

Glick backs closing pipelines that fail to restore land

Mike Soraghan, E&E News reporter Published: Friday, March 19, 2021



Crews are still trying to restore the land above Cheniere Energy Inc.'s Midship natural gas pipeline nearly a year after the project was completed in Oklahoma. In this drone photo, a crew is using heavy equipment on the pipeline easement on a farm near Bradley, Okla. Central Land Consulting

Federal Energy Regulatory Commission Chairman Richard Glick said his agency should shut down natural gas pipelines when builders neglect obligations to fix the damage they do to landowners' property.

"I want to send a warning to these companies that if they don't do what they've promised to do, we need to consider that option," the Democrat said.

His warning shot to energy developers comes after years of complaints from landowners in the path of pipelines. It's the latest step by Glick, appointed to lead the commission by President Biden, to give more leverage to people affected by the projects the agency approves. Some of those moves have alarmed industry.

Glick pointed in particular to Cheniere Energy Inc.'s Midship pipeline in Oklahoma. The five-member commission turned up the pressure on the company yesterday with a series of tight deadlines for restoration.

Landowners along the pipeline say a year after the line began operations the company still hasn't restored the land the pipeline cuts across ([Energywire](#), March 15). Glick yesterday agreed with the landowners and scolded Cheniere for the "disregard" he said the company has shown toward them.

"The question is, have they actually performed the reclamation they were required to do?" Glick told reporters. "I think the answer to that is no."

Cheniere, whose primary business is exporting natural gas, has said it has been doing the best it can to deal with weather-related problems and difficult demands from landowners. In a statement yesterday, the company said it recently initiated FERC's voluntary alternative dispute resolution process.

"It is our goal to find resolution with all landowners, to be a good neighbor and operator," company spokeswoman Jenna Palfrey said in a statement. "Midship's goal is to continue the safe, secure and reliable delivery of natural gas through its pipeline and continue following the state, local and federal rules and regulations by which the pipeline is regulated."

Despite the strong words from Glick, the landowners in the Midship case did not get what they wanted yesterday. They had asked FERC to get more deeply involved in pushing Cheniere toward a settlement. Instead, the commission [set a two-month deadline](#) by which the restoration must be completed — or the company must explain why.

FERC staff has set deadlines in the past, which landowners say the company has missed repeatedly. Carolyn Elefant, attorney for many of the landowners, said she was glad to see Glick criticizing Midship and supporting the idea of shutting down companies that don't comply. But she said the commission's new deadlines look a lot like those missed in the past.

"Hopefully the fact that this is a commission order will spur Midship to work with the landowners to get this resolved," she said.

The 3-foot-wide Midship pipeline shuttles gas from production areas in central Oklahoma toward the Gulf Coast, where Cheniere operates two export terminals. The company has been a standard-bearer for gas exports, which former President Trump made a key element of his "energy dominance" agenda while in office.

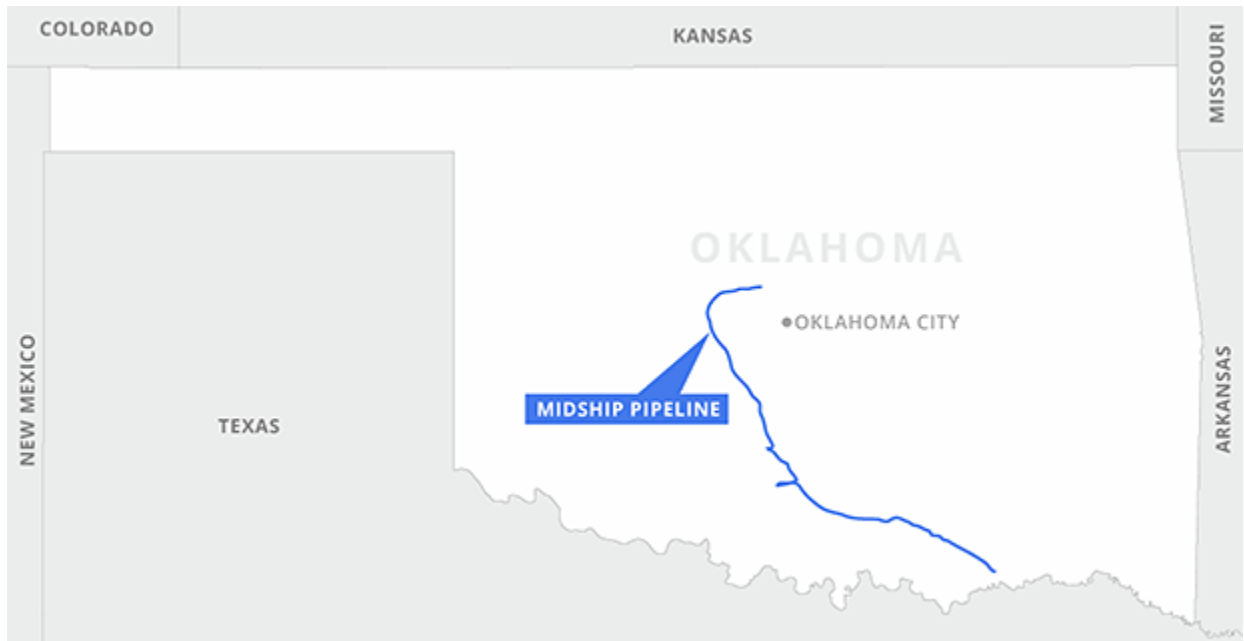
Landowner issues have been getting a higher profile at FERC in the last few years, and that has only accelerated under Glick.

