

VERMONT 350

GREEN MOUNTAIN DRUID ORDER

MAY 16, 2018 3:30-4:30

MS. VANESSA BROWN: Okay. Hello

everyone. I'm Vanessa Brown and it's a great honor to be here and to participate in this historic session of the Permanent Peoples' Tribunal On Fracking, Climate Change And Human Rights. I really enjoyed listening to so many dedicated, compassionate and courageous people from all over the world talk about these issues.

Today I am representing 350 Vermont and the Green Mountain Druid Order. And I'm also representing myself. I am a single mother and an attorney and I feel that I'm deeply impacted by climate change and fracking.

I believe, as many other people have said during this tribunal, that climate change is deeply a spiritual problem as well as a scientific one and many people in Vermont also share those feelings.

And so I just wanted to tell you a little bit before I get started on sharing some of the testimony from Vermonters who have been working on fracking issues and climate change issues for many years a little bit about my background.

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1 I am a former intern with the Spring Creek
2 Project. I have founded an organization, the White
3 River Reconciliation Project. I've worked with the
4 Institute For Energy And Environmental Research in DC.
5 I've been working on the Corvallis, Oregon mayor's
6 office on sustainability projects when I was a student.
7 I've worked with VPIRG in Vermont on their clean energy
8 program.

9 And while I was in law school I studied, in
10 addition to environmental law, I studied energy law and
11 specifically hydraulic fracturing technology and the
12 economics that are associated with it.

13 So my past work includes advising state and
14 federal government officials and other legal
15 professionals during the BP oil spill.

16 I grew up along the Juniata River in Blair
17 County in Pennsylvania in the Marcellus shale region.
18 And between 2006 and 2009 I monitored the Kiger Island
19 site for the Willamette River Keeper in Oregon.

20 So here I am today and my job is to present
21 the testimony of Vermonters who have been leading the
22 efforts to transition our state away from fossil fuel
23 dependence and are presently challenging the development
24 of a refracked gas pipeline in Vermont.

25 Vermont was the first state in the nation to
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1 ban hydraulic fracturing and the disposal of fracked
2 waste water because of its obvious human rights impacts
3 due to the contamination of the water and the soil. And
4 I'm also going to be sharing with you the testimony of
5 the Grand River Keeper in Oklahoma who has been fighting
6 fracking down there.

7 And so after the video I will go ahead and
8 take any questions or make some recommendations but I
9 think we're ready to go. And thanks so much for having
10 me here today.

11 MR. BRIAN TOKAR: Good morning. My name
12 is Brian Tokar. I'm a lecturer in Environmental Studies
13 at the University of Vermont. Board member of 350
14 Vermont and the Institute For Social Ecology and the
15 author and editor of several books. Most recently this
16 one which is called Toward Climate Justice: Perspectives
17 On The Climate Crisis And Social Change, which first
18 came out in 2010 and was substantially revised and
19 expanded in 2014.

20 We're gathered today in a really important
21 place. This is Geprags Community Park in the town of
22 Hinesburg, Vermont about a half hour from Burlington.

23 The events around Geprags Park were the apex
24 of a four or five year campaign, which is still ongoing,
25 to stop the construction of a new gas pipeline to
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1 transport fracked gas from Canada down the western side
2 of Vermont.

3 At the same time that Vermont has banned
4 fracking for gas or oil in state, we're continuing to
5 import large quantities of gas and the gas company,
6 which is Canadian owned, had planned on continuing to
7 expand this pipeline pretty far south to connect with up
8 all the infrastructure that would allow it to eventually
9 transport fracked gas from the Marcellus shale in
10 Pennsylvania and Ohio through Vermont to Canada.

11 The campaign, at this point, has not succeeded
12 in stopping the first leg of the pipeline but a portion
13 that was supposed to go underneath Lake Champlain to
14 fuel a huge paper mill was stopped and we believe that
15 we've set things in motion that may eventually shut down
16 this pipeline -- you'll hearing a lot more about that
17 this morning -- and certainly prevent the gas company
18 from extending this pipeline any further.

19 The campaign against the pipeline here in
20 Vermont has also inspired a state-wide campaign calling
21 for no new fossil fuel infrastructure in the state of
22 Vermont. And in early March on our annual town meeting
23 day 36 towns all across Vermont passed resolutions
24 calling for an end to the expansion of fossil fuel
25 infrastructure and work toward alternatives.

