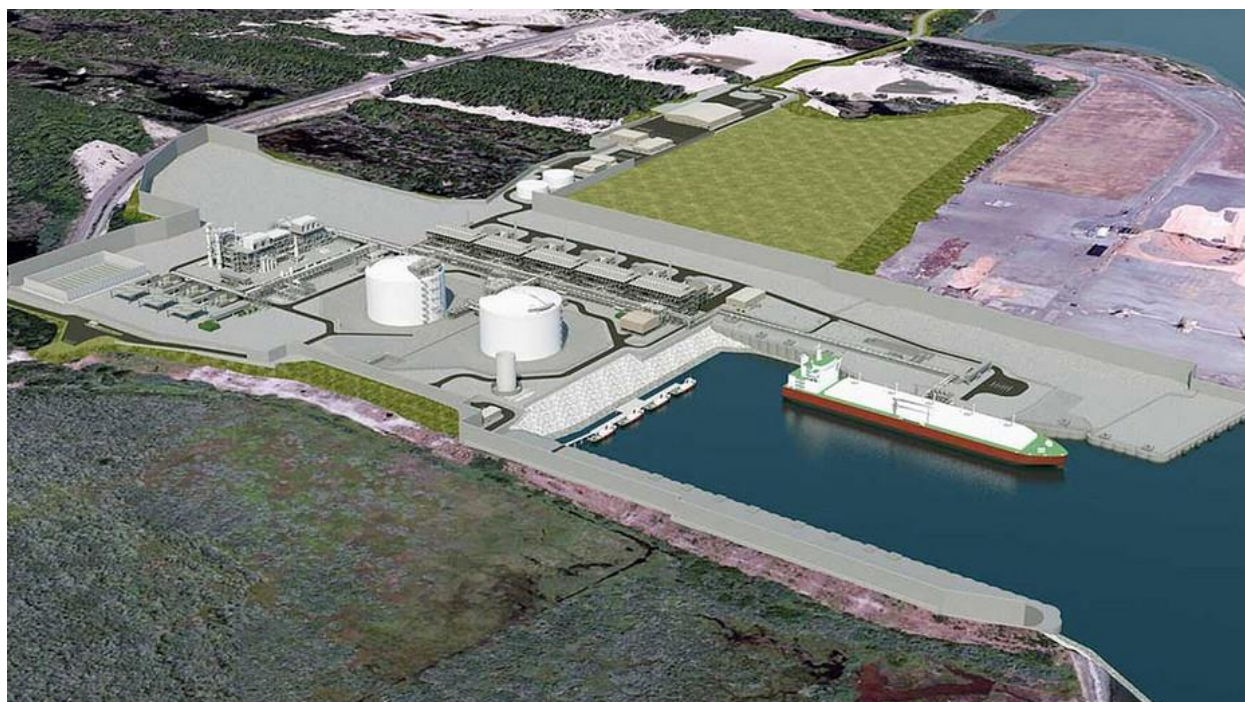


# Jordan Cove project dies. What it means for FERC, gas

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A rendering of the Jordan Cove natural gas export project in Oregon. Jordan Cove LNG

**ENERGYWIRE** | The developer of an Oregon liquefied natural gas export terminal told the Federal Energy Regulatory Commission for the first time yesterday it would not move forward with the embattled project, putting to rest years of uncertainty for landowners.

Citing challenges in obtaining necessary permits from state agencies as the reason for abandoning the Jordan Cove project, Pembina Pipeline Corp. asked FERC to cancel authorizations for the LNG terminal and associated Pacific Connector pipeline, which would have carried natural gas from Canada to the proposed facility in Coos Bay, Ore.

“Among other considerations, Applicants remain concerned regarding their ability to obtain the necessary state permits in the immediate future in addition to other external obstacles,” Pembina said in its [brief](#) to FERC.

