

FERC ruling far from the last word

by Mail Tribune Editorial Board

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The Federal Energy Regulatory Commission's approval of the Jordan Cove liquefied natural gas export project and feeder pipeline sets up a direct clash between the Trump administration and the state agencies responsible for protecting Oregon from environmental damage. Caught up in that battle are the private property owners whose land could be seized to create easements for the pipeline.

The FERC decision — a 2-1 vote of a commission that normally consists of five members — does not mean the project can proceed. In fact, it's likely to be tied up in court for a long time.

FERC made it clear that Pembina, the Canadian energy company that owns Jordan Cove, must secure all necessary state permits. Pembina lacks three crucial ones:

The Oregon Department of Environmental Quality denied a water quality certificate last year, saying it had insufficient information to determine whether the project would comply with water quality standards, but the available information indicated it would likely violate the standards.

The Department of State Lands in January denied Pembina's request for an extension of the project's dredging permit because it lacked critical information.

Finally, the Land Conservation and Development Commission said last month that the project was not consistent with state land-use laws, and no federal permit could be issued for Jordan Cove unless Secretary of Commerce Wilbur Ross granted an appeal of the LCDC decision and overruled the state.

Pembina wasted no time, filing that appeal Thursday, the same day as the FERC ruling. Opponents are prepared to resist that move and to file their own lawsuits, and Gov. Kate Brown said she would pursue legal action to defend the state's permitting processes.

To overrule the state denial, Ross would have to determine that the project is consistent with the Coastal Zone Management Act — which it clearly is not — or that it is in the interest of national security. The latter would be true only if this country's national security somehow depends on the ability of a Canadian company to export Canadian gas to Asia for private profit.

Even if Ross overruled the land-use decision, Pembina would still need the other two permits, and there is little reason to think it can get them.

When FERC announced its ruling Thursday, Commissioner Bernard McNamee, who had voted against the project late last month over LCDC's environmental objections, said he is now convinced the project serves the national interest, and that its "environmental impacts are acceptable considering the public benefits that will be provided by the project."

Those benefits appear to be limited to billions of dollars that would flow to Oregon businesses and workers — temporarily, until the construction was finished, at which point a relative handful of permanent jobs would remain at the export facility in Coos Bay. The environmental damage and risk would remain, not to mention the property rights lost by landowners along the pipeline route who could face eminent domain proceedings if they refused to grant easements to Pembina.

If federal officials succeed in forcing this project on Oregon over the objections of state environmental and land-use agencies and Southern Oregon property owners, it will be clear that the environmental integrity of Oregon's land, waterways and coastline are for sale to the highest bidder.