

LNG Exports: Who Gets to Decide?

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The Great Satan

(aka Oregon LNG Project)





Oregon LNG Export Project



- 4.5 – 9.0 MTPA All-Electric Liquefaction Facility
- Re-Gas Capacity or Diversion Available for Local Market Peaks
- 2 x 160,000 m³ LNG Storage Tanks
- Pier and Dock to Accommodate Q-Max Tankers
- 100 – 125 Ships per Year
- In-Service Date 2018/2019



Project Vicinity





Project Location: Mouth of the Columbia River

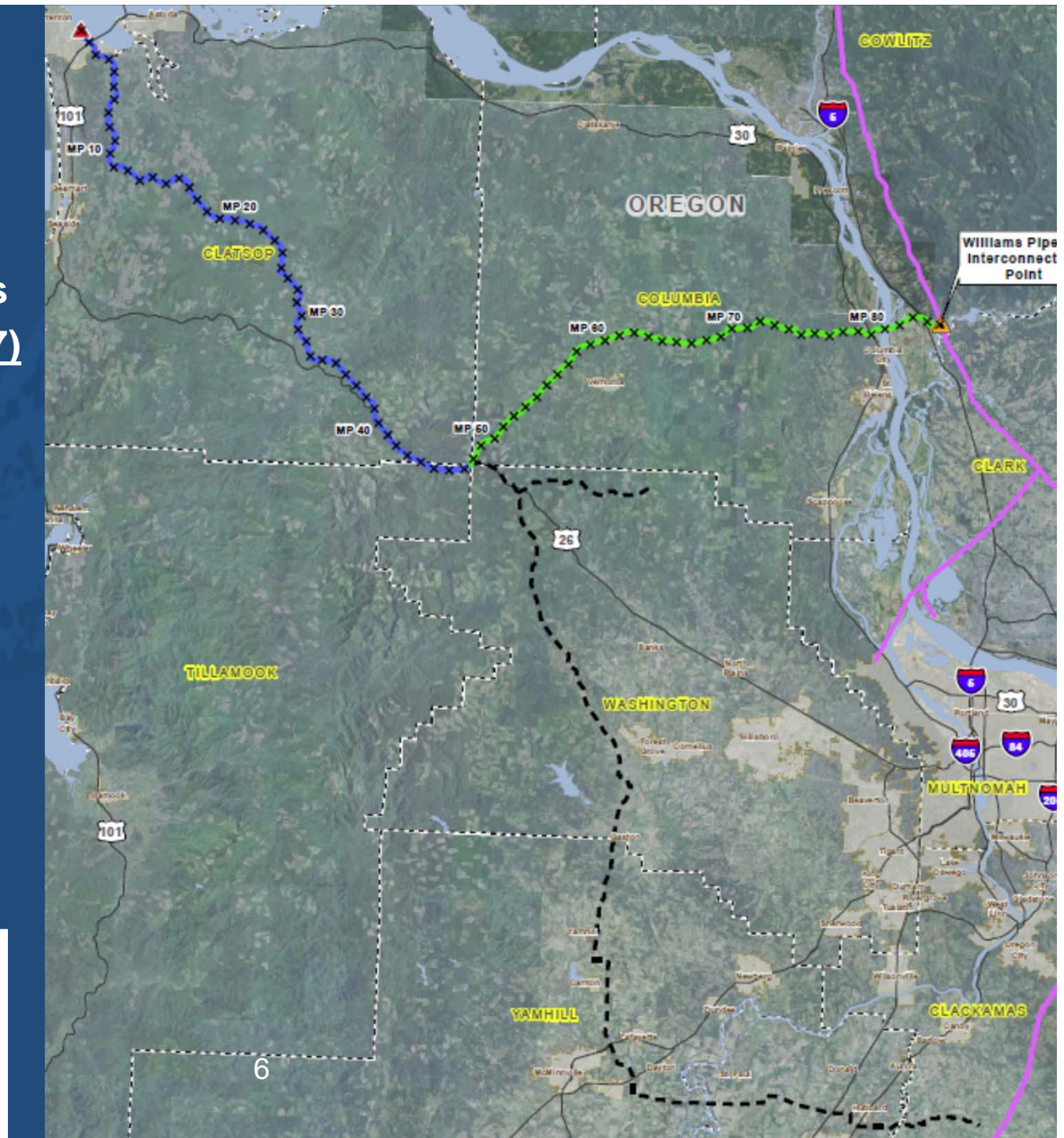


New Pipeline Route:

