

ORAL ARGUMENT NOT YET SCHEDULED

No. 20-1161 (consolidated with Nos. 20-1171, 20-1172, 20-1180,
20-1198)

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

DEBORAH EVANS, *et al.*,
Petitioners,
v.

FEDERAL ENERGY REGULATORY
COMMISSION,
Respondent,

JORDAN COVE ENERGY PROJECT L.P., *et al.*,
Respondent-Intervenors.

On Petition for Review of Orders of the
Federal Energy Regulatory Commission

SUPPLEMENTAL ADDENDUM

David Bookbinder
Megan C. Gibson
Niskanen Center
820 First Street, NE, Suite 675
Washington, DC 20002
(202) 810-9260
dbookbinder@niskanencenter.org
mgibson@niskanencenter.org

Attorneys for Landowners

***Additional counsel listed inside front
brief cover.***

Nathan Matthews.
Sierra Club
2101 Webster Street, Suite 1300
Oakland, CA 94612
(415) 977-5695
Nathan.Matthews@sierraclub.org

*Attorney for Rogue Riverkeeper,
Rogue Climate, Cascadia Wildlands,
Ctr. for Biological Diversity, Citizens
for Renewables, Friends of Living Or.
Waters, Or. Physicians for Social
Responsibility, Or. Wild, Or. Women's
Land Trust, Sierra Club, and
Waterkeeper Alliance*

Gillian Giannetti
Natural Resources Defense Council
1152 15th Street, NW, Suite 300
Washington, DC 20005
(202) 717-8350
ggiannetti@nrdc.org

Ann Alexander
Natural Resources Defense Council
111 Sutter Street, 21st Floor
San Francisco, CA 94104
(415) 875-6190
aalexander@nrdc.org

*Attorneys for Natural Resources
Defense Council, Inc.*

Anthony S. Broadman
Amber V. Penn-Roco
Galanda Broadman, PLLC
8606 35th Avenue NE, Suite L1
Seattle, WA 98115
(206) 557-7509
anthony@galandabroadman.com
amber@galandabroadman.com

*Attorneys for Cow Creek Band of
Umpqua Tribe of Indians*

Susan Jane M. Brown
Western Environmental Law Center
4107 NE Couch Street
Portland, OR. 97232
(503) 914-1323
brown@westernlaw.org

*Attorney for Cascadia Wildlands,
Center for Biological Diversity,
Citizens for Renewables, Friends of
Living Oregon Waters, Oregon
Physicians for Social Responsibility,
Oregon Wild, Oregon Women's Land
Trust, Rogue Climate, Rogue
Riverkeeper, and Waterkeeper Alliance*

Richard K. Eichstaedt
Scott Wheat
Wheat Law Offices
25 West Main Avenue, Suite 320
Spokane, Washington 99201
(509) 251-1424
rick@wheatlawoffices.com
scott@wheatlawoffices.com

*Attorneys for Confederated Tribes of
Coos, Lower Umpqua and Siuslaw
Indians*

SUPPLEMENTAL ADDENDUM**TABLE OF CONTENTS****Declarations**

Declaration of Richard Brown.....	001
Declaration of Pamela Brown Ordway.....	006
Declaration of Bill Gow.....	009
Declaration of William McKinley.....	011
Declaration of Deb Evans.....	013

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

DEBORAH EVANS, <i>et al.</i> ,)	
)	
Petitioners,)	
)	
v.)	No. 20-1161 (consolidated with Nos.
)	20-1170, 20-1171, 20-1172,
FEDERAL ENERGY)	20-1180, 20-1198)
REGULATORY COMMISSION,)	
)	
Respondent.)	
<hr style="width: 30%; margin-left: 0;"/>)	

DECLARATION OF RICHARD BROWN

I, Richard Brown, state and affirm as follows:

1. I am of legal age and am competent to give this declaration, and all information herein is based on my own personal knowledge, unless otherwise indicated.

