

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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MEMORANDUM

April 30, 2021

To: Members of the Subcommittee on Civil Rights and Civil Liberties

Fr: Committee Staff

Re: Hearing on the “Pipelines Over People (Part II): Midship Pipeline’s Disregard for Landowners in Its Pathway”

The Subcommittee on Civil Rights and Civil Liberties will hold a remote hearing **on the Zoom video platform on Wednesday, May 5, 2021, at 10:00 a.m.** This hearing will examine Midship Pipeline’s treatment of landowners throughout the Federal Energy Regulatory Commission (FERC) process, focusing on the year-long delay in repairing the damage to their land caused by the pipeline’s construction. This is the Subcommittee’s second hearing on FERC’s failure to protect landowner rights. The Subcommittee has also previously issued a video report.¹ A federal court decision cited the Subcommittee’s findings in overturning FERC’s use of tolling orders, which was another way that landowners were disadvantaged in the FERC process.

I. MIDSHIP TOOK ADVANTAGE OF FERC'S SKEWED PROCESSES AND HAS FAILED TO PROPERLY RESTORE DAMAGE TO LANDOWNER PROPERTY.

On August 13, 2018, FERC issued a certificate of public convenience and necessity to the Midship Pipeline, which allowed the company to begin taking property from private landowners via eminent domain.² Midship began construction in early 2019, which FERC paused with an extraordinary stop-work order from July 3–31 of that year due to concerns about Midship’s compliance with environmental requirements.³ Construction was completed in March 2020, and shortly after, Midship submitted a request to put its pipeline into service so that it could start

¹ Committee on Oversight and Reform, Subcommittee on Civil Rights and Civil Liberties, *Press Release: Subcommittee Releases Preliminary Findings Showing FERC Pipeline Approval Process Skewed Against Landowners* (Apr. 28, 2020) (online at <https://oversight.house.gov/news/press-releases/subcommittee-releases-preliminary-findings-showing-ferc-pipeline-approval>).

² Federal Energy Regulatory Commission, *Order Issuing Certificate* (Aug. 13, 2018) (online at <https://cms.ferc.gov/sites/default/files/CalendarFiles/20180813160732-CP17-458-000.pdf>).

³ Federal Energy Regulatory Commission, *Authorization to Resume Clearing and Grading Activities* (July 31, 2019) (online at https://elibrary.ferc.gov/eLibrary/filelist?document_id=14789810&accessionnumber=20190801-5083).

pumping gas and generating revenue.⁴ FERC approved their request on April 16, 2020, based, in part, on Midship's assertions that it would complete restoration and repair the private farmland damaged during construction by June 30, 2020.⁵ Over a year later, Midship has still not completed restoration.

On March 18, 2021, FERC finally issued an Order on Environmental Compliance requiring Midship to complete restoration on 56 separate property tracts by May 17, 2021. FERC also encouraged Midship to negotiate restoration with other landowners through FERC's Dispute Resolution Service. When issuing the order, newly appointed FERC Chairman Richard Glick expressed his frustration with Midship's disregard for landowners and communities along the route, stating, "It is past time for Midship to promptly resolve these issues and allow the landowners to move on with their lives."⁶

II. HEARING PURPOSE

This hearing will address concerns over how Midship and Cheniere, its parent company, have treated private landowners in the pathway of this pipeline. Landowners have lost access to their property through eminent domain, endured damage and destruction of property, and experienced long delays in the company's performance of federally required land restoration.⁷ Many of these landowners are farmers whose livelihoods have suffered as a result of Midship/Cheniere's practices. The hearing will also examine FERC's role as regulator and the federal process that disadvantages landowners and favors pipeline companies.

III. WITNESSES

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⁴ *Request for In Service – Condition 10*, Midship Pipeline Company, LLC (Mar. 31, 2020) (online at https://elibrary.ferc.gov/eLibrary/filelist?document_id=14847895&optimized=false).

⁵ *FERC Gives Midship Approval to Start Service, Citing Upcoming Restoration*, S&P Global (Apr. 20, 2020) (online at www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/ferc-gives-midship-approval-to-start-service-citing-upcoming-restoration-58091661).

⁶ Federal Energy Regulatory Commission, *Order on Environmental Compliance* (Mar. 18, 2021) (online at www.ferc.gov/sites/default/files/2021-03/C-5-CP17-458-000.pdf).

⁷ *Angry Okla. Farmers Fight Pipeline Builder — and FERC*, E&E News (Mar. 15, 2021) (online at www.eenews.net/stories/1063727417).