1 These campaigns have, in many ways, been
2 inspired by the themes of climate justice that are very
3 much resonant with the human rights principles that are
4 central to this Tribunal.

5 The climate justice movement, of course,
6 highlights the disproportionate impacts of climate
7 changes on those people around the world who are least
8 responsible for the problem of excess emissions.

9 It brings forward the leadership of the
10 frontline communities that are most affected and also
11 embodies an understanding that the institutions
12 responsible for abuses of the environment like fracking
13 and all of the other causes of climate change are the
14 same institutions that are responsible for a wide array
15 of other social and economic injustices that we face.
16 So we believe that climate change is fundamentally a
17 human rights issue.

18 This movement is also focused on an
19 understanding of moving toward solutions to the climate
20 problem that go beyond the realm of the technical that
21 really embrace a different outlook on how we want to
22 organize our lives, how we want to organize our
23 communities.

24 Here in Vermont we have many models of people
25 living very well at much lower levels of consumption
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1 than are considered the norm in the US and throughout
2 the industrialized world. And we continue to focus on
3 community-based solutions to allow us to live better on
4 this earth, to challenge the institutions responsible
5 for various abuses and really look toward a very
6 different kind of future.

7 MS. RACHEL SMOLKER: My name is Rachel
8 Smolker and I'm a resident here in Hinesburg. And a
9 couple of years ago I got involved in fighting this
10 pipeline that is going through the state of Vermont
11 because it was coming through this beautiful park, which
12 is our only public park in this town.

13 This land was granted to the town by Dora
14 Geprags who was a resident here for a long time. And in
15 the deed of transfer it was specified that the park
16 would be used only for educational/recreational purposes
17 or for school.

18 And when Vermont Gas came along and said they
19 wanted to build a pipeline through the middle of this
20 park it created a lot of divisions in the town and those
21 divisions are still festering and haven't fully been
22 healed.

23 We took it to the Supreme Court and the
24 Supreme Court ruled against us and the pipeline is now
25 installed over behind me in the distance there.

1 When we sort of got to the end point with the
2 Supreme Court we didn't feel we were done fighting this
3 pipeline because we know that this pipeline has at least
4 a 50-year life span or so, and we figured if we could
5 stop it even tomorrow or a year from now or 10-years
6 from now or even 20-years from now we would still be
7 coming out way ahead.

8 We spent a lot of time researching and
9 watching how the construction was being done. And the
10 more we learned about pipeline engineering and how the
11 contracting crew was working and seeing what was going
12 on we realized this pipeline was being slap-dashed into
13 the ground as hastily as possible and with just reckless
14 disregard for our environment and our safety.

15 And we did many, many public records requests
16 and ultimately we went to the federal regulating body,
17 PHMSA. We said you need to look into this. The state is
18 not doing their job of oversight. This is a danger to
19 our communities.

20 I started out with this being a climate
21 activist for a long time and I was concerned about
22 fracking and I was concerned about the pipeline from the
23 perspective of the impacts of methane leaking from
24 infrastructure. But after learning and watching how the
25 pipeline itself was constructed my concerns now are more
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1 for the safety of people who live along the pipeline
2 route because we know that, for example, they put the
3 pipeline into the trenches that they dug too shallow in
4 some locations.

5 They didn't put the proper select backfill and
6 padding around the pipeline in some places. They didn't
7 compact the padding around the pipeline safely the way
8 they're supposed to in some places.

9 We know that they didn't install trench
10 breakers that were meant to prevent water from leaking
11 out where they crossed streams and around the edges of
12 wetland.

13 We know that they were lacking a quality
14 assurance program through much of the construction of
15 the pipeline.

16 There was regulations that the federal
17 authorities required which are considered minimum
18 standards and then the state had requested a lot of
19 improvements upon that through a certificate of public
20 good in our Act 250 Section 248.

21 And the company came and told the state they
22 were going to do all sorts of things to ensure that this
23 went far above the minimum federal standards but nobody
24 came out and enforced and looked and watched to see what
25 they were doing and ensure that they actually followed
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1 the agreements that they had made with the people of
2 Vermont.

3 And so now after very hastily getting the
4 pipeline in to the ground, turning on the gas flow,
5 telling everybody, oh, we are providing cheap,
6 affordable, clean gas for all you eager customers out
7 there, we are saddled with this very, very dangerous
8 pipeline.

