

Oregon faces a Tom McCall moment with Jordan Cove

by Ron Schaaf and Juliet Grable - Medford Mail Tribune

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On March 19, the Federal Energy Regulatory Commission announced it had voted to approve the Jordan Cove Energy Project, 2-1.

This is a conditional order. Pembina, the Canadian company that owns the project, must acquire all necessary federally-mandated permits before felling a single tree or removing a spadeful of dirt. Oregon has already denied two of these permits.

Pembina has in place agreements to sell gas to itself. Apparently this is enough evidence to satisfy FERC, and to justify taking land from private citizens. As FERC says, the project “is needed.”

Needed by whom?

FERC’s conditional permit triggers the power of eminent domain before all conditions have been met. As impacted landowners along the pipeline route, we believe this amounts to a land grab.

FERC dismissed this and many of our other arguments by saying they weren’t in the commission’s purview.

For instance, take our claim that the use of eminent domain for a project that has yet to secure three key permits is inappropriate.

Irrelevant, says FERC. The project has been granted a certificate, and that triggers eminent domain authority. Hey, it’s not us; it’s the Natural Gas Act, they added. Blame Congress.

We argued that because this is a Canadian project that will likely source most, if not all of its gas from Canada, and that because the Canadian and provincial governments are investing heavily in natural gas, this subsidized gas will compete directly with U.S. LNG.

FERC says it’s not in their scope to look “upstream,” and it’s not their usual practice to “look beyond precedent agreements” and determine where the gas is coming from.

FERC also added that Jordan Cove/Pacific Connector is registered in Delaware as a limited liability company, so technically it's an American company, even though we all know better.

We pointed out that Pembina has failed to secure a single binding off-take agreement for the gas, that the gas from Jordan Cove is destined for Asian markets, that the LNG market is flooded, and that Jordan Cove is so late out of the gate that it likely won't make its first shipment by the mid-2020s, if ever. And that there's another, far larger LNG terminal already under construction in British Columbia.

Doesn't matter, FERC says. Their scope starts in Malin and ends in Coos Bay. They don't care where the gas comes from or where it's going. They don't care about market projections. They don't care about upstream or downstream impacts, such as methane leakage at the fracking wells, or how the project will contribute to global climate change.

They've reduced the consideration of "public interest" to a pinhead.

We do not agree with FERC's assessment, and we don't accept it, which is why a group of us have sought representation with the Niskanen Center to challenge their decision.

Landowners now face the threat of eminent domain for a project that has failed to obtain three key permits, and FERC's order makes it clear that the company cannot clear trees or disturb ground before they obtain every required permit.

This makes the actions from the state all the more critical. Oregon agencies have been resolute in insisting that Pembina prove that their project won't harm Oregon's air, water, wildlife, and human communities.

Following FERC's announcement, Gov. Kate Brown made her strongest statement yet, which included a promise to landowners: "Until this project has received every single required permit from state and local agencies, I will use every available tool to prevent the company from taking early action on condemning private property or clearing land."

Brown's job is to protect Oregon and Oregonians on all levels. With deep gratitude, we applaud her for vowing to do exactly that, for we need such support now more than ever.

Landowners have shown strength and resilience through this 15-year fight. Now, many of us are collectively seeking experienced eminent domain counsel through Greater Good Oregon, a non-profit several of us created to help support landowners through this very complicated and stressful process.

I've been asked many times why I would put myself through this — why don't I just sell my easement and be done with it?

This process has forced me to examine my values. While it hasn't been an easy thing to do, I cannot stand by and let a private corporation run roughshod over my rights and land that I love.

As impacted landowners, we stand on the front lines of this fight, and we call on the spirit of Tom McCall and say: Not in my Oregon, not on my land, and not on my watch!

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