

Oregon Landowners Respond to FERC's Approval of Jordan Cove

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“Oregon landowners will not stand by as our constitutional rights under the Fifth Amendment are being violated by the Federal Energy Regulatory Commission,” stated landowner Stacey McLaughlin, in response to FERC’s approval of the Pacific Connector Gas Pipeline and Jordan Cove projects. McLaughlin, along with more than 90 other landowners, oppose Canadian corporation Pembina’s ability to seize their land for private profits. They believe FERC’s approval is illegal and denies landowners the due process rights guaranteed under the United States Constitution.

“Evidence in the record clearly indicates this Canadian project is anything but in the U.S. public interest,” said Ron Schaaf, whose Klamath County land is on the pipeline route. “On behalf of landowners defending our rights, this decision will be challenged. Every American who cares about private property rights should be paying attention to the facts of this case.”

FERC issued its certificate in spite of recent questioning by Federal courts as to how natural gas exports are qualifying to meet “public need, and necessity,” against the interests of impacted U.S. landowners. “I am appalled that our government would prioritize export of a Canadian company's gas to Asia over upholding the property rights of American citizens,” said Pam Ordway, whose family owns property along the approved route in Camas Valley.

In addition to these evolving legal challenges, Pembina has repeatedly failed to provide the information and documentation required by the State of Oregon to evaluate requirements for the issuance of State permits. In the case of the required Section 401 water quality certificate, Pembina has failed to submit a new application after a previous request was denied by the Oregon Department of Environmental Quality last May. FERC was notified of these requirements and failings by Pembina well in advance of its approval of the Jordan Cove and Pacific Connector projects, frustrating landowners even more.

“This goes to show that Trudeau has more power in the United States than President Trump, because now we’re going to be exporting Canada’s gas for them, in direct competition with American gas,” said Bill Gow, a conservative rancher and impacted landowner from Douglas County.

Many familiar with the project, which has haunted Oregon landowners for 15 years, anticipate a long battle in the courts, as Oregon exerts its authority to manage and protect its natural resources and lands. Key Oregon state agencies have direct congressional authority under the Natural Gas Act to rule on whether this project meets the Clean Water Act, the Clean Air Act and the Coastal Zone Management Act (CZMA). With two key permits—the Section 401 water quality certificate and “federal consistency” certificate—already denied, and the removal-fill application withdrawn, FERC’s approval ignores these very clearly defined state’s rights, further calling into question whether the project legally has the “right-to-take” property or begin pre-construction activities.

Despite being outraged with FERC's decision, landowners vow to continue their fight with their own legal challenge. The Niskanen Center, a Washington, D.C. think tank and advocacy group with a special interest in FERC overreach regarding condemnation of private lands, will represent Oregon landowners. Niskanen Center's Chief Counsel David Bookbinder says, "FERC is allowing a private pipeline company to take property in order to ship Canadian gas to Asia. It is impossible to see how the Pacific Connector is a public use or of public benefit under the Natural Gas Act or the takings clause of the Fifth Amendment."

One thing is clear—the fight is far from over. When asked what's next, McLaughlin stated, "FERC gives us no choice. The unique facts of this project for the direct benefit of Canada are a blatant misuse of special interest corporate power aimed at running over both states' and private citizens' rights, and we're prepared to do whatever it takes to protect our properties."