9 MS. LISA BARRETT: I'm Lisa Barrett and I
10 live in Huntington, Vermont. And for just the last two
11 years I have been deeply involved in this effort to stop
12 the Vermont gas, fracked gas pipeline in Vermont.

13 And looking at it from the point of view of
14 human rights it seems to me there is a human right to
15 clean water. There is a human right not to be subjected
16 to human made earthquakes. And there is a human right
17 not to be killed for something as insubstantial as
18 corporate greed.

19 I first got involved in this fight thinking
20 that fracking was a terrible thing and it was incredibly
21 hypocritical that this state that had banned fracking
22 would allow a fracked gas pipeline. And that the state
23 government would embrace a fracked gas pipeline.

24 I also first became involved because I was
25 aware that in 2015 there was a heat wave in Pakistan and
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1 India that was definitely caused by our climate
2 emergency and that heat wave killed at least 2,500
3 people and there is no doubt that that was caused by our
4 climate change emergency.

5 Now 2,500 people that's pretty close to the
6 number of people who were killed on 9/11. When people
7 were killed on 9/11 this country pulled out all the
8 stops. Started spending billions of dollars to kill
9 people in the Middle East and to make us jump through
10 security hoops every time we wanted to do something.

11 But 2,500 people dying in Pakistan and India
12 because of a heat wave that brought the temperatures to
13 130 degrees has not caused us to do anything to stop
14 fracking, to stop fossil fuel infrastructure and the
15 hypocrisy of that is overwhelming to me.

16 People have a right to live without fear. And
17 too many people in our little state of Vermont who live
18 along the pipeline route are living in fear and they're
19 living in well-founded fear.

20 What causes them to be living in the
21 incineration zone of a compressed gas pipeline?

22 It's corrosion that causes most of the
23 explosions. We haven't had any explosions in Vermont.
24 The pipeline is brand new but we have gas under pressure
25 600 pounds per square inch. We have pipe lying on the
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1 soil. It has rocks in it that can rub holes in it.

2 We have pipe with joints that may not be
3 properly sealed and we have pipes that are running miles
4 under high voltage electric transmission lines. And
5 that electricity can be conducted by the pipeline and
6 the cathodic protection and other methods that are used
7 to protect the pipeline from carrying that electricity
8 are not working.

9 I'm one of the people, a small group of
10 people, who has pored over thousands of pages of
11 documents to see how this pipeline was built. And this
12 pipeline has been built with a risk here and a risk
13 there and a risk in another place. And when you add up
14 all those risks it is terrifying for people who live
15 near this pipeline.

16 We have to stop fracking and we have to stop
17 fossil fuel infrastructure and we have to keep people
18 from having to live in fear from a gas pipeline.

19 MR. NATHAN PALMER: My name is Nathan
20 Palmer. I own Laughing Tree Farm in Monkton, Vermont.
21 I'm one of the land owners who have been directly
22 impacted by this pipeline.

23 When they decided to lay this pipe it was in
24 2012 and they made a chart for the original route that
25 it was like so offensive to everyone that was along it.
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1 So in the process of calming down some people
2 they rerouted the pipeline and that's when it came
3 directly across our farm.

4 My immediate response was what's this going to
5 do to my soil? What's this going to do my water?

6 I called a hydrogeologist and asked him what's
7 this going to do my water? And he came over and did an
8 investigation.

9 I called an agronomist at UVM and said what's
10 this going to do to my soil or am I just freaking out
11 here?

12 And she said, well, send me the information on
13 how they're going to build this and I'll take a look the
14 at it because, you know, you are kind of an excitable
15 guy. And maybe you are, you know, getting too
16 excited.

17 I sent her the information. She came back
18 with a report and said, you know, if they do this
19 construction the way they say they're going to do it it
20 will be 20 years at least for your soil to recover
21 because I have heavy clay soil.

22 And even though I am not an organic farm I
23 farm organically and there's just no way that the soil
24 would be able to recover.

25 The hydrogeologist said the same thing. This
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1 is heavy clay soil. You cut a 5-foot trench through
2 this land you're going to change the water flow in many
3 directions, and none of them good.

4 So we took that to the testimony and presented
5 it to public service board and we were hoping that by
6 bringing this information to the board that they would
7 adjust the way the pipeline was built across the entire
8 length of it.

9 Instead they adjusted how they were going to
10 deal with our particular farm, as if our land was
11 special and no other land is special. And the reality
12 is all land is special. All water is special.

