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## **4.10 CULTURAL RESOURCES**

Section 106 of the NHPA requires federal agencies to take into account the effects of their undertakings on historic properties and afford the ACHP an opportunity to comment. The procedures for complying with section 106 are outlined in the ACHP's implementing regulations at 36 CFR 800. The effects the Project may have on properties of traditional religious and cultural importance to Indian tribes must also be considered in accordance with section 101(d)(6) of the NHPA and the American Indian Religious Freedom Act (AIRFA).

All of the federal cooperating agencies, including the COE, Coast Guard, BLM, BOR, and USFS, have responsibilities under section 106 to consider the effect of their undertakings related to this Project on historic properties. As the lead federal agency for this Project, the FERC will address compliance with section 106 jointly for all the federal cooperating agencies in this EIS. However, agencies that administer federal lands have other responsibilities associated with the management of cultural resources under section 110 of the NHPA, the Archaeological Resource Protection Act (ARPA), the Native American Graves Protection and Repatriation Act (NAGPRA), and the Sacred Sites Executive Order 13007.

As allowed under Part 800.2(a)(3), we are using the services of the applicants and their consultants to prepare information, analyses, and recommendations so that we can meet our obligations under section 106. In this EIS, we will summarize activities to inventory the APE, identify historic properties, consult with Indian tribes about properties of religious or cultural importance, and consult with the SHPO and other interested parties about potential project effects.

### **4.10.1 Consultations with the SHPO, Indian Tribes, and Other Interested Parties**

The FERC staff, our third-party environmental contractor (Tetra Tech), Jordan Cove, Pacific Connector, and their cultural resources contractors consulted with the other cooperating agencies, the Oregon SHPO, and Indian tribes that may have historically occupied or used the project area and have an interest in the project, concerning the definition of the APE, survey methods, recordation of cultural resources, evaluation of NRHP eligibility, and assessment of Project effects. Our NOI for this Project, issued June 23, 2006, was sent to the cooperating agencies; the SHPO; other federal, state and local government agencies; Indian tribes who historically occupied southern Oregon; landowners; and the public. Below, we discuss responses to our NOI and other scoping comments regarding cultural resources issues.

#### **4.10.1.1 Consultations with the SHPO**

Jordan Cove first contacted the SHPO on March 17, 2006. In response, in a letter dated March 24, 2006, the SHPO advised that Jordan Cove acquire the services of a qualified archaeologist to conduct a cultural resources survey of the proposed LNG terminal tract. The Oregon statewide cultural resources database indicated that no previous cultural resources surveys had been conducted within the proposed terminal area. However, the terminal is located on a landform thought to have a high probability of containing cultural resources, and archaeological sites have previously been recorded in the vicinity.

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Jordan Cove hired R. Scott Byram, Ph.D. and R.P.A., as its consulting archaeologist. On June 26, 2006, Dr. Byram, on behalf of Jordan Cove, submitted a first draft cultural resources survey report to the SHPO, which was filed with the FERC on June 30, 2006, and also provided to the cooperating agencies. On October 2, 2006, the SHPO reviewed that report and requested revisions. In response to those comments, an addendum report was prepared by Dr. Byram and submitted to the SHPO on October 25, 2006, filed with the FERC on November 9, 2006, and provided to the cooperating agencies. The SHPO has not yet commented on the addendum.

On November 30, 2007, Jordan Cove filed with the FERC a copy of a cultural resources survey report for the Weyerhaeuser Linerboard dredged and excavated material disposal site areas, produced by Dr. Byram for the Port on August 17, 2007. On May 22, 2008, Jordan Cove filed with the FERC a report of a cultural resources inventory for the Port Commercial Sand Storage site, produced for the Port by Dr. Byram dated January 11, 2008. Dr. Byram submitted a copy of the survey report for the Port Commercial Sand Storage area to the SHPO on February 19, 2008, and received SHPO comments on the report dated May 28, 2008.

On October 3, 2006, the SHPO commented on Jordan Cove's first draft Resource Report 4, a summary of cultural resources data prepared for the FERC according to 18 CFR 380.12(f), filed with the FERC on June 30, 2006, and requested revisions. Jordan Cove filed a revised second draft Resource Report 4 with the FERC on November 9, 2006. The SHPO commented on that revised report on November 21, 2006.

Pacific Connector hired Historical Research Associates, Inc. (HRA) to coordinate its cultural resources investigations. Pacific Connector met with the SHPO on April 13, 2006, to discuss the Project, and field methods for cultural resources surveys. Between May and September 2007, the SHPO issued archaeological permits under Oregon state laws and regulations to allow HRA to conduct surveys on non-federal public lands, and testing of sites on private lands. Pacific Connector also met with SHPO on July 17, 2007, to discuss preliminary survey results.

In a letter to HRA, dated March 8, 2007, the SHPO indicated that it was suspending review of site forms submitted by Pacific Connector until a final draft report would be submitted. Pacific Connector included its final draft report as part of its application filed with the FERC on September 4, 2007. The SHPO provided its review of this report to the FERC in a letter dated July 11, 2008.

#### **4.10.1.2 Consultations with Indian Tribes**

The unique and distinctive political relationship between the United States and Indian tribes is defined by treaties, statutes, executive orders, judicial decisions, and agreements, and differentiates tribes from other entities that deal with, or are affected by, the federal government. This relationship has given rise to a special federal trust responsibility, involving the legal responsibilities and obligations of the United States toward Indian tribes and the application of fiduciary standards of due care with respect to Indian lands, tribal trust resources, and the exercise of tribal rights. Indian tribes are defined in 36 CFR 800.16(m), as "an Indian tribe, band, nation, or other organized group or community, including a Native village, Regional Corporation, or Village Corporation, as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians."

The FERC acknowledges that it has trust responsibilities to Indian tribes, and so, on July 23, 2003, it issued a “Policy Statement on Consultations with Indian Tribes in Commission Proceedings” in Order 635. That policy statement included the following key objectives:

- The Commission will endeavor to work with Indian tribes on a government-to-government basis, and will seek to address the effects of proposed projects on tribal rights and resources through consultations; and
- The Commission will ensure that tribal resources and interests are considered whenever the Commission’s actions or decisions have the potential to adversely affect Indian tribes or Indian trust resources.