The announcement adds to a debate about the role of natural gas at a time of high prices and as industry groups are pressuring the Biden administration to clarify exactly how

LNG exports fit into its broader climate agenda ([Energywire](#), July 8). It also may influence FERC's ongoing review of how it approves gas projects.

Pembina's move is a win for landowners who have been steadfastly opposing the project for years, said David Bookbinder, chief counsel for the Niskanen Center and attorney for some of the landowners affected by the pipeline. The Niskanen Center and others submitted a brief of their own yesterday, urging FERC to grant Pembina's request to ax the certificate.

"I can say the landowners are utterly delighted that this chapter of their 15-year nightmare is over and hopefully that will truly be the end of Pembina's hopes to build this project," he said.

The company had put the export project on an indefinite hold in April after failing to get key state and federal approvals.

But Pembina's decision to cancel the project outright means affected landowners can now move forward with plans to improve or sell their property, Bookbinder added.

The commission did not respond to a request for comment on the brief, since the issue remains pending.

Christine Tezak, managing director of research at ClearView Energy Partners LLC, said she would expect FERC to grant the request.

"There is no mystery as to what Pembina is doing, and this will be the end of that, in my view," Tezak said.

Scott Laueremann, a spokesperson for the American Petroleum Institute, called the cancellation of Jordan Cove "yet another unfortunate example of a much needed U.S. energy infrastructure project being terminated due to unnecessary regulatory delays."

Canceling the project, which was slated to carry LNG to Asian markets, meant the U.S. had "lost an opportunity to export its success in reducing emissions," said Western States and Tribal Nations President Andrew Browning in a statement.

He noted that the Asian countries purchasing U.S. LNG were seeking to replace coal consumption.

"It's equally a loss for American energy producers and the economic development they create in sovereign tribal nations and rural Western communities," Browning said.

Initially proposed in 2007, Jordan Cove has been contested for over a decade by nearby property owners, environmental groups, Indigenous communities and Oregon state officials. Opponents raised concerns about the project's climate change contributions, impacts on tribal territories and waterways, and consequences for tourism and fishing industries.

The proposal has also been a symbol of FERC's alleged deference to industry in its assessments of natural gas projects. When the commission approved the latest iteration of the project in a 3-1 vote last year, critics — including then-Commissioner and current FERC Chair Richard Glick, who dissented — accused the majority on the commission of ignoring signs that the project benefits didn't outweigh the costs.

“[The] Commission's public interest analysis does not adequately wrestle with the Project's adverse impacts,” Glick said in a statement at the time. “The Project will significantly and adversely affect several threatened and endangered species, historic properties, and the supply of short-term housing in the vicinity of the project.”

Now that it has been canceled, the Jordan Cove case provides additional evidence that FERC must scrutinize natural gas proposals and fully consider whether they are in the public interest, said Gillian Giannetti, an attorney at the Natural Resources Defense Council's Sustainable FERC Project.

She noted that Jordan Cove's cancellation comes at the same time as another project, the Spire STL pipeline in Missouri and Illinois, is facing an uncertain future in part because of FERC's review of the plan. Earlier this year, the U.S. Court of Appeals for the District of Columbia Circuit revoked the federal agency's 2018 authorization of the Spire pipeline, having found that FERC disregarded evidence showing the facility wasn't needed.

The agency is considering whether to study a broader array of factors, including environmental justice impacts and climate change, when determining the need for a new natural gas pipeline in light of that and other court decisions.

“Aside from the Spire case, [Jordan Cove] is the single worst approval that FERC has ever done for a gas project,” Giannetti said. “It's an example of the lack of scrutiny that FERC has applied to these kinds of projects historically.”

Pembina's brief comes in response to a D.C. Circuit decision that directed FERC to take another look at the company's certificate in light of the company's decision to pause the project in April. Last month, the court gave the commission 90 days to decide whether to pause the certificate that had authorized Pembina to build Jordan Cove ([Energywire](#), Nov. 2).