2. The Pacific Connector Pipeline (“Pipeline”) seeks to take my land that I and my wife, Twyla Brown, own in Douglas County, Oregon. *See* attached Exhibit 1, the Pipeline’s planned route through my property, around its pipeline marker mile 50.

3. My land at issue is located at: 2381 Upper Camas Road, Camas Valley, OR 97416 (“my property”). This land and family farm have been in my family since 1937.

4. The Pipeline will lessen the value of my property, and have severely negative impacts on the quality and use of my land.

5. My property includes 100 acres of fields, hay crop, trees, an irrigation line, and my farmhouse. My grandsons currently live on the farm and are heavily involved in the day-to-day operations. We raise beef cattle, sheep, and process hay each summer. We irrigate the fields and are the only farm in the Valley that has consistently done so since 1953. Our land has also been used to grow other crops including oats, barley, and grass seed. This type of farming uses heavy equipment, which we are not sure we can continue to use if the Pipeline gets put in the middle of our fields.

6. We always been good stewards of their land. For example, we worked with the Coquille watershed office early in our ownership to protect the river by fencing it off from our livestock, and to plant trees along it to preserve the river banks and provide shade and habitat for the wildlife in and around the river. The Pipeline will cut a 75-foot swath through those trees and disrupt what we have been building now for generations.

7. The Pipeline would detrimentally affect our water use. For irrigation, we still rely on the drainage tile in that my father put in the fields. The Pipeline would cut right through our drainage tiles, destroying our ability to keep the fields from flooding in the winter and spring, and any investment in those affected fields would be worthless. The Pipeline will also cut through grazing/pasture fields, which we cut hay on. The Pipeline would prevent us from using those fields. The Pipeline is also cutting close to our well, our only source of potable water for their home on the land.

8. Numerous Native American sites have been found on my land with relics. These important historical and cultural artifacts may be lost if the Pipeline is allowed to cut a huge ditch through my land.

9. My wife and I are retired, and too old to sell and find another place to start all over. Our property was supposed to be a part of our security in old age.

10. We also have wanted to plant nut trees on their land, and put money into a new irrigation system, but we realized we can't do this until it's a guarantee that the U.S. government will not permit a Canadian company to come and take our land. Because the Pipeline is going through approximately the middle of our fields, we won't be able to irrigate during construction and we won't have access to the field on the other side of the Pipeline, as we have no other way to get to that portion of land. We also don't know how long construction will take, and we have no guarantees that once construction is completed we can still irrigate, grow hay, and raise cows across the Pipeline. Consequently, we can't develop anything until this is over, as anything we do could be a complete waste of our hard-earned money and resources.

11. It is my understanding that our Petition before the DC Circuit challenges FERC's approval of the Pipeline. If successful, the Court will vacate the Certificate, thus preventing the Pipeline company from condemning, destroying, and building across my land.

12. It is of great concern to me that the Pipeline can and will condemn my property before the serious issues raised in our Petition are considered and decided by

the Court. Once the Pipeline condemns my land, if it has all of its required permits, it will have the right to do irreversible damage to my property, and all for a project that may never (for many other reasons) be built.

13. If the Court does eventually vacate the Certificate, but the company has already taken my land, my land will forever be out of my and my family's hands, and in the possession of a private company, which can do whatever it wants with it, including selling it to another company to use for a different purpose.

14. It is my understanding that the company can also currently seek pre-condemnation access onto my land. *See* ORS 35.220.

15. Allowing the Pipeline access to my land in any capacity during the global COVID-19 pandemic directly puts my and my family's health at risk, as the company will send its people to survey and to do work on my property.

16. The pandemic also negatively impacts my ability to mount a successful defense to any condemnation proceedings against my property, especially if I am required to show up for a hearing.

17. Granting a stay to stop condemnation proceedings and any company activities on my land from moving forward will avoid serious harm to my property, my health, and will preserve my rights to properly challenge FERC's flawed decision-making before irreversible injury is done.