In addition to consultations with federally recognized tribes on a government-to-government basis, the FERC also consulted with organizations and individuals lacking federal recognition who have legal or economic relationships with the proposed Project, a demonstrated interest in the undertaking, and/or may have concerns regarding the proposed Project’s effects on cultural resources. We are treating Native American individuals and organizations that are not federally recognized Indian tribes, but who have expressed an interest in the Project’s potential impact on cultural resources, as either additional consulting parties or members of the public, as defined by Part 800.2(c)(6) and (d) of the ACHP’s regulations.

Our NOI, issued June 23, 2006, described the proposed Project, including use of the waterway for LNG marine traffic. The NOI was sent to Indian tribal government leaders and resource agencies, and other Native Americans who may have historically occupied or used the Project area, those that may attach religious or cultural significance to sites in the region, or may be interested in potential Project impacts on cultural resources. Copies of the NOI were mailed to the U.S. Bureau of Indian Affairs (BIA); Oregon State Legislative Commission on Indian Services; Affiliated Tribes of Northwest Indians; Columbia River Inter-Tribal Fish Commission (CRITFC); Confederated Tribes of the Grand Ronde Reservation (Grand Ronde Tribes); Confederated Tribes of the Siletz Reservation (Siletz Tribes); Chinook Nation; Clatsop-Nehalem Confederated Tribes; Coquille Indian Tribe; Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians (Coos Tribes); Cow Creek Band of Umpqua Tribe of Indians (Cow Creek Tribe); Klamath Tribe; Modoc Tribe of Oklahoma; Latgawa Native American Indian Tribe (Latgawa Tribe); Burns Paiute Tribe; Fort McDermitt Paiute and Shoshone Tribes; Pit River Tribe; Shasta Nation; and Smith River Rancheria (table 4.10.1.2-1).

TABLE 4.10.1.2-1.		
Native American Consultations		
Indian Tribe/Native American Organization Addressed in FERC NOI Issued June 23, 2006	Dates Contacted by Jordan Cove and Pacific Connector	Responses
Affiliated Tribes of Northwest Indians, Portland, Oregon c/o Lynn Dennis	May 10, 2006, letter from Pacific Connector	No response filed
Burns Paiute Tribe, Burns, Oregon c/o Chester Adams, Chair, and Charisse Snapp, Cultural Resources	May 10, 2006, letter from Pacific Connector June 2, 2006, HRA sent research design	No response filed
Chinook Nation, Chinook, Washington c/o Gary Johnson, Chair	May 10, 2006, letter from Pacific Connector	No response filed

TABLE 4.10.1.2-1.

**Native American Consultations**

<b>Indian Tribe/Native American Organization Addressed in FERC NOI Issued June 23, 2006</b>	<b>Dates Contacted by Jordan Cove and Pacific Connector</b>	<b>Responses</b>
Clatsop-Nehalem Confederated Tribes, Turner, Oregon c/o Joseph Scovell	May 10, 2006, letter from Pacific Connector	No response filed
Columbia River Inter-Tribal Fish Commission, Portland, Oregon c/o Olney Patt, Executive Director	May 10, 2006, letter from Pacific Connector	No response filed
Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians, Coos Bay, Oregon c/o Ron Brainard, Chair, and Arrow Coyote, Cultural Resources, and Howard Crombie, Environment	October 24, 2005, letter from Dr. Byram May 2, 2006, letter from Pacific Connector June 2, 2006, HRA sent research design	October 28 and 31, 2005 – emails to Dr. Byram April 20, 2006 – email to Pacific Connector June 30, 2006 – telephone call with HRA July 21, 2006 – letter to the FERC September 13, 2006 – telephone call with HRA July 18, 2007 – meeting with Pacific Connector October 26, 2007 – letter to the FERC March 18, 2008 – letter to the FERC
Confederated Tribes of Grand Ronde, Grand Ronde, Oregon c/o Cheryle Kennedy, Chair, and Khani Schultz, Cultural Resources	May 2, 2006, letter from Pacific Connector June 2, 2006, HRA sent research design	October 18, 2006 – meeting with Pacific Connector April-July 2007 – emails to HRA
Confederated Tribes of Siletz Indians, Siletz, Oregon c/o Delores Pigsley, Chair, and Robert Kentta, Cultural Resources	October 24, 2005, letter from Dr. Byram May 2, 2006, letter from Pacific Connector June 2, 2006, HRA sent research design	December 5, 2005 – email to Dr. Byram June 28, 2006 – telephone call with HRA October 27, 2006 – meeting with Pacific Connector
	May 10, 2006, Pacific Connector sent a letter to Antone Minthorne, Chair, Confederated Tribes of Umatilla, Pendleton, Oregon	No response filed
	May 10, 2006, Pacific Connector sent a letter to Ron Suppah, Chair, Confederated Tribes of Warm Springs, Warm Springs, Oregon	No response filed
Coquille Indian Tribe, North Bend, Oregon c/o Edward Metcalf, Chair, and Don Ivy, Cultural Resources	October 24, 2005, letter from Dr. Byram May 2, 2006, letter from Pacific Connector June 2, 2006, HRA sent research design	2005-2006- Don Ivy conducted surveys with Dr. Byram of Jordan Cove LNG terminal May 4, 2006 – telephone call with HRA November 2006 – telephone calls and emails with Pacific Connector November 28, 2007 - letter to the FERC February 12, 2008 - letter to the FERC
Cow Creek Band of Umpqua Tribe, Roseburg, Oregon c/o Sue Shaffer, Chair, and Amy Amoroso, Cultural Resources	May 2, 2006, letter from Pacific Connector June 2, 2006, HRA sent research design	June 2006-September 2007 – representatives of tribe attended various interagency meetings with FERC staff during Pre-filing period 2006-2007 – members of tribe monitored surveys June 2006 – meetings with Pacific Connector

TABLE 4.10.1.2-1.