In response to the court, FERC ordered the project developer to clarify its intentions with the pipeline by Dec. 1. The commission asked parties to weigh in on whether it should issue a “stay” on the projects' permits.

But by vacating the certificates altogether, the question of a stay “would be moot, since there would be no authorizations to stay,” Pembina said in its brief.

Once the independent agency responds to Pembina's request, the Court of Appeals will need to approve FERC's decisions as well, said Susan Jane Brown, wildlands program

director and staff attorney at the Western Environmental Law Center. The organization has represented a coalition of groups who've been challenging the project.

“At long last, landowners, tribes, the State of Oregon, and conservationists might, finally, have some clarity that this project is actually dead and buried,” Brown said in an email. “Now, we wait for FERC to act.”

The project's cancellation will also mean the D.C. Circuit will not yet address whether the Natural Gas Act allows companies to use eminent domain to seize land to build pipelines specifically for export projects. That question was at the heart of the litigation over the FERC certificate.

Following the filings with FERC, landowners will ask the D.C. Circuit to remand the certificate so FERC can vacate it, said Bookbinder.

## **‘Nail in the coffin’**

Pembina first received a certificate from FERC to operate Jordan Cove as an import facility in December 2009, before reapplying in 2013 to export LNG instead.

That same year, the developer of the Pacific Connector pipeline applied to the commission to allow it to carry 1 billion cubic feet of natural gas per day to the export facility ([Energywire](#), June 10, 2013). Pacific Connector and Jordan Cove are affiliate companies of Canadian energy corporation Pembina.

The project appeared on course for approval when in 2014, commissioners deemed the pipeline would have minimal environmental impact. Environmental groups at the time called the Obama administration's analysis "a soft denial of climate change" ([E&E News PM](#), Nov. 7, 2014).

But in 2016, FERC issued a surprise decision declining to authorize the project, saying the project's developers had failed to show adequate demand for the project that would outweigh its harms to property owners.

The project's fortune's changed again under former President Trump. Jordan Cove and Pacific Connector reapplied for the project, and FERC's Republican-controlled commission approved it in March 2020. The majority of commissioners said at the time that the pipeline was “required” for the public good and that the LNG terminal was “not inconsistent with the public interest.”

“The proposal would have economic and public benefits, including benefits to the local and regional economy and the provision of new market access for natural gas producers,” FERC said in its order.

But the project also faced other troubles that eventually pushed the company to suspend the project.

In January, FERC declined to overrule Oregon's Department of Environmental Quality determination in 2019 that the project didn't comply with state water quality standards and denied its Section 401 certification. The Commerce Department had also ruled the harms of the project to the Pacific coast and Indigenous communities outweighed the project's benefits. NOAA also had deemed the project "inconsistent" with the Coastal Zone Management Act ([Greenwire](#), April 23).

In response to the Jordan Cove cancellation, Sen. Jeff Merkley (D-Ore.) said in a statement the country needs "to be investing in infrastructure and creating good jobs that speed the transition away from fossil fuels and toward renewable energy as quickly as possible."

Bookbinder predicted the cancellation would have limited impact on planned LNG terminals elsewhere in the U.S. There is still a significant market for LNG, and Gulf Coast states have been "more than happy" to build export terminals, Bookbinder said.

For the Oregon project, 30 percent of landowners affected by the pipeline had held out on signing away their land, an unusually large amount of opposition that continued over 15 years, according to Bookbinder.

"I would like to say this is a nail in the coffin, but that's not realistic," he said.

Since Jordan Cove was first proposed, the odds of it getting built have been low, said Erin Blanton, a senior research scholar at the Center on Global Energy Policy at Columbia University's School of International and Public Affairs. Local opposition has been strong from the start, and its "unique location" also put it at a disadvantage, Blanton said.

"I'm not surprised by this," Blanton said. "I don't think it's reflective of a general trend in the industry."