I declare under penalty of perjury that the foregoing is true and correct (see 28 U.S.C. § 1746).

Executed on 6-15-20
(Date)

Richard Brown
RICHARD BROWN

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

DEBORAH EVANS, *et al.*,

Petitioners,

v.

FEDERAL ENERGY
REGULATORY COMMISSION,

Respondent,

JORDAN COVE ENERGY
PROJECT L.P. and PACIFIC
CONNECTOR GAS PIPELINE, LP,

Respondent-Intervenors.

No. 20-1161 (consolidated with
20-1171, 20-1172, 20-1180, 20-1198)

DECLARATION OF PAMELA BROWN ORDWAY

I, Pamela Brown Ordway, state as follows:

1. I am of legal age and am competent to give this declaration, and all information herein is based on my own personal knowledge, unless otherwise indicated.
2. The Pipeline is currently slated to run through my land that I own in Douglas County, Oregon, located at: Parcel Nos.: R10266; R11298; and R11338.
3. This property has been in my family since 1937, when my father purchased it from an insurance company that had repossessed the land during the Great Depression from one of our relatives. My siblings and I grew up in the farmhouse on the property, where our sibling Richard Brown and his wife Twyla Brown now reside.
4. When our father passed away, my brother, Richard Brown and his wife, bought the 100 acres in the front of the property to live and work from the farmhouse, and the back 153 acres went to myself and my four other siblings.

5. Our land is made up of roughly 80 acres of farmland, 65 acres of second-growth timber, and approximately 10 acres of timber that we excluded from harvesting when we logged in 2005.
6. The 10 acres of unharvested timber is predominately a mix of Douglas Fir and White Fir, and is well over 100 years old. We left that particular stand because it provided a visual barrier from our neighbor's property, it was one of the areas where the Fairy Slipper Orchid thrived, and is the only stand of timber we could harvest if we needed the revenue.
7. The current route of the Pipeline, as well as the temporary easement Pembina states it needs for construction, will cut through the trees we excluded in the 2005 harvest.
8. The Pipeline would severely and negatively impact our farming and logging practices. As the proposed Pipeline route cuts diagonally across our property, access to almost every part of the land is affected.
9. If we wanted to log a portion of our timberland, we would be unable to bring in log trucks or the necessary heavy equipment over the Pipeline right-of-way.
10. The Pipeline right-of-way would be kept free of tree and vegetation by Pembina, and the adjacent timber would thus grow inward towards the clear space, making it grow less straight, and consequently less valuable. The Pipeline would also adversely impact our farming practices, because we could not bring in tractors and farm equipment over the Pipeline to harvest hay.
11. My siblings and I have put our plans for the land on hold, pending a final decision on the Pipeline. For example, we would like to plant a cash crop that would allow the next generation to continue to be able to keep the land in the family. All of the best options,

from planting wine grapes, to Christmas trees, to nut trees, all require a substantial financial investment (upwards of approximately \$10,000 to \$15,000 per acre). We are 100% willing to make this investment, but with the possibility of a Canadian company coming through and ripping open a 95-foot swath through our farm, we can't make a commitment to this.

12. We also want to drill a well on the land for irrigation use, but if the Pipeline were built, it would limit our options on where we can drill.

13. The pipeline is also slated to run through property that I purchased located at 1272

Kirkendahl Road, Camas Valley, Oregon, 97416. I plan to rent out this house but cannot do so at this time because the pipeline is routed to run within 100 feet of the house and is located between the house and the well from which it would get its water.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on: April 30, 2021
Date

Signed: 
PAMELA BROWN ORDWAY

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

DEBORAH EVANS, *et al.*,

Petitioners,

v.

FEDERAL ENERGY
REGULATORY COMMISSION,

Respondent,

JORDAN COVE ENERGY
PROJECT L.P. and PACIFIC
CONNECTOR GAS PIPELINE, LP,

Respondent-Intervenors.