**Native American Consultations**

<b>Indian Tribe/Native American Organization Addressed in FERC NOI Issued June 23, 2006</b>	<b>Dates Contacted by Jordan Cove and Pacific Connector</b>	<b>Responses</b>
		July 19, 2006 – letter to the FERC October 20, 2006 – letter to the FERC October 25, 2007 – email to the FERC
Fort McDermitt Paiute and Shoshone Tribes, McDermitt, Nevada c/o Karen Crutcher, Chair	May 10, 2006, letter from Pacific Connector	No response filed
Klamath Tribe, Chilquin, Oregon c/o Allan Foreman, Chair, and Gerald Skelton, Cultural Resources	May 2, 2006, letter from Pacific Connector June 2, 2006, HRA sent research design	2006-2007 – tribal member participated in surveys July 28, 2006 – telephone call with HRA September 28, 2006 – meeting with HRA March 2007 – emails with HRA
Latgawa Native American Indian Tribe, Central Point, Oregon c/o Richard Davis and John Newkirk	June 6, 2006, Pacific Connector delivered maps in person	June 6, 2006 – Pacific Connector met with John Newkirk June 15, 2006 - John Newkirk and Rick Davis attended Pacific Connector open house July 12, 2006 - John Newkirk spoke at Medford public meeting
Modoc Tribe of Oklahoma, Miami, Oklahoma c/o Bill Follis, Chief	May 10, 2006, letter from Pacific Connector	No response filed
Pit River Tribe, Burney, California c/o Jessica Jin, Chair		No response filed
Shasta Nation, Yreka, California and Fort Jones, California	May 10, 2006, letter from Pacific Connector June 29, 2006, Pacific Connector sent draft research design	July 13, 2006 - Athena Calico spoke at Klamath Falls public meeting in Klamath Falls.
Smith River Rancheria, Smith River, California c/o Kara Miller, Chair	May 10, 2006, letter from Pacific Connector	No response filed

In response to our NOI, we received filed written comments about the Project from several tribes. A letter to the FERC, dated July 21, 2006, from the Director of the Department of Natural Resources for the Coos Tribes, indicated that the proposed Jordan Cove LNG terminal would be located within the ancestral territory of the Coos Tribes. There are three historic Indian villages on the North Spit, known from ethnographic data, and this area may be considered a traditional cultural property by the Coos Tribes. The Coos Tribes are concerned about potential Project impacts on burials and cultural resources. They recommended testing, and monitoring by tribal members. The Coos Tribes also indicated that impacts on Henderson Marsh and a nearby great blue heron rookery should be avoided. In addition, concerns were raised about potential impacts from future earthquakes and tsunamis on the proposed LNG terminal. The Coos Tribes also requested a copy of the Pacific Connector archaeological survey report.

On July 19, 2006, the Director of Natural Resources for the Cow Creek Tribe wrote a letter to the FERC acknowledging that the Tribe had been contacted by Pacific Connector regarding the Project. The Cow Creek Tribe recommended that Pacific Connector evaluate an alternative route to avoid impacting a major cultural site on USFS lands. All funerary sites should be avoided by

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the pipeline, and if other cultural sites cannot be avoided, Pacific Connector should develop mitigation measures in consultations with the Cow Creek Tribe. In a letter to the FERC, dated October 20, 2006, the Cow Creek Tribe provided its comments on Pacific Connector's first draft environmental Resource Report 4 on cultural resources.

In addition, representatives of various Indian tribes and Native American organizations spoke at public scoping meetings held during the Pre-filing period. This included a representative of the Coos Tribes speaking at the public meeting held on July 11, 2006, in Coos Bay; a representative of the Latgawa Tribe speaking at the July 12, 2006, Medford meeting; and a representative of the Shasta Nation speaking at the July 13, 2006, Klamath Falls meeting. At the Coos Bay meeting, Cynthia Hovind, with the Coos Tribes, indicated that there was an historic Indian village located at Jordan Cove, that the Coos Tribes would like to be involved in consultations, and the Coos Tribes have concerns about potential impacts from the proposed LNG terminal on Henderson Marsh and a nearby great blue heron rookery. At the Medford meeting, John "Gray Eagle" Newkirk, of the Latgawa Tribe, requested that Indian artifacts and burial grounds be respected and protected. At the Klamath Falls meeting, Athena Calico, vice-chair of the Shasta Indian Nation, requested that tribes be hired to monitor their own sites. Representatives of the Cow Creek Tribe attended multiple interagency meetings with FERC staff during the Pre-filing period (see table 1.6-1).

As required under 36 CFR 296.7, on June 30, 2006, the USFS notified the Cow Creek Tribe, Grande Ronde Tribes, Klamath Tribes, and Siletz Tribes, that HRA had applied for an ARPA permit to conduct archaeological investigations on NFS lands. Within the 30-day comment period, the Cow Creek Tribe met with the USFS to discuss their concerns.

Consultations between the FERC and Indian tribes continued even after Jordan Cove and Pacific Connector filed their applications in September 2007. On October 25, 2007, the Cow Creek Tribe sent an email to the FERC commenting on the cultural resources report included with Pacific Connector's application, and attaching a list of plant species considered important by the Cow Creek Tribe, and a map of general tribal plant gathering areas in the vicinity of the pipeline route. The Cow Creek Tribe requested that HRA consult with the tribe about the conduct of a traditional cultural properties study.

In an October 26, 2007, letter to the FERC, the Cultural Resources Protection Coordinator for the Coos Tribes requested that the proposed pipeline route be altered to avoid two sites in the Fairview area, and that the Coos Bay alignment of the proposed pipeline be abandoned in order to avoid impacting 16 recorded weir sites. The Coos Tribes again commented on route variations, in a March 18, 2008 letter to the FERC. The Coos Tribes reiterated its request that the route be shifted in the Fairview area to avoid two known site locations (BAC-5 and 6). The WC-1A route variation could potentially impact archaeological sites LM44 and 35CS33, and a survey should be done to identify sites at the crossings of Willanch and Kentuck Sloughs. The WC-6A variation may miss known weir locations, but new sites may be found as a result of additional investigations of that route alternative. The Coos Tribes object to any route that would have an adverse effect on cultural sites.

The Chairman of the Coquille Tribe wrote a letter to the FERC on November 28, 2007, commenting on the Pacific Connector pipeline route in the Coos Bay estuary. The tribe suggested that the pipeline should be re-aligned farther south than the proposed route within

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Coos Bay, on the east side of the shipping channel, between MPs 4 and 8. While it is assumed that the route re-alignment would not avoid all cultural resources, it would avoid many of the known recorded weir sites along the proposed route. In a letter to the FERC, dated February 12, 2008, the Coquille Tribe commented on the route variations developed by Pacific Connector for the Waterbodies Crossing Methodologies Sub-Group of the Interagency Task Force for this Project. The tribe found both route alternatives WC-6A and WC-1A to be acceptable and preferable over the proposed route.

