

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

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CASE NOS. 17-1236 & 17-1240 (consolidated)  
FERC DOCKET NO. CP16-22

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SIERRA CLUB,

Petitioner,

v.

FEDERAL ENERGY REGULATORY COMMISSION

Respondent.

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On Petitions for Review of Order of the Federal Energy Regulatory  
Commission, 160 FERC ¶ 61,022 (Aug. 25, 2017)

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**MOTION FOR VOLUNTARY DISMISSAL OF  
17-1236 & 17-1240 WITHOUT PREJUDICE**

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*Counsel for Petitioner*

**MOTION FOR VOLUNTARY DISMISSAL WITHOUT PREJUDICE**

Pursuant to Federal Rule of Appellate Procedure 42 and the District of Columbia Circuit Handbook of Practice and Internal Procedures, Petitioner Sierra Club respectfully requests the Court dismiss Docket Numbers 17-1236 and 17-1240 without prejudice. Upon review of Intervenor NEXUS Gas Transmission, LLC's (Intervenor) Opposition to Petitioner's Emergency Motion for Stay Pending Review, Petitioner learned for the first time that Intervenor purchased Declarant Joseph E. Bologna's property on November 2, 2017. Neither Declarant nor NEXUS informed Petitioner of the sale of the property. *See* Isherwood Decl. ¶ 6. Petitioner now no longer believes that it can pursue these appeals.

Petitioner has contacted Intervenor and Respondent Federal Energy Regulatory Commission and both oppose Petitioner's request that the Court dismiss the case without prejudice.

Dated: November 20, 2017

Respectfully submitted,

/s/ Derek O. Teaney

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**CERTIFICATE OF COMPLIANCE**

This document complies with the type-volume limit of FRAP 32(c)(2) and the word limit of FRAP 21(d) because, excluding the parts of the document exempted by FRAP 32(f) this document contains 128 words.

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Dated: November 20, 2017

*/s/ Derek O. Teaney*

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**CERTIFICATE OF SERVICE**

I hereby certify under penalty of perjury that on November 20, 2017, a copy of the foregoing Motion to Dismiss without Prejudice was served by email and via the CM/ECF system on the following parties:

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Petitioner,	)	
	)	
v.	)	
	)	
FEDERAL ENERGY REGULATORY	)	
COMMISSION,	)	
	)	
Respondent.	)	
	)	
_____	)	

**DECLARATION OF AARON ISHERWOOD**

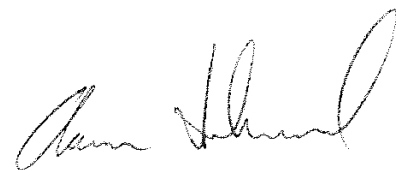
I, Aaron Isherwood, hereby state as follows:

1. I am of legal age and am competent to give this declaration. All information herein is based on my own personal knowledge.
2. I am the Philip S. Berry managing attorney for the Environmental Law Program at Sierra Club. My responsibilities include helping chapters obtain approval for proposed litigation and managing Sierra Club’s legal strategies.
3. Joseph E. Bologna is a Sierra Club member (Ohio Chapter) who acted as a declarant in Sierra Club’s actions against the Federal Energy Regulatory Commission in case numbers 17-1236 and 17-1240.

4. On October 13, Mr. Bologna signed a declaration stating that his property was in the path of the NEXUS pipelined and that “this was the last home I would ever build or live in” and “no amount of money . . . could compensate me for the risk my family will bear because of the pipeline or for the permanent degradation of my . . . property.”
5. Sierra Club had no knowledge that only two weeks later Mr. Bologna agreed to sell his property to Intervenor NEXUS Gas Transmission, LLC.
6. Mr. Bologna did not inform Sierra Club of his mediation with Intervenor nor did he inform Sierra Club of his agreement to sell his property.
7. Sierra Club and its attorneys first learned of the sale through Intervenor’s Opposition to Sierra Club’s Emergency Motion to Stay on November 16, 2017.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 17 day of November, 2017.



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Aaron Isherwood