No. 20-1161 (consolidated with
20-1171, 20-1172, 20-1180, 20-1198)

DECLARATION OF BILL GOW

I, Bill Gow, state as follows:

1. I am of legal age and am competent to give this declaration, and all information herein is based on my own personal knowledge, unless otherwise indicated.
2. The Pacific Connector Pipeline is currently slated to run through a 3-parcel section of our ranch in Douglas County, Oregon, located at parcel number R57393.
3. My family and I have owned this property for almost 30 years, and it is one of the very few large, family-owned cattle ranches in southern Oregon.
4. My wife, and fellow Petitioner, Sharon Gow and I have worked incredibly hard to create and maintain our ranch, and our whole family lives there, including our daughter, her husband and their child, and our son, his wife, and their two children.
5. We started with 1,365 acres in 1990 and incrementally added more land, which now amounts to approximately 2,400 acres.

6. My wife and I had planned to build a small venue to host weddings, but the planned site was 350 feet from the 2017 proposed Pipeline route (and the route keeps changing), and so we have had to shelve these plans indefinitely.
7. The proposed Pipeline route would also force us to change the long-term timber cut plan that we have developed over the course of many years.
8. Plans for our ranch are currently on hold, as we are not sure whether or not to make any improvements on our land with the Pipeline continuing to hang over our heads.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on:

5-3-21

Date

Signed:

Bill Gow
BILL GOW

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

DEBORAH EVANS, *et al.*,

Petitioners,

v.

FEDERAL ENERGY
REGULATORY COMMISSION,

Respondent,

JORDAN COVE ENERGY
PROJECT L.P. and PACIFIC
CONNECTOR GAS PIPELINE, LP,

Respondent-Intervenors.

No. 20-1161 (consolidated with
20-1171, 20-1172, 20-1180, 20-1198)

DECLARATION OF WILLIAM MCKINLEY

I, William McKinley, state as follows:

1. I am of legal age and am competent to give this declaration, and all information herein is based on my own personal knowledge, unless otherwise indicated.
2. The Pipeline is currently slated to run through land that my husband and I own in Jackson County, Oregon, located at 2579 Old Ferry Road. Our property is 19 acres with 600 feet of river frontage on the Rogue River.
3. The property has been in my family since 2004. My mother originally purchased the property for retirement, but once the Pipeline was announced, she no longer wanted to live there.
4. My wife and I bought the property from my mother so that she would no longer have to live with the burden of the potential Pipeline destroying her land.

5. We have tried but have been unable to sell the property since the Pipeline project was first announced in 2005. We will only be able to sell it when there is no threat that the Pipeline will be running through it.

Pursuant 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 4 / 29 / 2021
Date

Signed: 
WILLIAM MCKINLEY

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

DEBORAH EVANS, *et al.*,

Petitioners,

v.

FEDERAL ENERGY
REGULATORY COMMISSION,

Respondent.

No. 20-1161 (consolidated with Nos.
20-1170, 20-1171, 20-1172,
20-1180, 20-1198)

DECLARATION OF DEB EVANS

I, Deborah Evans, individually, and as co-owner of Evans Schaaf Family LLC, state and affirm as follows:

1. I am of legal age and am competent to give this declaration, and all information herein is based on my own personal knowledge, unless otherwise indicated.

2. The Pacific Connector Pipeline ("Pipeline") seeks to take my land that I own in Klamath County, Oregon. *See* attached Exhibit 1, the Pipeline's route through my property, around its pipeline marker mile 173.

3. My land at issue is parcel number: R71040, tract: KH-569.000 in Klamath County, Oregon ("my property"). I bought this property in 2005 with my husband, fellow Petitioner Ron Schaaf, in order to build a home, drill a well, and to enjoy being near mountains, lakes, and the wilderness.