In addition to the consultations between the FERC and Indian tribes, the applicants also conducted their own, separate Native American contact programs. Jordan Cove received guidance on tribal consultation from the Oregon Commission on Indian Services. Based on this guidance, Dr. Byram, on behalf of Jordan Cove, sent letters, dated October 24, 2005, to the Coos Tribes, Coquille Tribe, and Siletz Tribes, informing them about the Project and requesting comments. Jordan Cove received both verbal and written responses. Arrow Coyote, Cultural Resource Protection Coordinator for the Coos Tribes, responded via email. Donald Ivy, Cultural Resource Program Coordinator for the Coquille Tribe, responded verbally on November 19, 2005. Mr. Ivy also participated in surveys of the proposed Jordan Cove LNG terminal with Dr. Byram in 2005 and 2006. Robert Kentta, Cultural Resources Coordinator for the Siletz Tribes, responded by email. These tribes provided information that was used by Jordan Cove in analyzing cultural resources data for the proposed LNG terminal.

On April 29, 2006, Pacific Connector wrote a letter to Karen Quigley, Executive Director of the Oregon Commission on Indian Services, to verify which tribes should be contacted. Ms. Quigley responded that Pacific Connector should consult with the Coos Tribes, Coquille Tribe, Grand Ronde Tribes, Siletz Tribes, Cow Creek Tribe, and Klamath Tribes. On May 2 and 10, 2006, Pacific Connector sent letters about the proposed Project to the tribes listed on table 4.10.1.2-1. Pacific Connector received responses via email and telephone from several interested tribes. On June 2, 2006, HRA, on behalf of Pacific Connector, sent various tribes copies of its research design.

Pacific Connector provided maps of the pipeline route to the Latgawa Tribe at a June 6, 2006, meeting, and the tribe indicated concern about potential Project impacts to Table Rock. In June 2006, representatives of HRA meet on several occasions with representatives of the Cow Creek Tribe to discuss avoidance of a special use area of the Cow Creek Tribe, and archaeological monitoring. On September 28, 2006, HRA met with representatives of the Klamath Tribes to discuss survey results. Pacific Connector had a meeting with representatives of the Grand Ronde Tribes on October 18, 2006. In October 2006, HRA executed a tribal research permit with the Coos Tribes to facilitate the sharing of research data. On July 17, 2006, Pacific Connector met with representatives of the Coos Tribes to discuss the Coos Bay estuary route and potential impacts on aboriginal fishing weir sites. On October 27, 2007, Pacific Connector met with representatives of the Siletz Tribes to discuss survey results.

Pacific Connector began cultural resources surveys at select areas along the pipeline route in mid-June of 2006, and notified interested tribes. HRA exchanged telephone calls and emails with various tribes regarding survey findings. The Cow Creek Tribe had members monitoring the cultural resources fieldwork in their ancestral territory, mostly in Douglas County. A member of the Klamath Tribe worked as part of the HRA crew doing surveys in Klamath County. In-person meetings were held between HRA and cultural resources representatives of

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the Coos Tribes, Cow Creek Tribe, Klamath Tribe, Grand Ronde Tribes, and Siletz Tribes to discuss results of the survey, reroutes to avoid specific archaeological sites, and the need for testing at certain sites within their areas of concern.

#### **4.10.1.3 Consultations with Land-managing Agencies and Other Interested Parties**

In April 2006, Pacific Connector and its contractors met with representatives of the BLM and USFS to discuss cultural resources investigations and obtain GIS data on known sites in the project area. In May 2006, Pacific Connector's contractors met with various BLM district and USFS staff to discuss cultural resources field methods. On June 9, 2006, the BLM issued its first FLPMA permit for archaeological survey along the route of the Pacific Connector pipeline crossing BLM lands. An ARPA permit for work on Roseburg District BLM lands was issued August 18, 2006. The USFS issued an ARPA permit to HRA to conduct archaeological investigations on NFS lands on August 30, 2006. Throughout the remainder of 2006 and 2007 HRA had continuing informal consultations with the BLM, through the Roseburg District Archaeologist, and with the USFS, mostly through the Umpqua National Forest Archaeologist.

Jordan Cove filed the first draft of its environmental Resource Report 4 and cultural resources inventory report with the FERC on June 30, 2006, a revised version on November 9, 2007, and a third draft on April 26, 2007. The BLM provided the FERC with its comments on the third draft of Jordan Cove's cultural resources reports on May 22, 2007.

Pacific Connector filed with the FERC the first draft of its environmental Resource Report 4 and cultural resources inventory report on September 22, 2006, a second draft on December 5, 2006, and its third draft on June 27, 2007. The USFS commented to the FERC on Pacific Connector's first draft cultural resources report on October 17, 2006, and BLM provided its comments on October 23, 2006. The USFS commented on the second draft on December 29, 2006, and the BLM on January 3, 2007. The BLM provided the FERC with its comments on Pacific Connector's third draft cultural resources report on July 31, 2007, and the USFS commented on August 3, 2007.

The final drafts of all cultural resource reports were filed with the applications to the FERC on September 4, 2007. The BLM provided the FERC with its comments on the cultural resources section of the applications on October 31 and November 21, 2007. The USFS commented to the FERC on the applications on November 2, 2007.

In response to our NOA, issued September 13, 2007, the Northwest Office of the BIA filed comments, dated October 3, 2007. The BIA requested that the FERC document its "government-to-government" consultations with Indian tribes regarding potential Project impacts on religious, cultural, sacred sites, and burials.

On August 23, 2006, William and Cassandra Staton of Myrtle Creek, Oregon sent a letter to FERC to express their opposition to the proposed Pacific Connector pipeline, particularly that portion of the pipeline that crossed their private landholdings. One of the many concerns expressed in their correspondence is the potential effect to historic era structures and artifacts such as their house (c. 1908) and barn (c. 1890).

