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Opening Statement Chairman Jamie Raskin (MD-08) Subcommittee on Civil Rights and Civil Liberties Hearing: "Pipelines Over People (Part II): Midship Pipeline's Disregard for Landowners in Its Pathway" May 5, 2021

Good morning and thank you to our witnesses for being here with us—virtually—today. This hearing is a continuation of our investigation into the imbalance of power between landowners and pipeline companies at the Federal Energy Regulatory Commission.

Our Subcommittee has been [investigating](#) FERC's process for permitting natural gas pipelines and its effect on the rights of landowners since February of last year. Our initial investigation [revealed](#) that FERC's rules and practices allow private energy companies to trample the rights of individual landowners.

Before we talk about today's hearing topic, I want to address some [breaking news](#) out of FERC. As you know, FERC is the primary federal permitting agency for the construction and operation of all major interstate natural gas pipelines. It grants certificates to pipeline companies that allow them to assert eminent domain and take property from individual landowners, per the Natural Gas Act. Because of FERC's procedures, landowners were given little to no opportunity to prevent use of their private property against their will. **In our [Subcommittee's hearing in December](#), we pressed FERC to stay its certificates such that a company could not assert eminent domain over a landowner's objections while the landowners' appeals were still pending. We learned just last night that FERC has issued a new Order, that does exactly that. I thank Chairman Glick for his work to move landowner rights forward. This common sense and eminently fair practice was long overdue, and I am thrilled that Chairman Glick and FERC have made this change a priority.**

But there is still a lot of work to do, so I turn now to the issue before us, the Midship Pipeline.

Because of our investigation, we started to hear from landowners who were enduring long delays in the restoration of their land which was damaged by pipeline construction. One example came up over and over again: the Midship Pipeline in Oklahoma. And I want to take a second here to be clear on the identities of the parties involved. While the pipeline is technically built by an LLC called Midship Pipeline, Cheniere Energy is the parent company. Their staff told us that Midship executives also all have Cheniere titles. It is Cheniere staff that have been negotiating directly with the landowners, and when we contacted Midship for testimony, Cheniere's Senior Vice President for Government Affairs showed up in response. So, I think it's safe to say that

Cheniere is responsible for what's happening with the Midship Pipeline and you will hear us refer to Cheniere, not just the Midship LLC, interchangeably here today.

After hearing about the problems with Cheniere's Midship pipeline, we investigated and found that FERC routinely allows pipelines to go into service before the companies have fully restored the land they damaged during construction. That means that the companies, if you think about it, have no real incentive to settle with and satisfy the valid demands of landowners for repair of the land and face minimal consequences for not doing so. I come onto your land by way of eminent domain, disrupt your farm, invade the ground and start making money. So, what is my incentive to repair and restore your land? That's the situation a lot of these landowners find themselves in

FERC only requires that the companies demonstrate that they have made "substantial progress" on restoration prior to going into service, but do not specify what that means. **In practice, as the Midship pipeline illustrations, FERC's standard is totally slippery and woefully insufficient. It's a promise basically written in disappearing ink. More than a year after Cheniere turned on the Midship pipeline, Oklahoma farmers are still dealing with leftover construction debris, erosion, flooding, and missing topsoil, among other damage.**

Despite Cheniere's flagrant disregard for the property rights of these farmers, FERC did not step in until March of this year to finally order Cheniere to complete restoration by May 17. When FERC did finally take action, newly appointed Chairman Richard Glick wrote that he was deeply frustrated with the "disregard that midship has shown for landowners and communities along the route" of the Midship pipeline. He also stated that it was "past time for Midship to promptly resolve these issues and allow the landowners to move on with their lives."

I went directly to Cheniere to ask them what they are doing to rectify the situation on the ground. Last year, they told my staff and FERC that the damage would all be repaired by June 30, 2020. That date came and went – Cheniere's promise was not fulfilled. Now, Cheniere is promising that all of the landowners' property will be restored by May 17, less than two weeks from now.

At this point, the landowners have lost all faith and trust in Cheniere's ability to properly repair their land. They have asked, instead, for Cheniere to compensate them for their costs to hire their own contractors to repair the land. The farmers estimate that repairing the outstanding damage totals between \$20 million and \$40 million.

Let me be clear about something: these are individual farmers for whom millions of dollars is a huge amount of money. But to Cheniere, that amount is merely a rounding error. According to Forbes, Cheniere earned \$9.3 billion in revenue and has \$38.2 billion in assets. The amount it would take to repair the farms that Cheniere destroyed to build its Midship pipeline pales in comparison to its corporate worth. It's also a small fraction of what they're earning from this pipeline.

This is a story of David and Goliath. The individual landowners have legal rights, but in practice FERC allows corporate Goliaths like Cheniere to have their way. This is business-as-usual for decades at FERC. The bottom line is that FERC has enabled Cheniere, a

multi-billion-dollar company, to withhold from these farmers an amount of money that is chump change for Cheniere, but life-altering for these farmers. How can this go on?

For the landowners in Oklahoma, FERC is not doing its job as a public regulatory agency. It's basically working for the pipeline companies. Oklahoma farmers aren't asking for the moon. They are asking for vindication of their basic rights in their land. They are only asking Cheniere to fix what they broke. That is their right. I hope that today we can get to the bottom of why that hasn't happened yet under such a long-running and well-developed legal regime that certainly protects the rights of the companies.

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