitted a letter to FERC indicating the BA was still inadequate to initiate formal consultation because previous issues had not been resolved. On March 18, 2011, the Service

informed FERC representatives via conference call that no additional Service comments would be provided on the October 15, 2010 BA.

On August 5, 2011, the Service received FERC's letter requesting the Service to reconsider initiation of formal consultation and to issue a biological opinion. However, your letter provided no additional information addressing previous Service comments. Your letter also did not fully describe ongoing or recently-completed changes to the Project's action, such as those actions associated with the Project's Right of Way application and Plans of Development, Bureau of Land Management (BLM) and U.S. Forest Service (USFS) land use plan amendments and associated NEPA analysis, and potential revisions to the CMP. Because your BA, in combination with your August 5, 2011 letter, did not fully describe the Project's actions, the Project's effects cannot be fully determined. In addition, important information and guidance in the recently published Northern Spotted Owl Recovery Plan<sup>1</sup> was not addressed in either your letter or the BA's impact analysis. Therefore, your letter and the October 15, 2010, BA still provide insufficient description of the proposed action and an incomplete consideration of all direct and indirect effects of the action.

In addition to these new and ongoing Project changes since the October 15, 2010 BA, a new uncertainty has recently emerged about the timeframes for finalizing the Project's BLM and USFS land use plan amendments. On September 22, 2011, the Jordan Cove Energy Project filed an application with the U.S. Department of Energy (USDOE) for a Long-Term Authorization to Export Liquefied Natural Gas. Due to uncertainty associated with USDOE and FERC's response to this new LNG export terminal application, the Oregon/Washington State Director of BLM requested a temporary suspension of the publication of the Notice of Intent to Prepare a Supplemental Environmental Impact Statement for the Project's Right-of-Way (ROW) Grant and Associated Land Management Plan Amendments. This deferred initiation of Project scoping related to the Project's BLM and USFS land use plan amendments and the ROW grant application further indicates to the Service that the BA provides an insufficient description of the Project's proposed action and an incomplete consideration of all direct and indirect effects of the action.

Therefore, in response to your August 5, 2011 letter, the Service's position remains consistent with our previous letters: the Project BA will not be ready for formal consultation until, at a minimum: 1) BLM and USFS land use plan amendments and other changes to Plans of Development associated with the Project's federal lands Right of Way application are finalized; 2) the Project's CMP is finalized and adequately reflects the Service's previous draft BA comments; 3) resultant changes to the BLM and USFS land use plans (including Plans of Development) and CMP are thoroughly integrated into a new BA; and 4) information and guidance in the recently published Northern Spotted Owl Recovery Plan are thoroughly

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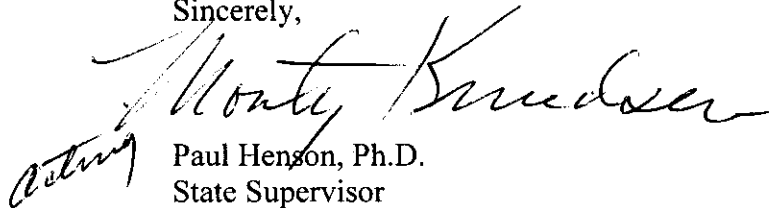
<sup>1</sup> Full PDF of the 2011 NSO Recovery Plan is available at:

<http://www.fws.gov/oregonfwo/Species/Data/NorthernSpottedOwl/Recovery/Library/Documents/RevisedNSORecPlan2011.pdf>

integrated into a new BA. Only when these Project actions are finalized and fully described, and Project effects are completely analyzed, will it be likely that the updated BA is sufficient for initiation of formal consultation.

If you have any questions, please contact Doug Young, Energy Program Manager, at (503) 231-6179 or [doug\\_young@fws.gov](mailto:doug_young@fws.gov).

Sincerely,

A handwritten signature in cursive script, appearing to read "Paul Henson". To the left of the signature, the word "acting" is written vertically in a smaller, less legible cursive script.

Paul Henson, Ph.D.  
State Supervisor

cc: Williams Gas Pipelines –Miller  
Jordan Cove Energy –Braddock  
FERC – Friedman, Swearingen  
USFS – Yamamoto  
BLM – Styduhar, Orr  
NMFS – Wheeler  
Corps – Hanson  
ODFW – Germond  
ODOE – Hughs  
TetraTech – Hurley

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