On October 3, 2007, Jody McCaffree a member of the southern Oregon-based group Citizens Against LNG (CAL) expressed general concerns for cultural resources. CAL also served as a

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conduit for the comments of Michael McNutt, dated September 10, 2007. Mr. McNutt makes a claim of ancestral relationship to portions of land to be affected by the Jordan Cove LNG terminal. On February 22, 2007, J. Fred Kirby, a private citizen of Coos Bay, Oregon expressed concerns to FERC regarding the impact on prehistoric Native American burial grounds that may exist in a portion of the Jordan Cove LNG terminal area. Another private citizen, Paula Hoehn, mentioned impacts on archaeological sites among the myriad of other concerns about the Project expressed in a letter to the FERC dated September 27, 2007.

## **4.10.2 Results of Cultural Resource Literature Searches and Inventories**

### **4.10.2.1 Waterway for LNG Marine Traffic**

We requested that Jordan Cove perform a literature review and site file search to identify known cultural resources within the Zones of Concern along the waterway for LNG marine traffic to the proposed Jordan Cove LNG terminal. That review indicated that there were 24 known previously recorded archaeological sites and 15 known previously recorded individual historic resources overlapped by the Zones of Concern (with the outer perimeter of Zone 3 extending up to 2.2 miles from the navigation channel).

Five of the archaeological sites within the Zones of Concern are listed on the NRHP. This includes sites 35CS10/11 (Cape Arago site and Baldiyaca Native American cemetery), 35CS24 (McCullough Bridgehead site), 35CS34 (Mussel Reef Village site), 35CS54 (Wu'alach Native American cemetery), and 35CS129 (state land coastal shell midden). Sites 35CS24, 35CS34, and 35CS129, were all part of a multiple property NRHP nomination prepared by Madonna Moss and Jon Erlandson in 1996 for coastal archaeological sites on Oregon State lands. There are two sites (35CS139 and 35CS221) within the Zones of Concern that are potentially eligible for the NRHP. The remaining archaeological sites overlapped by the zones are of unknown or undetermined eligibility.

Five of the historic resources within the Zones of Concern are listed on the NRHP. This includes The Coos Indian Tribal Hall, Major Morton Tower House, Tower-Flanagan House, all in the Empire neighborhood, the McCullough Bridge in North Bend, and the Cape Arago Lighthouse. The Coos Head U.S. Naval Facility is an historic district that has been determined eligible for the NRHP. Likewise, there is a proposed historic district in downtown North Bend that may be eligible for the NRHP, but has not yet been formally nominated. The Empire cemetery is also potentially eligible for the NRHP, as is the 1939 COE North Spit Railroad. All of the other historic sites overlapped by the zones are of unknown or undetermined eligibility.

No adverse effects on cultural resources (archaeological sites or historic structures) within the Zones of Concern are expected from the proposed LNG marine traffic in the waterway to the Jordan Cove LNG terminal. Jordan Cove and the operators of the LNG carriers would implement measures that would reduce the potential for oil or fuel spills from LNG marine traffic in the waterway that may affect shoreline historic properties. As discussed in section 4.12.5.2, each carrier would have a double hull that would keep fuel and oil onboard and prevent a spill. Furthermore, each LNG carrier would maintain a shipboard oil pollution emergency plan (SOPEP) as required by international convention. The SOPEP would comply with MARPOL [marine pollution] 73/78 Consolidated Edition 2002 Annex 1 Regulation 26, which requires that

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every oil tanker of 150 tons gross and above, and every ship of 400 tons gross and above to carry an approved SOPEP.

In the unlikely event of an LNG carrier incident that would result in an LNG spill and fire, effects would vary for different kinds of historic properties, depending upon their location within the Zones of Concern. There would be less impact on sites located in Zone 3 compared to sites located in Zone 1. There are no known historic properties located within Zone 1. There is one NRHP-listed and one potentially eligible archaeological sites, and two NRHP-listed and one potentially eligible historic sites overlapped by Zone 2 along the waterway for LNG marine traffic to the proposed terminal. Historic buildings could be affected by a pool fire, while a buried prehistoric site may not. However, a buried archaeological site may be affected by a fire-fighting response, such as the use of bulldozers to clear a fire break. With the implementation of Jordan Cove's proposed safety and security measures and the conditions outlined in the Coast Guard WSR, the possibility of an accident and release of LNG from a carrier in route to the terminal is remote.

#### **4.10.2.2 Jordan Cove LNG Terminal**

A portion of the inter-tidal margin in Coos Bay, overlapping the access channel to the LNG terminal, was surveyed by Dr. Byram and Donald Ivy of the Coquille Tribe by boat during a low "minus tide." No cultural resources were found in that portion of the APE. In its October 2, 2006, review of the Jordan Cove survey report, the Oregon SHPO commented there are no records of shipwrecks or submerged sites in that part of Coos Bay, and therefore an underwater survey is not required for the proposed terminal's access channel.

Dr. Byram oversaw an intensive close-interval pedestrian inventory of about 280 acres overlapping portions of the proposed Jordan Cove LNG terminal. The fieldwork was conducted in July 2005 and February 2006. Survey transit intervals varied from 20 meters to more than 30 meters spacing, depending on topography. Surveys of about 78 acres of forested dune on the east side of the parcel, that would contain portions of the excavated slip, transfer pipeline, and process area equipment, were described as "opportunistic" due to vegetation cover.

Consultation with the Oregon SHPO, coupled with a literature review and record search of available data suggested the presence of one reported site (R6), one anecdotal site, and one previously recorded site (35CS221) within the LNG terminal area proposed for the slip, storage tanks, and processing equipment. Another reported but unrecorded Native American archaeological site (R7) was noted near the southern access road across the Roseburg property in the vicinity of the chip storage area.

Reported site R6 was identified as a Native American lithic scatter on the western edge of Henderson Marsh. This area was apparently surveyed in the 1960s and 1970s by Ron Stubbs, a professor of Anthropology at Southwestern Oregon Community College. He described finding chips and scrapers on the surface, but did no subsurface testing. Stubbs believes this site was buried under 15 to 20 feet of dredge materials deposited by the COE in the 1970s during maintenance of the navigation channel in Coos Bay. Reg Pullen, a former BLM archaeologist, indicated to Dr. Byram that there may also be an unrecorded prehistoric shell midden in this vicinity.

