

Top Democrat wants to fix FERC's 'dystopian nightmare'

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Crews 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

Maryland Democratic Rep. Jamie Raskin yesterday called a pipeline company's treatment of Oklahoma farmers a "dystopian nightmare" and proposed reining in the legal authority for such companies to condemn land for their projects.

Raskin, chair of the Oversight and Reform Subcommittee on Civil Rights and Civil Liberties, floated the idea after leading a hearing on Cheniere Energy Inc.'s Midship pipeline in Oklahoma.

"You represent a company that has trampled on a lot of people," Raskin told a Cheniere executive. Speaking of the process, he said "this can't be right."

The executive, Senior Vice President Christopher Smith, admitted problems with the company's treatment of landowners in Midship's path.

He said the company has good relations with the communities around its Louisiana and Texas facilities because it sets a high standard.

"We have not achieved that standard in Oklahoma," said Smith, a former Obama Department of Energy official. "There are some things we will have to do differently."

The use of eminent domain to build pipelines has angered landowners across the country in the construction boom that followed "fracking"-driven oil and gas booms in places like North Dakota and Pennsylvania.

In the past year, the Federal Environmental Regulatory Commission has taken steps to give landowners more leverage, and that process accelerated after Democrat Richard Glick became chairman this year.

But Raskin said better laws are needed. And Texas Rep. Pete Sessions, the top Republican on the panel, sounded agreeable.

"I would like to spend time to balance this out," Sessions said. "The balance that we will give will be good public policy."

But attempts to limit that eminent domain authority would likely draw strong opposition from the oil and gas industry and its supporters in Congress.

The Interstate Natural Gas Association of America (INGAA) has previously warned FERC against curbing eminent domain, along with pipeline companies such as TC Energy Corp. and Enbridge Inc. They said changing procedures could delay the completion of projects.

INGAA also criticized the subcommittee yesterday for wading into a specific dispute about a pipeline, noting that Cheniere and landowners are still negotiating.

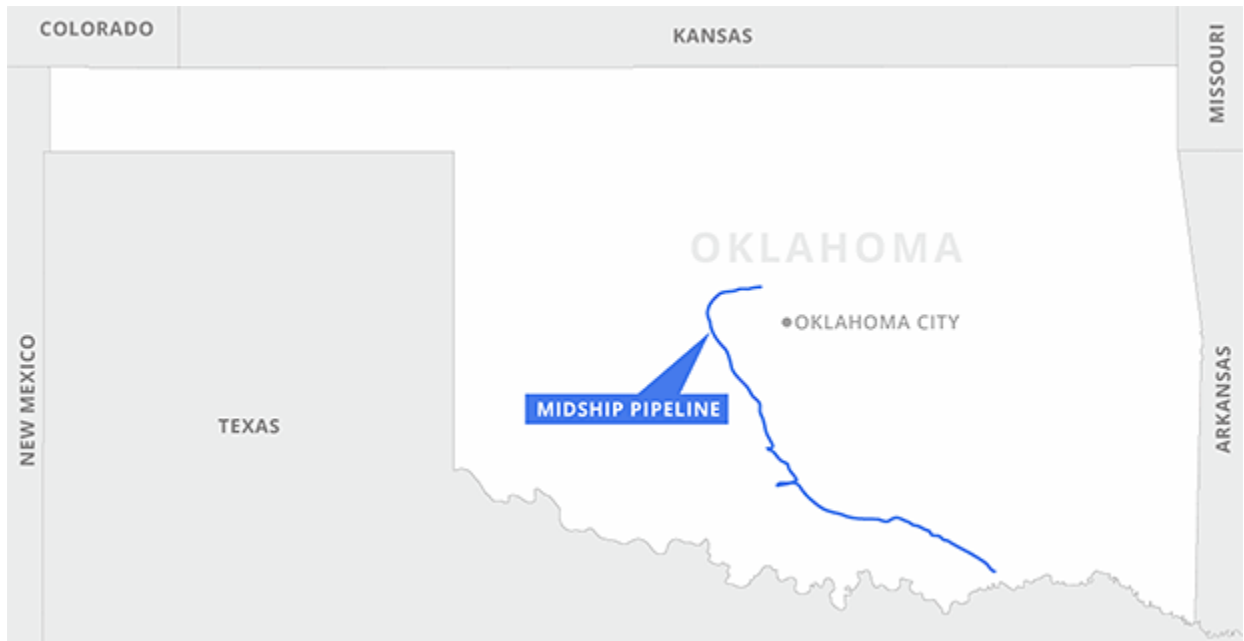
"Pressure from Congress," INGAA President and CEO Amy Andryszak said yesterday in a statement, "risks undermining progress toward resolving these important concerns."

Raskin asked Sam Gedge, an attorney at the Institute for Justice, how he would change the law to make the process more fair to landowners.

Gedge suggested requiring FERC and companies to improve how they notify landowners their land might be condemned and strengthening trespass laws to give landowners more legal recourse if they damage property outside of what they've been allowed to take.

And Congress should require companies to pay before taking possession of the land, as the federal government is required to do. He said condemnation by pipeline companies is "far more destructive and far harsher" because that isn't required.

'You'd better be glad we didn't do anything more'



[+] 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

The 3-foot-wide Midship pipeline carries gas 200 miles from wells 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.

Midship started operations about a year ago, despite requests to FERC from the landowners along the route to delay the opening until their land was restored.

Despite assurances from the company, the farmers say the path of destruction cut by Cheniere's contractor remains — fields are flooded, valuable topsoil has washed away, and construction debris is strewn along the length of the line (*[Energywire](#)*, March 15).

Terry Luber, whose family has owned a farm along the pipeline route for 110 years, told lawmakers the company turned abusive after he declined the company's initial offer for rights to build on his land.

"Think about it, someone coming to your door, kicking the door in, making you stand there and watch while they destroy everything you care about that's been in your family for generations," Luber said, "then walking off and saying you'd better be glad we didn't do anything more."

Smith said the problems discussed at the hearing involve about 21 miles of the 200-mile pipeline.

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.

Agency approval also sets conditions and rules about construction and restoration when the project is completed. But landowners say FERC allowed Cheniere to ignore those rules for too long.

Outside of a brief shutdown in 2019, FERC has generally backed Cheniere. But in March, FERC set a two-month deadline — ending May 17 — by which the restoration must be completed — or the company must explain why.

Glick also singled out Cheniere and said the agency should shut down natural gas pipelines if companies neglect obligations to fix the damage they do to landowners' property ([*Energywire*](#), March 19).

The company will meet the obligations of FERC's order by May 17, Smith said, adding that restoration of more than 70% of the tracts identified in the order has been completed, is awaiting inspection results from FERC or subject to an alternate agreement.

Raskin has made pipelines and eminent domain a project for his subcommittee, and previously held a hearing highlighting what he considered abuses of landowner rights ([*Energywire*](#), Dec. 10, 2020). Yesterday's hearing focused on Midship, which he considers an egregious case.

The hearing featured fireworks between Sessions and Rep. Rashida Tlaib (D-Mich.). Sessions interrupted as Tlaib was pressing Smith on whether he would acknowledge that the company had been "misleading" to FERC about progress on restoration.

"Oh, here we go," Tlaib said, irked. Sessions said the committee should be trying to highlight "the issue," not the restoration problems.

Raskin weighed in amid the cross-talk to say the questioning would continue in a "totally civil way," and told Smith not to take the questions personally. Tlaib then continued questioning Smith in a critical manner but didn't press Smith for a yes-or-no answer.