

JOBS

Merkley comes out against Jordan Cove natural gas export terminal

National Building Trades call the change in a position a betrayal

U.S. Sen. Jeff Merkley (D-Ore.) — in a Dec. 7 op-ed in the *Medford Mail-Tribune* — came out against the union-endorsed Jordan Cove project, a proposed liquid natural gas (LNG) pipeline and export terminal in Coos Bay.

North America's Building Trades Unions (NABTU), a 14-union federation based in Washington, D.C., issued a strongly worded response Dec. 13, saying that Merkley, by publicly opposing Jordan Cove, "demonstrated a callous lack of concern for the economic prospects of Oregon's working families."

"The actions taken by Senator Merkley is a stunning reversal and the latest example of elected officials abandoning working class voters who have repeatedly been disappointed by political elites," NABTU said in the statement.

Building trades unions have been supporting the Jordan Cove project because it would be union-built under a project labor agreement. The \$8 billion project would mean the equivalent

of about four years of employment for 2,100 construction workers. It would also result in 200 permanent jobs, and \$60 million in annual payments to Coos, Douglas, Jackson and Klamath counties.

Merkley has remained neutral on Jordan Cove. He told the Building Trades during his 2014 re-election campaign that he supported letting the permitting process play out. But in the op-ed, Merkley said the project — and the world — have changed since 2012, when Jordan Cove first announced its plans.

"It is still true that the project would create hundreds of good-paying construction jobs, strengthen union pension funds and train apprentices," Merkley wrote. "But it is no longer true that the LNG shipped to Asia would reduce pollution. Since 2012 we have learned more about natural gas escaping from fracking fluids and gas pipelines, which by many estimates makes it at least as carbon-polluting as coal."

Meanwhile, Merkley said the project sponsors dropped earlier assurances that the terminal would be powered by renewable energy, and that the company

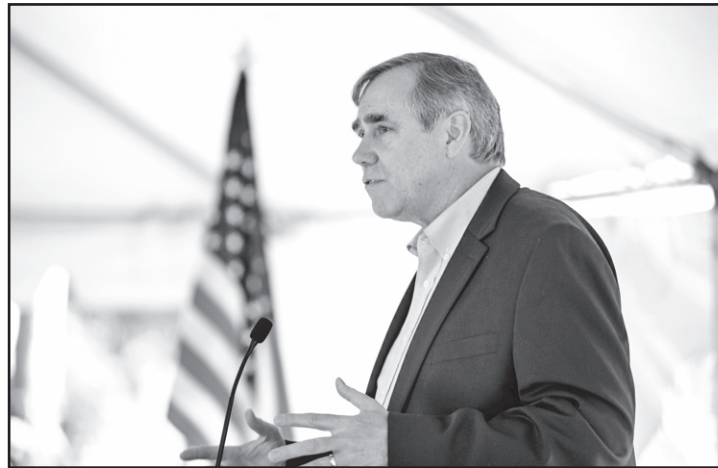


Photo by Alex Garland, courtesy of the BlueGreen Alliance Foundation

wouldn't seek to use eminent domain against property owners who don't want the pipeline on their land.

Oregon State Building and Construction Trades Council Executive Secretary Tim Frew said his phone was burning up with calls from angry building trades union leaders after the op-ed appeared. But Merkley's change of heart didn't take Frew by surprise.

Not long after Merkley got back from attending an early November United Nations climate summit in Bonn, Germany, he called to let Frew know he was rethinking his position on the project.

"We were pretty disappointed," Frew told the Labor Press.

In reaction to the op-ed, Frew sent a letter to the governor and all state legislators, reiterating the state building trades council's support for Jordan Cove and asking that elected leaders support the project and allow it to proceed through the permitting and approval process. The project has support from Coos Bay-area state legislators from both parties.

Merkley's change in position may result in the Building Trades not endorsing or contributing to his campaign in 2020, Frew said.

"It doesn't mean we wouldn't go to Jeff Merkley to ask him for something," Frew said. "But let's just say nerves are pretty raw right now."

Merkley has been regarded as a true-blue pro-union Democrat and close friend of labor. He's an outspoken opponent of job-killing NAFTA-style trade agreements and a strong advocate of federal spending on infrastructure and renewable energy.