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During his survey of the LNG terminal tract, Dr. Byram relocated previously recorded site 35CS221, which he believes is the location of the historic Henderson and Pederson ranches, dating between about 1889 and 1950. He found the remains of two structures, evidenced by concrete rubble piles, together with historic bottle glass, ceramics, and bricks on the surface.

Dr. Byram recommended archaeological testing to evaluate the NRHP eligibility of site 35CS221. Because it is believed that most of the site may currently be buried under dredge materials, the testing could not be done until after the LNG terminal is authorized, and the dredge layer is removed during excavation for the onshore portion of the proposed slip. In addition, the excavation and dredging for the slip should be monitored by a qualified archaeologist. Subsurface testing and monitoring was also recommended along the northern and southern access roads to the proposed LNG terminal across the Roseburg tract (Byram 2006). The SHPO concurred with those recommendations in its October 2, 2006 review of the original June 2006 survey report.

In July 2007, Dr. Byram conducted a pedestrian inventory of 92 acres at the proposed Weyerhaeuser Linerboard excavated and dredge material disposal areas, supplemented with subsurface shovel probing over 32 acres of the tracts. Previously recorded site 35CS227, the historic Jordan Ranch, was noted outside to the west of the Weyerhaeuser Linerboard areas, but near where Jordan Cove would locate its haul road, and slurry and water return pipelines to the disposal areas. This is also the potential location of the Native American village known as Quonatch. Previously recorded site 35CS26, a multi-component archaeological deposit, was noted outside of the Weyerhaeuser Linerboard areas to the southeast. A 1939 COE railroad spur may be within the Project area. However, a site form for the railroad is currently being prepared by the BLM and has not yet been submitted to the SHPO, and Byram found no remains related to the railroad during his survey. There is also a reported, but unrecorded Indian cemetery in this vicinity, and burials were said to have been disturbed during construction of the Menasha Mill in 1961 (later the Weyerhaeuser mill). The mill was closed in 2003, and the buildings removed, but there are still foundations and other elements related to that industrial facility within the proposed stockpile area. No cultural materials pre-dating the mill were observed during Dr. Byram's survey of the linerboard disposal areas. Dr. Byram recommended that if any cultural resources are discovered during stockpiling activities, that work should be halted, and the procedures outlined in Jordan Cove's unanticipated discovery plan should be followed (Byram, and Purdy 2007).

In December 2007, Dr. Byram conducted a cultural resources inventory of the area proposed for the Port's Commercial Sand Stockpile. The pedestrian survey covered 90 acres and was supplemented by the excavation of 14 auger probes within a 10-acre area. A literature search revealed that a portion of the sand stockpile area was previously surveyed in 2005 by Melissa Darby for the Oregon Economic and Community Development Department, and no archaeological sites were identified. Archival research by Dr. Byram indicated that the sand stockpile area is located in the vicinity of a historic Indian village known as Jarvis Landing. In the 1850s, a ferry operated between this village on the North Spit and the newly settled town of Empire. In the early 1860s, John Henderson established a ranch at Jarvis Landing. In the late 1880s a quarantine house was operated in this area. However, Dr. Bryam's survey did not find any archaeological sites or remains related to those historic activities. Instead, the survey confirmed that this area had been previously used to deposit materials dredged during

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maintenance of the Coos Bay navigation channel. Dr. Bryam recommended that construction activities at this location should be monitored by a professional archaeologist (Byram and Purdy 2008). In a letter dated May 28, 2008, the SHPO agreed with the monitoring of ground-disturbing activities.

No on-the-ground surveys were conducted over the paved and graveled portions of the existing Roseburg industrial tract that would contain the proposed NGL sleeper pipeline and loading facilities, the southern access road to the terminal, and the haul road and the hydraulic dredge slurry and water return pipelines to and from the Weyerhaeuser Linerboard areas. No pedestrian inventories were documented to cover the dredge slurry pipeline associated with the proposed Port's Commercial Sand Stockpile.

#### **4.10.2.3 Pacific Connector Pipeline**

To provide information on the character of cultural resources in the vicinity of the pipeline route, Pacific Connector conducted a literature review and site files search for an arbitrary 2-mile-wide study corridor for its entire length. The study corridor encompasses approximately 462 square miles or 295,680 acres. At least 125 archaeological surveys have been conducted within the study corridor. These investigations resulted in the recordation of 143 archaeological sites in the study corridor; 7 of which may be located within the APE.

The APE for Pacific Connector's pipeline is defined as a 400-foot-wide corridor, extending for about 230 miles between Coos Bay and Malin, Oregon, and corresponds to the cultural resources survey corridor. The pipeline APE covers approximately 11,152 acres. In some areas the APE for the pipeline was expanded to include proposed construction work space outside the 400-foot corridor, and in other areas (where the pipeline is along narrow ridgelines) the APE corridor was narrowed to less than 400 feet. The APE includes proposed aboveground facilities associated with the pipeline, including the Butte Falls Compressor Station, four meter stations, and 16 mainline block valves, covering an additional 21 acres. The APE also encompasses 18 new temporary access roads and 16 permanent access roads, 107 TEWAs, and 82 source/disposal/storage locations, and 7 hydrostatic test water release areas that fall well outside the 400-foot corridor, adding about 3,496 acres that may be disturbed during pipeline construction activities. There may also be impacts along 62 existing access roads that may need to be improved into order to be used by construction equipment, affecting a total of about 17 acres.

As of August 2007, Pacific Connector's cultural resources consultants had surveyed about 203 miles of the proposed pipeline route. In addition, 107 TEWAs outside of the 400-foot-wide corridor, and 28 proposed contractor, pipe, rock source or disposal yards were inventoried. Also, surveys were conducted along 584 potential access roads. Pacific Connector included a multi-volume cultural resources inventory report with its application to the FERC (HRA 2007).

The surveys identified 111 newly recorded archaeological sites and 134 isolated finds. We believe that 88 sites are located along the proposed pipeline route, and 10 sites were found within TEWAs or at yards. Pacific Connector's cultural resources contractors recommended that all of the isolated finds and 13 sites be considered not eligible for the NRHP, requiring no further investigation. They indicated that the pipeline could be shifted slightly, or the construction right-of-way constricted, so the impacts on 10 sites could be avoided. The remainder of the sites were

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unevaluated, or were considered potentially eligible for the NRHP, and testing was recommended to clarify their eligibility.