Glick recently signaled interest in giving landowners and project opponents more say during the permitting process and has said he wants to create a senior-level environmental justice position at the agency. FERC is also launching an Office of Public Participation to help people when they engage with the commission.

Some of his moves have met with pushback from oil and gas industry groups as well as Republican Commissioner James Danly, who served as FERC chair under Trump.

In comments to the agency earlier this month, the Interstate Natural Gas Association of America (INGAA), along with pipeline companies such as TC Energy Corp. and Enbridge Inc. said FERC should not curb eminent domain practices and warned that changing procedures could delay the completion of projects ([Energywire](#), March 4).

Landowner battles



[+] The 200-mile Midship pipeline came into service last year with the capacity to move 1.1 billion cubic feet of natural gas per day. Claudine Hellmuth/E&E News

Landowner complaints reached a fever pitch on Midship and another gas pipeline near St. Louis built by the gas utility Spire Inc. In those two projects, significant numbers of farmers refused to settle and hired consultant Nate Laps, a former pipeline landman, to pressure the companies ([Energywire](#), Oct. 28, 2019).

FERC's approval grants a company the right to take people's land to build a project. The landowners eventually get their land back, with a gas pipeline in it and restrictions on what can be done with it.

But agency approval also sets conditions and rules about construction and restoration when the project is completed. Elephant, Laps and many of the landowners have said FERC has allowed Cheniere and Spire to ignore many of those rules for too long.

A year ago, landowners asked FERC to delay the start of operations on Midship until far more restoration had been done. But the agency greenlighted startup despite the concerns.

Now, the farmers say their fields are flooded, valuable topsoil has washed away and construction debris is strewn along the length of the line.

The dispute has been bitter. Cheniere's contractor accused one farmer of sabotaging his own irrigation equipment to "extort" more money from the companies. A judge found insufficient evidence of sabotage. One farmer says a pipeline crew inexplicably stole \$40,000 worth of topsoil from his land.

Laps and his Ohio-based company, Central Land Consulting, have flooded FERC with complaints from the landowners. Cheniere says Laps has thwarted the company's efforts to reach reasonable settlements with his clients.

Outside of the brief shutdown in 2019, FERC has generally backed Cheniere. Prior to Glick becoming chairman, the agency has responded to landowners that Cheniere has done an adequate job of fixing construction damage and responding to complaints. Glick's stance could push FERC in a different direction.

But Glick stressed that there are some things that FERC won't be able to do. While some landowners might want the agency to help them get compensated for damage to their land, he said, it can require only restoration of the land to its original condition. Damages, he said, must be decided in the courts.

FERC also weighed in on the Spire pipeline case yesterday. It **ordered** Spire to do more restoration work to "de-compact" soil on some of the farms along the route north of St. Louis and fix problems with soil composition, land leveling and erosion. The problems were detailed in a report submitted in August by the Illinois Department of Agriculture. But FERC said it could not look at whether the landowners should be paid for construction damage to their property.

Though Glick said FERC should consider shutting down recalcitrant pipelines by revoking their certificates of approval, it's not clear that he could convince his fellow commissioners to go along. Though Glick leads the agency, he and fellow Democrat Allison Clements are in the minority on the commission, which has three Republicans, at least through June when a Republican commissioner's term ends.

Talking with reporters after the meeting, Glick said he wasn't counting votes but was rather looking at enforcing the agency's rules.

"If a company continuously fails to live up to its certificate responsibilities, what choice do we have but to consider revoking its certificate?" he said.

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