No other member of Oregon's Congressional delegation has opposed Jordan Cove, and Merkley doesn't actually have any say over the project. Thus far, the project has been held up by the Federal Energy Regulatory Commission, which twice rejected Jordan Cove permit applications. Project backers are hoping a third application, now pending, will get a more favorable result in the Trump Administration.

ONLINE EXTRA

See Merkley's op-ed, the full NABTU statement, and the Oregon Building Trades letter to the governor in response, at <http://bit.ly/2BT9DcX>

WORKERS' RIGHTS

Trump NLRB majority moves fast to reverse Obama-era decisions

In just three months, the new Board has reversed major gains

Republicans had a majority on the National Labor Relations Board (NLRB) for three months, and moved quickly to overturn several Obama-era NLRB rulings that made it easier for workers to unionize and defend against employer labor law violations. For now, further reversals of union-friendly Obama-era policies are on hold until President Donald Trump nominates a new member to fill a vacancy on the Board.

The NLRB is the independent federal agency that enforces and interprets the National Labor Relations Act (NLRA), the 1935 law, revised in 1947, that sets out the union and collective bargaining rights of private-sector workers. The agency consists of two parts:

- **The Office of General Counsel**, which includes a network of branch offices where agents ad-

minister union certification elections and investigate and prosecute labor law violations.

- **The Board** itself, a five-member quasi-judicial body that interprets the NLRA as a kind of labor law Supreme Court.

By law, the Board is filled with three members of the president's party and two from the other party. Democratic and Republican Board majorities used to have a kind of consensus on how to interpret and enforce the law, but in recent decades, the NLRB has made major swings based on which party is in the White House. In the George W. Bush years, the NLRB rolled back collective bargaining rights for nurses and graduate students, for example, while the Obama-era NLRB worked hard to move the other direction, modernizing the law's requirements, making the agency's processes more efficient, and restricting the ability of employer-side lawyers to gum up the process.

Now Trump appointees are

undoing that progress.

To serve as General Counsel, Trump named Peter Robb, the anti-union lawyer who wrote the memo that allowed President Ronald Reagan to fire striking air traffic controllers in 1981. And to the Board he nominated Marvin Kaplan and William Emanuel. Kaplan is a former attorney for House Republicans who drafted legislation to overturn Obama-era NLRB rulings. Emanuel is a former partner at Littler Mendelson, one of the nation's premier antiunion law firms, representing Amazon, Target, Uber, and FedEx and over 100 other clients. (He says he'll recuse himself if he's called upon to judge cases they're involved in). Trump also elevated Republican Obama appointee Phillip Miscimarra to chair the five member Board.

When Emanuel was confirmed by the Senate Sept. 25, Republicans had a three-two majority, and got busy:

- **The 'joint employer decision:** When temp or franchise workers want to unionize, who's their employer? Companies have long used two-party legal structures to evade the obligation to recognize unions or to avoid liability for labor law violations. Then the Obama NLRB, in its 2015 Browning-Ferris decision, expanded its definition of 'joint employer' to better hold them accountable. On Dec. 14, the Trump NLRB reversed that decision. Unions will again have to prove that one entity directly exercised control over essential employment terms of another entity's employees.
- **The so-called 'micro-union' decision:** In its 2011 Specialty Healthcare decision, the Obama NLRB curbed employers' ability to delay union elections using legal challenges over what's an appropriate bargaining unit. The ruling said a union's proposed unit didn't have to be the 'most appropriate,' it just needed to be appropriate. On Dec. 14, the Trump NLRB overturned that [See related story on Page 2.]
- **Expedited union elections:** Over the decades, employer attorneys developed

an array of legal objections they'd deploy to delay union elections, including challenges as to who is eligible to vote. In 2015, the Obama NLRB general counsel issued new rules saying union elections could go forward with those challenges resolved afterward. That shortened the time between the union election request and the vote itself. Employer groups protested what they called "quickie" elections — which didn't give them enough time to squelch union campaigns. On Dec. 13, the NLRB announced it's reconsidering the expedited election rule, and is soliciting public comments on the rule, asking whether it should be rescinded, modified, or retained, with a deadline of Feb. 12.

Chair Miscimarra surprised many when he announced he would not serve another term. His term ended Dec. 31, leaving a vacancy on the Board. President Trump appointed Kaplan chair on Dec. 22, but he'll have to nominate another member — and get the Senate to confirm that person — before the work of undoing Obama-era decisions can continue.