The Oregon SHPO provided comments on Pacific Connector's archaeological report in a letter dated July 11, 2008. The SHPO questioned NRHP eligibility recommendations for several sites, requested additional data on historical resources such as trails, and indicated that a traditional cultural properties study needs to be included in the next submission of a revised report. The SHPO considers sites 35DO1099, 35KL2796, 35KL2797, 35KL2800, 35KL3038, 35KL3042, 35KL3047, 35KL3052, and 35KL3054, all on private lands, to be not eligible for the nomination to the NRHP, requiring no further work, and we concur.

The Pacific Connector cultural resources team also conducted a reconnaissance geoarchaeological investigation in the winter of 2007 to identify portions of the pipeline route with the potential to contain deeply buried archaeological resources. This investigation identified 21 locations with the greatest potential to contain soils of the appropriate age to contain deeply buried archaeological deposits. Archaeological sites have been identified at 15 of these, but not at the remaining 6. The proposed pipeline at two of the six locations where buried cultural resources could occur (the Coos River/Graveyard Point and Rogue River crossings) would be constructed using HDD technology, and geoarchaeological investigation of the HDD entry and exit points may be warranted. The need for geoarchaeological investigation at these locations was discussed with the Oregon SHPO in July 2007. Such investigations would likely include a series of focused mechanical drills or cores followed by backhoe trenching in locations where archaeological materials and/or soils indicative of cultural activity were identified in mechanical drills. These investigations would be conducted prior to construction so as to allow an appropriate amount of time to identify historic properties and resolve adverse effects.

#### **4.10.2.4 Environmental Consequences on Federal Lands**

The Jordan Cove LNG terminal would not directly affect any federal lands. However, the Pacific Connector pipeline would cross more than 72 miles of federal lands administered by the BLM (41 miles), USFS (31 miles), and BOR.

Based on the cultural resources surveys conducted by Pacific Connector's consultant (HRA) along the pipeline route, we identified 21 archaeological sites within the APE on BLM or NFS lands (see table 4.10.2.4-1). The SHPO indicated that it considers three of the sites on federal lands (35JA743, 35LK3039, and 35KL3040) to be not eligible for the NRHP, requiring no further work. Additional data are needed for 18 sites on federal lands in order to evaluate their eligibility to the NRHP. Thirty-two isolated finds were identified by HRA on federal lands. Isolated finds are considered ineligible for the NRHP, and do not warrant additional work. The FERC staff would consult with the BOR, BLM, and USFS heritage staffs before making official determinations of eligibility and effect for sites on federal land.

TABLE 4.10.2.4-1.

**Summary of Archaeological Sites Identified on BLM and USFS Lands**

Site Designation	Era	Land Agency	NRHP Recommendation <u>a/</u>	Future Actions
AAR-125	Prehistoric	BLM – Roseburg	Potentially Eligible	SHPO requested additional data
AAR-117	Prehistoric	BLM – Roseburg	Potentially Eligible	May be an isolated find. SHPO requested additional data
AAR-118 35DO1113	Prehistoric	BLM – Roseburg	Potentially Eligible	Test or avoid
AAR-101 35DO1104	Prehistoric	BLM – Roseburg	Potentially Eligible	Test or avoid
AAR-109 35DO1105	Prehistoric	BLM – Roseburg	Potentially Eligible	Test or avoid
AAR-110 35DO1109	Prehistoric	BLM – Roseburg	Potentially Eligible	Test or avoid
AAR-111 35DO1110	Prehistoric	BLM – Roseburg	Potentially Eligible	Test or avoid
AAR-112 35DO1106	Prehistoric	BLM – Roseburg	Potentially Eligible	Test or avoid
AAR-113 35DO1111	Prehistoric	BLM – Roseburg	Potentially Eligible	Test or avoid
AAR-114 35DO1112	Prehistoric	BLM – Roseburg	Potentially Eligible	Test or avoid
HRA-150 35DO1107	Historic	USFS – Umpqua NF	Potentially Eligible	Avoid or propose treatment plan
HRA-151	Historic	BLM – Roseburg	Not Eligible	SHPO requested additional data
HRA-152 35DO1071	Prehistoric	BLM – Roseburg	Potentially Eligible	Test or avoid
HRA-159 35JA743	Historic	USFS – Umpqua NF	Not Eligible	No further work
SOULA-39 35JA686	Prehistoric	BLM – Medford	Potentially Eligible	Test or avoid
SOULA-63 35JA739	Prehistoric	BLM – Medford	Potentially Eligible	Test or avoid
SOULA-29	Historic	BLM – Medford	Not Eligible	SHPO requested additional data
LM036	Historic	USFS – Klamath	Undetermined	Need site form and evaluation of eligibility and effect
HRA-10 35KL3039	Historic	BLM – Klamath	Not Eligible	No further work.
HRA-11 35KL3040	Historic	BLM – Klamath	Not Eligible	No further work
SOULA-14 35JA682	Prehistoric	BLM – Medford	Potentially Eligible	Test or avoid

a/ Recommendations made by HRA.

The Pacific Connector pipeline would cross 25 irrigation features associated with the Klamath Project that are under the jurisdiction of the BOR, between MPs 200.5 and 214.2. The BOR considers the entire Klamath Project eligible for the NRHP, because of its age and importance to regional history and the agricultural development of the Klamath Basin. However, Pacific Connector has not yet documented consultations with the BOR over the proposed treatment for

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the eligible features of the Klamath Project that the pipeline would cross. Nor were these features discussed in earlier drafts of HRA's cultural resources survey report.

#### **4.10.2.5 Unanticipated Discovery Plans**

Jordan Cove's original first draft Resource Report 4, filed June 30, 2006, included a plan and procedures addressing unanticipated discoveries of cultural resources and human remains prepared by TRC Environmental Corporation (TRC). The SHPO requested revisions to this plan in a letter to Jordan Cove dated October 3, 2006. Jordan Cove has not documented that it has revised its unanticipated discovery plan to address the SHPO's comments.

