

ORAL ARGUMENT HELD OCTOBER 28, 2021

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

Deborah Evans, <i>et al.</i> ,)	
)	
<i>Petitioners,</i>)	
)	
v.)	Nos. 20-1161, <i>et al.</i>
)	
Federal Energy Regulatory Commission,)	
)	
<i>Respondent.</i>)	

**UNOPPOSED MOTION TO DISMISS
AND REMAND RECORD TO AGENCY**

Respondent Federal Energy Regulatory Commission (“FERC” or the “Commission”) respectfully moves the Court to dismiss the petitions in these consolidated cases, and remand the record to the Commission with leave to vacate the authorizations, consistent with an order issued by the Commission on December 16, 2021. *See* Order Vacating Authorizations, 177 FERC ¶ 61,198 (2021) (attached). The agency proceedings leading up to that order are described in the joint status report filed by the parties on December 16, 2021. The Commission has conferred with counsel for petitioners and is authorized to state that petitioners do not oppose this motion. Intervenors Jordan Cove Energy Project L.P. and Pacific Connector Gas Pipeline, LP take no position on the motion.

January 12, 2022

Respectfully submitted,

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Solicitor

/s/ Susanna Y. Chu
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CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 32(g), I certify that this motion complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because this motion contains 117 words.

I further certify, pursuant to Fed. R. App. P. 27(d)(1)(E), that this motion complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this motion has been prepared in Times New Roman 14-point font using Microsoft Word for Office 365.

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CERTIFICATE OF SERVICE

In accordance with Fed. R. App. P. 25(d) and the Court's Administrative Order Regarding Electronic Case Filing, I hereby certify that, on January 12, 2022, I served the foregoing on all parties to this proceeding through the Court's CM/ECF system.

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Attachment

177 FERC ¶ 61,198
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Richard Glick, Chairman;
James P. Danly, Allison Clements,
and Mark C. Christie.

Pacific Connector Gas Pipeline, LP
Jordan Cove Energy Project L.P.

Docket Nos. CP17-494-004
CP17-495-004

ORDER VACATING AUTHORIZATIONS

(Issued December 16, 2021)

1. On March 19, 2020, the Commission issued an order authorizing: (1) Jordan Cove Energy Project L.P. (Jordan Cove) to site, construct, and operate a liquefied natural gas (LNG) export terminal and associated facilities (Jordan Cove LNG Terminal) in unincorporated Coos County, Oregon, pursuant to section 3 of the Natural Gas Act (NGA)¹ and Part 153 of the Commission's regulations;² and (2) Pacific Connector Gas Pipeline, LP (Pacific Connector) to construct and operate a new interstate natural gas pipeline system (Pacific Connector Pipeline) in Klamath, Jackson, Douglas, and Coos Counties, Oregon, pursuant to section 7 of the NGA³ and Parts 157 and 284 of the Commission's regulations⁴ (Authorization Order).⁵
2. On May 22, 2020, the Commission issued an order on rehearing, affirming the authorizations issued to Jordan Cove and Pacific Connector (Rehearing Order).⁶ Several parties to the proceeding petitioned for review of the Commission's Authorization and

¹ 15 U.S.C. § 717b.

² 18 C.F.R. pt. 153 (2021).

³ 15 U.S.C. § 717f.

⁴ 18 C.F.R. pts. 157 and 284 (2021).

⁵ *Jordan Cove Energy Project L.P.*, 170 FERC ¶ 61,202 (2020).

⁶ *Jordan Cove Energy Project L.P.*, 171 FERC ¶ 61,136 (2020).

Rehearing Orders in the United States Court of Appeals for the District of Columbia (D.C. Circuit).

3. On May 10, 2021, Jordan Cove and Pacific Connector informed the Commission that they “ha[d] decided to pause the development” of the Jordan Cove LNG Terminal and Pacific Connector Pipeline while they assessed the impact of recent regulatory decisions concerning the projects.⁷

4. On October 28, 2021, the D.C. Circuit heard oral argument on the petitions for review of the Commission’s Authorization and Rehearing Orders. Noting representations made at oral argument and in the briefs, including statements that Jordan Cove and Pacific Connector were reassessing the projects,⁸ on November 1, 2021, the court issued a decision remanding the record in the proceedings to the Commission to determine whether a stay of the authorization for the Pacific Connector Pipeline is appropriate.⁹

5. On November 18, 2021, the Commission issued an order establishing briefing on whether the Commission should stay the authorization.¹⁰ Specifically, the Commission requested that Jordan Cove and Pacific Connector clarify whether they planned to move forward with their projects as authorized.¹¹

6. On December 1, 2021, Jordan Cove and Pacific Connector filed their initial brief, requesting that the Commission vacate the authorizations for the Jordan Cove LNG Terminal and Pacific Connector Pipeline. They note that they “have not been able to obtain the necessary state-issued permits and authorizations from various Oregon state agencies[,]” and that they remain “concerned about their ability to obtain [those permits] in the immediate future[.]”¹² Accordingly, Jordan Cove and Pacific Connector state that

⁷ Jordan Cove and Pacific Connector’s May 10, 2021 Filing in Docket Nos. CP17-494-000 and CP17-495-000.

⁸ At oral argument and in the briefs, parties also addressed whether Pacific Connector could condemn property pursuant to its federal eminent domain authority while the projects are paused.

⁹ *Deborah Evans v. FERC*, No. 20-1161, at 1 (D.C. Cir. Nov. 1, 2021) (unpublished).

¹⁰ *Pacific Connector Gas Pipeline, LP*, 177 FERC ¶ 61,117 (2021).

¹¹ *Id.* P 9.

¹² Jordan Cove and Pacific Connector’s December 1, 2021 Initial Brief in Docket Nos. CP17-494-004 and CP17-495-004, at 2.

they have decided not to move forward with their projects and request vacatur of the authorizations.¹³

7. In view of the above considerations, and subject to leave of the D.C. Circuit, we will vacate the NGA section 3 authorization granted to Jordan Cove for the Jordan Cove LNG Terminal and the NGA section 7 authorization granted to Pacific Connector for the Pacific Connector Pipeline.

The Commission Orders:

(A) Subject to leave of court, the NGA section 3 authorization for the Jordan Cove LNG Terminal issued in Docket No. CP17-495-000 is vacated.

(B) Subject to leave of court, the NGA section 7 authorization for the Pacific Connector Pipeline issued in Docket No. CP17-494-000 is vacated.

By the Commission. Commissioner Phillips is not participating.

(S E A L)

Kimberly D. Bose,
Secretary.

¹³ *Id.*