4. We also purchased the 157-acre property as an investment to manage and sell timber, and to have about 5 acres of organic food production. We have long been gardeners, hikers, and enjoy managing forest property. We wanted to invest in the timber as an asset to use in the future for other projects and productions.

5. Within two months of purchasing the property, there suddenly was survey flagging across the portion of the property that we had intended to build our home on. We shortly found out that the survey markers were for a proposed 36" import natural gas pipeline from Coos Bay to Malin, which would bring regasified LNG to the California market. We never would have bought this property had we known that a pipeline was trying to build right through it. We have now put off our planned development of the property for over 15 years because of proposed pipeline projects, including the one at issue here.

6. The Pipeline will lessen the value of my property, and have severely negative impacts on the quality of my land. The Pipeline's proposed route through our land results in far greater impacts to our land than if the Pipeline were to follow an intersecting road's right-of way. *See* attached Exhibit 1. We are restricted from crossing the proposed Pipeline's right-of-way using normal heavy logging equipment, thus making the management and harvesting of our timber more expensive and time-consuming. Access to the bulk of our property would also require crossing the Pipeline's right-of-way.

7. Five acres of our timber would be permanently taken out of production. We use organic growing methods, and are opposed to the use of harmful, synthetic sprays and fertilizers. However, such harmful herbicide sprays are exactly what the Pipeline is proposing to use to maintain the right-of-way. The proposed right-of-way is within the flatter, more fertile soils of our property, where we planned to grow our own food, which we obviously will not be able to do if the Pipeline is built.

8. The viewshed will also be significantly affected and scarred. A part of the inherent value of our land is the surrounding viewshed and accessibility to pristine areas of Oregon. The compromising of the viewshed through construction a 95-foot swath through our property and the neighboring Winema National Forest properties (an area that is currently utility-free and protected) will have a significant impact on our property's value and very reason we purchased the property in the first place.

9. The fight to keep the Pipeline from being built across southern Oregon for over 15 years has taken a toll on me and my husband, mentally and financially. The proximity to the Pipeline and the continuous uncertainty of whether the project will ever be built has put our development plans since we bought the property in 2005 on permanent hold.

10. It is my understanding that our Petition before the DC Circuit challenges FERC's approval of the Pipeline. If successful, the Court will vacate the Certificate, thus preventing the Pipeline from condemning, destroying, and building across my land.

11. It is of great concern to me that the Pipeline can and will condemn my property before the serious issues raised in our Petition are considered and decided by the Court. Once the Pipeline condemns my land, if it has all of its required permits, it will have the right to do irreversible damage to my property, and all for a project that may never (for many other reasons) be built.

12. If the Court does eventually vacate the Certificate, but the Pipeline has already taken my land, the land will forever be out of my and my family's hands, and in the possession of a private company, which can do whatever it wants with it, including selling it to another company to use for a different purpose.

13. My husband Ron is over the age of 65, and therefore is at a greater risk of death if exposed to COVID-19.

14. The pandemic also negatively impacts my ability to mount a successful defense to any condemnation proceedings against my property, especially if me and my husband are required to show up for a hearing.

15. Granting a stay to stop condemnation proceedings and any Pipeline activities on my land from moving forward will avoid serious harm to my property, my health, and will preserve my rights to properly challenge FERC's flawed decision-making before irreversible injury is done.

I declare under penalty of perjury that the foregoing is true and correct (see 28 U.S.C. § 1746).

Executed on June 15, 2020
(Date)

Deborah Evans
DEBORAH EVANS

CERTIFICATE OF SERVICE

I hereby certify that on 15th day of June, 2021, I electronically filed the foregoing Landowner, Conservation, and Tribal Petitioners' Proof Joint Reply Brief with the Clerk of the Court using the CM/ECF system, which will send notice of such filing to all registered CM/ECF users.

/s/ Nathan Matthews
Nathan Matthews