- 46 Miles Shorter
- 80% Fewer Landowners
- Oregon: 31 (Before: 227)
- Washington: 16
- Industrial Forest
- Fewer Residences
- Better Mainline Access
- Regional Grid Benefits
- Williams Expansion
- Old Route is GONE!
- Landowners Will Be Compensated Fairly

LEGEND

- | | |
|---|-----------------------|
| x Milepost | Freeways and Highways |
| Newly Proposed Route | Rivers and Lakes |
| Previously Proposed Route: Maintained | County Boundary |
| Previously Proposed Route: Removed | |
| Williams Pipeline | |
| Williams Pipeline Interconnection Point | |
| Oregon LNG Terminal Location | |





OLNG – Economic Impacts in Oregon

- Jobs During Construction, Direct, Indirect, Induced: 10,438^a
- Jobs During Operation, Direct, Indirect, Induced: 1,591^a
- Personal Income Taxes During Construction: \$220M
- Property Taxes During Construction: ~\$115M
- Annual Property Taxes Thereafter: \$57M
- Annual Personal & Corp. Income Taxes: \$13M

Source: EcoNorthwest

a) Includes SW Washington





Federal Authority

- FERC exclusive jurisdiction over siting natural gas pipelines and LNG terminals
 - **Natural Gas Act**, 15 U.S.C. § 717b; 15 U.S.C. § 717f
 - **Energy Policy Act of 2005**, Pub. L. No. 109-58, § 311(c), 119 Stat. 594, 686 (2005)
 - “Congress placed authority regarding the location of interstate pipelines . . . in the FERC, a federal body that can make choices in the interests of energy consumers nationally.” *Nat’l Fuel Gas Corp. v. Pub. Serv. Comm’n of N.Y.*, 894 F.2d 571, 579 (2d Cir. 1990).
- Not *that* exclusive



State Carve Outs

- Clean Water Act
- Clean Air Act
- Coastal Zone Management Act
 - 16 U.S.C. §§ 1451–1464
 - State coastal management plan
 - Developers certify consistency with plan, state concurs or objects within 180 days



Oregon CZMA Implementation



- Coastal Plan consists of state laws, and local land use plans and regulations
 - Land Use Compatibility Plans
- “Consistency” requires local permits
- Local plans incorporated in Coastal Plan must be “enforceable policies” approved by NOAA
- Could politics possibly enter the picture???



Clatsop County

- Why yes, it can!





The Cases

- *AES Sparrows Point v. Smith*, 527 F.3d 120, 125–27 (4th Cir. 2008)
 - County adopted anti-LNG ordinance, Maryland included in state coastal plan
 - NGA preempted county ordinance because it had not been approved by NOAA as a coastal plan amendment
 - Dissent says preempted anyway





The Cases

- *Weaver's Cove Energy, LLC v. R.I. Coastal Res. Mgmt. Council*, 589 F.3d 458, 469 (1st Cir. 2009)
 - Rhode Island law required the coastal agency's approval of dredging plans
 - Dredging would occur out of state, so agency said couldn't process consistency determination
 - *Held*, NGA preempts the state's dredging requirement





The Takeaway

- Courts will likely prevent local veto, *BUT*
 - Delays and extra costs can kill projects
 - Multiple state and local public processes hurt
- Local concerns important, but how build interstate infrastructure?
 - Highways, telecommunications networks, or electric transmission lines

