

**From:** Tammy Daly [mailto:tammyldaly@gmail.com]  
**Sent:** Monday, August 28, 2017 6:25 PM  
**Subject:** Fwd: Nexus update regarding Certificate

**TWO EMAILS BELOW FROM BOTH DAVE & PAUL:**

----- Forwarded message -----

From: **Mucklow** <[mucklow1000@att.net](mailto:mucklow1000@att.net)>  
Date: Mon, Aug 28, 2017 at 4:52 PM  
Subject: Fw: Nexus update

On Friday, FERC rubber-stamped the Nexus certificate. The lawsuit in federal district court before Judge Adams is still pending. We are unsure what Judge Adams will do with the case, including possibly dismissing the case because the certificate has been issued. Keep in mind, that when Nexus files for eminent domain, which will be soon, we believe that that case must be refiled or reassigned before him. Judge Adams should be familiar with the issues at this stage.

In the following days, the following will occur. Nexus will continue to pressure property owners to sign easements. If you want my continued representation, send them to me. Approximately 160 parcels have not signed with Nexus, most are in our area. If you sign, you waive your Constitutional rights and ability to have the Courts supervise Nexus or protect your rights. We intend to fight for a couple important reasons. First this is a foreign company using eminent domain to take private property for private use in violation of both the Natural Gas Act and the 5th Amendment to the Constitution. Second, even if we lose, we want to maximize the amount of money you will receive for your property rights and risk of being killed or injured by an accident. The law requires that you receive payment for the easement, damages to your property and loss of value to the remainder. This can only be established in the case of residences by a proper evaluation of the value and comparison to other properties. Nexus is refusing to pay the loss to the remainder. For properties less than five acres, we contend that the property owner should be paid the full fair market value of the property plus a kicker.

We will represent people in the takings case filed in Akron federal court. You will need to sign a contingency agreement. If you are served with a Complaint and Summons, you will need to contact my office. More than likely service of the complaint and summons will be made by FED EX or similar method. We only have 21 days to response and answer upon service of the Summons. We intend to raise certain defenses similar to issues already raised in federal court in addition to maximizing the value of your property.

Meanwhile, we will file a Motion for Rehearing against the Certificate before FERC; it is due within 60 days of last Friday.

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From: **Paul Gierosky** <[plgierosky@gmail.com](mailto:plgierosky@gmail.com)>  
Date: Mon, Aug 28, 2017 at 11:24 AM  
Subject: FERC ISSUES NEXUS CERTIFICATE  
To: Paul Gierosky <[plgierosky@gmail.com](mailto:plgierosky@gmail.com)>

The new Commissioners at the Federal Energy Regulatory Commission ("FERC") didn't waste anytime using their rubber stamp.

On Friday, the FERC issued a Certificate of of public convenience and necessity for the Nexus pipeline. While this is a significant event it is not the final step in the process. Nexus must still obtain several permits including the 401 Water Quality Certificate from the OHEPA and the Clean Water Act Section 404 permit from the Army Corps of Engineers.

<https://www.permits.performance.gov/projects/nexus-gas-transmission-teal-dte-lease-and-vector-lease-n>

In addition we have not exhausted the administrative rehearing and judicial appeal avenues available to us. We intend to do so.

As you have come to learn, many aspects of the FERC process for routing and approving natural gas infrastructure projects involve a usurpation of our Constitutional rights. Our Complaint pending before Judge Adams in the District Court in Akron lays that out clearly.

A related case filed in the United States District Court for the Western District of Virginia by property owners threatened by the Mountain Valley pipeline, makes similar claims. In its simplest form this Complaint is a constitutional challenge to the eminent domain provisions of the Natural Gas Act and the resulting unconstitutional acts by FERC.

We are not alone. Property owners and communities across this nation are rising up to defend themselves from the harms that are being inflicted as a result of the way the FERC misuses its authority.

A year and a half ago we recognized that FERC's abuses of power and law were wide-spread and that meaningful reforms of FERC and the Natural Gas Act were needed. We joined with over 200 groups from across our country and have put our efforts into identifying, advancing and securing those reforms from Congress. So far, we have accomplished the identifying. The advancing and securing remain to be seen.

We have urged Congress to:

 hold hearings to learn about the abuses,

📁 to oppose legislative rollbacks that [make it worse than it already is], and

- to identify and put in place needed legislative reforms.

We have assembled a dossier to document FERC abuses and brought representatives of beleaguered communities from across the nation to Washington DC to share their personal experiences in public hearings. We have identified and presented a list of legislative proposals that would remove the power of eminent domain; remove language that results in preemption of state or local laws or authority; prohibit FERC from approving a project and/or allowing it to proceed with any element of construction until all state and federal reviews/permit processes have been finalized and approvals/permits granted; require a genuine demonstration of need for a project that is objectively verified by independent objective experts; prohibit the use of Tolling Orders; install mandatory penalties and stop work orders for violations during construction, operation, maintenance that are commensurate with the level of harm inflicted; limit Liquified Natural Gas exports; put in place provisions that ensure an appropriate level of accountability and oversight of the agency to both congress and the people of the United States and mandate full and fair application of NEPA and prevent any rollback of this important and iconic legislation. In no small measure, we have been doing the job of Congress.

Unfortunately, after four decades of FERC's unaccountable and irresponsible approach to energy development, the trust of the American people has been strained beyond the breaking point and our trust that Congress wants to fix the problem is withering. As it currently stands, the language of the Natural Gas Act is being misused by FERC to deny people their legal and constitutional rights, to strip the legal authority of states, to undermine the authority of other federal agencies, to ignore the mandates of the Clean Water Act and the National Environmental Policy Act, to trample private property rights, to take from communities the protection of public parks, forests and conserved lands that they have invested heavily in protecting, to inflict on our communities health, safety and environmental harms, all for the benefit of a single industry seeking to advance its own corporate profits.

Congress created this mess and empowered FERC to act as is does. That is why we must get Congress to do the work Congress should be doing to protect our communities and rein in this out of control agency.

In the present, we await Judge Adams decision and the near future we are prepared to use ever resource available to right this terrible injustice.

We need to protect property rights whether real, personal or intellectual because they are among the cornerstones of our country ranking right up there along with free speech, the free exercise of religion, a free press, the right to peaceably assemble and bear arms.

Abraham Lincoln in another context believed that free men should not be free to choose un-freedom for others. Our property rights shouldn't so easily be usurped by a private company whose only motive is a profit.

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