Pacific Connector included an unanticipated discovery plan with its first draft cultural resources inventory report filed with the FERC on September 22, 2006. The BLM provided comments on this plan in an October 23, 2006 email to the FERC staff. On December 28, 2006, the USFS provided the FERC staff with comments on Pacific Connector's second draft cultural resources report filed on December 5, 2006, that included corrections to the discovery plan. Pacific Connector's application included a revised unanticipated discovery plan as Appendix 4H to environmental Resource Report 4, that was intended to address the BLM and USFS comments. The FERC staff has reviewed the plan included with Pacific Connector's application, and we believe that it still requires some additional revisions.

#### **4.10.3 Compliance with the NHPA**

We have not yet completed the process of complying with the NHPA for this Project. For example, not all ethnographic studies and results of consultations with Indian tribes to identify traditional cultural properties, or sites of religious or cultural importance in the APE, in accordance with section 101(d)(6) of the NHPA, Part 800.2(c)(2)(ii), and the AIRFA, have been filed. Jordan Cove and Pacific Connector have not documented that they have provided copies of all cultural resources reports to interested Indian tribes, and given tribes an opportunity to comment on the survey results.

Jordan Cove conducted ethnographic research, and consulted with Indian tribes that historically occupied or used the area where its proposed LNG terminal would be located. The Coos Tribes indicated that the Jordan Cove LNG terminal would be located within their ancestral territory, and may be considered a traditional cultural property. They are concerned about potential Project impacts on historic tribal villages, prehistoric campsites, and graves on the North Spit. Jordan Cove's archaeological consultant noted that a Native American village and burials were reported in the vicinity of the proposed Weyerhaeuser Linerboard excavated and dredge material disposal areas. Another historic Indian village may have existed in the vicinity of the Port Commercial Sand Stockpile area. Other unrecorded prehistoric sites have been reported at the proposed LNG terminal. Therefore, Jordan Cove's consultant recommended that, if the Project is authorized, an archaeologist should monitor ground-disturbing activities in those areas. The FERC staff and the SHPO agree.

We have directed Pacific Connector to conduct an ethnographic study that includes consultations with Indian tribes that historically used or occupied the Project area, and seeks to identify traditional cultural properties or properties of cultural or religious importance. The Cow Creek Tribe indicated that a traditional cultural property of importance to the tribe is located in the vicinity of a special use area of the Cow Creek Tribe, and Pacific Connector has re-routed its

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pipeline in that area to avoid that site. We expect that the results of Pacific Connector's ethnographic study and further consultations with tribes will be included in a revised survey report to be filed with the FERC in the future. We would not allow construction to begin until we have completed all studies and consultations necessary to complete compliance with section 101(d)(6) and section 106 of the NHPA.

Jordon Cove has not yet documented that cultural resources surveys have been conducted to cover the proposed haul roads, and slurry and return water pipelines to the dredge disposal areas. While the SHPO acknowledged receipt, on November 1, 2006, of Dr. Byram's October 2006 addendum to the Jordan Cove LNG terminal inventory, the SHPO did not provide any written comments about that report. Jordan Cove has not yet filed the SHPO's review of Dr. Byram's survey report (dated August 17, 2007) for the proposed Weyerhaeuser Linerboard disposal areas.

The SHPO reviewed Pacific Connector's cultural resources inventory report in a letter dated July 11, 2008, and requested additional information. Pacific Connector also needs to provide the results of archaeological testing at unevaluated sites that cannot be avoided. In a data request to Pacific Connector, issued by the FERC on November 20, 2007, we asked that the HRA report be revised to include 2007 field work data, and a historic properties management plan. Pacific Connector would need to file reviews by the SHPO, interested tribes, and cooperating agencies on the revised report.

For about 12 percent of the pipeline route, access to private parcels was denied by the landowners. Pacific Connector cannot complete the inventory and testing of sites on those parcels until after the FERC has issued a Certificate for the pipeline, and the company could use the power of eminent domain under section 7h of the NGA to obtain access. Additional surveys on non-federal lands where access was previously denied, and testing at some sites, would have to be done after the FERC issues an Order, but before we would allow construction to begin.

As discussed above (in section 4.10.2.1), we do not believe that LNG marine traffic on the waterway to the LNG terminal would have any adverse effects on historic properties located within the Zones of Concern. Cultural resources inventories have not yet been completed for the entire APE, including ancillary facilities associated with LNG terminal, all of the route for the Pacific Connector pipeline, and other construction use areas. Once cultural resources surveys and site evaluations are completed, the FERC, in consultation with the cooperating agencies and the SHPO, would make determinations of NRHP eligibility and project effects. If any historic properties would be affected by the Project, we would seek ways to resolve adverse effects. Jordan Cove and Pacific Connector would need to file treatment plans outlining mitigation measures to resolve adverse effects at individual affected historic properties, for the review and approval by the FERC, SHPO, and appropriate cooperating agencies and consulting parties. If data recovery is necessary to mitigate impacts on historic properties that would be adversely affected, the FERC would execute a Memorandum of Agreement, in accordance with the ACHP regulations at 36 CFR 800.

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To ensure that the Commission's responsibilities under the NHPA and its implementing regulations are met, we recommend that:

- **Jordan Cove and Pacific Connector should not construct or use any of their proposed facilities, including related ancillary areas for staging, storage, temporary work areas, and new or to-be-improved access roads, until:**
  - a. **Jordan Cove and Pacific Connector file with the Secretary the results of all additional cultural resource surveys, ethnographic studies, site evaluation investigations, a historic properties management plan, revised unanticipated discovery plan, and any necessary avoidance/treatment plans;**
  - b. **Jordan Cove and Pacific Connector file with the Secretary the comments of land managing agencies, the SHPO, and interested Indian tribes on all cultural resources reports or plans;**
  - c. **The ACHP has been given an opportunity to comment if any historic properties would be adversely effected by the Project; and**
  - d. **The Director of OEP reviews and approves all cultural resources reports and plans, and notifies Jordan Cove and Pacific Connector in writing that treatment plans/mitigation measures may be implemented or construction may proceed.**

**All materials filed with the Commission containing location, character, and ownership information about cultural resources must have the cover and any relevant pages therein clearly labeled in bold lettering: "CONTAINS PRIVILEGED INFORMATION – DO NOT RELEASE."**