

## E&E Energywire

### D.C. Circuit won't halt pipeline to Ore. LNG terminal

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A rendering of the Jordan Cove natural gas export project in Oregon. Jordan Cove LNG

A federal appeals court has denied a long-shot request to toss out a key approval for a pipeline associated with the proposed Jordan Cove liquefied natural gas project.

Attorneys for landowners affected by the Pacific Connector pipeline had asked the U.S. Court of Appeals for the District of Columbia Circuit to throw out the Federal Energy Regulatory Commission's certificate for the project, which would carry gas to the LNG export terminal in Coos Bay, Ore.

"The merits of the parties' positions are not so clear as to warrant summary action," a three-judge panel wrote in an **order** yesterday.

They also declined to freeze the approval pending a decision from the court, saying the landowners didn't satisfy the "stringent requirements" for granting a stay. The panel left open the possibility of granting a stay in the future.

Deborah Evans and other landowners had argued that a stay was appropriate because the pipeline developers had justified demand for the project based on agreements from foreign shippers. The Natural Gas Act, they argued, only allows the use of eminent domain to seize land for interstate pipeline projects, not international ones.

The D.C. Circuit weighed in on the same issue in *City of Oberlin, Ohio v. FERC* last year, when it remanded FERC's certificate for the Nexus pipeline, which carried much of its gas for export to Canada. The court asked FERC to explain why it was legal to allow the use of eminent domain for an export project that relied on foreign shippers and served customers in another country (*Energywire*, Sept. 9, 2019).

FERC has yet to respond, but the agency's arguments in the Nexus and Pacific Connector cases are virtually the same, attorneys for the Oregon landowners wrote.

"There is no point in replaying *Oberlin* and delaying the inevitable result; this Court has expressly rejected every one of FERC's proffered justifications," they wrote in their request to the court in July.

The Pacific Connector case is before Judges Karen LeCraft Henderson, a George H.W. Bush appointee; David Tatel, a Clinton pick; and Gregory Katsas, a Trump appointee.