13 What I really have a problem with here is
14 that, you know, we're sacrificing our water for fuel and
15 that is a terrible situation to put society, to put
16 anyone in, where you have to make a choice between
17 whether you're going to be able to drink or whether
18 you're going to be able to drive your car.

19 Because what happens is those that can afford
20 to will drive their vehicles, heat their houses and
21 drink their water and those who are on limited income
22 are the ones who are going to have to decide do I buy a
23 gallon water or do I buy a gallon of fuel to keep my
24 house warm.

25 You know, it sounds kind of like out there a
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1 little bit but the reality is that water is precious and
2 we don't value it the way that we should. It's like a
3 commodity that we can get rid of real easily and we can
4 come up with real easily and it's obviously getting
5 harder and harder.

6 You can take that water and you can reclaim it
7 enough that you can reuse it for fracking but you'll
8 never be able to drink it. You'll never be able to feed
9 your animals with it. You'll never be able to sustain a
10 life with it. And that's really what it comes down to.

11 Are we going to have a liveable planet that we
12 can live on and enjoy their life or are we going to have
13 a place that is run, you know, by people that have a big
14 pile of money in their bank accounts and the rest of us
15 are just going to have to, you know, fend for it the
16 best way we can?

17 You know, I was really hoping that after the
18 pipe was built I could put this to bed and not have to
19 deal with it any more but the reality is that it was
20 built in a way that is so slipshod you don't even want
21 to live there.

22 You know, they told me when they first were
23 going to put this pipe through once we put this pipe
24 through you'll forget it's there. If you forget it's
25 there that's where you are going to have trouble. And
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1 it's going to get really serious.

2 MR. EARL HATLEY: I'm Earl Hatley. I am
3 Grand River Keeper for the Grand River Watershed and my
4 organization is the lead agency. I am Chickamauga
5 Cherokee. I belong to the Long Hair clan.

6 Fracking started in Oklahoma around 2007.
7 Oklahoma was lied to about what was causing the
8 increasing earthquakes over time.

9 In 2013 the earthquakes began increasing
10 tremendously. I had been fighting TransCanada and the
11 Army Corps of Engineers who were building the Keystone
12 XL pipeline southern leg from Cushing, Oklahoma to the
13 Gulf. So I really couldn't turn to that at that point
14 in time.

15 The Keystone XL southern leg was going to send
16 tarsands and fracked oil from the Bakken region up in
17 North Dakota and they had been sending it down to
18 Cushing in another way through a TransCanada spur from
19 Nebraska to Cushing.

20 Cushing is the largest terminal in North
21 America and it's the crossroads for pipelines. If you
22 saw a pipeline mapping of Cushing a plate of spaghetti
23 would look more organized. I mean it's massive and so
24 is the terminal part. And right now about half of it is
25 now Enbridge. TransCanada had a good part of it at one
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1 point in time when they were building the pipeline.

2 So in 2014 I got a letter from Devon Energy.
3 They wanted to come on to my property that I still own
4 in Payne County where most of the earthquakes were
5 occurring and explore for gas -- or for oil. And I
6 threw the letter away. And then a couple weeks later I
7 got another letter saying I didn't respond to the first
8 letter.

9 And so I looked it up and found that they
10 could come on to my property anyway. So I wrote them
11 and then I called them and I told them that I didn't
12 want any part of it and they weren't welcome to come on
13 to my property.

14 And they said, well, we'll, work around you.

15 And I said, well, I don't think that my
16 neighbors want you either.

17 About three weeks later I got another letter
18 giving me ten days to respond or they were going to go
19 to court and get authorization to come on to my land
20 anyway.

21 I organized citizens groups and the state-wide
22 group. And Stillwater, Oklahoma, which is the capital
23 seat of Payne County, passed ordinances for oil and gas
24 within the city limits which, in effect, keeps them out
25 of the city limits of Stillwater. And they passed that
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1 two weeks after the state legislature passed a law
2 saying that the cities couldn't do that.

3 And they've been threatening with lawsuits but
4 nobody has done anything so their ordinances stand. And
5 we're really proud of them.

6 I can't come on to my property any more
7 because I now have eight fracked wells in my square mile
8 in my section and a disposal well a mile and a half
9 away. And I have an autoimmune disease so when I go to
10 my property within five minutes I start getting
11 headaches and I start getting sick. And the longer I
12 stand there the sicker I get. And it takes me about
13 three weeks to recover when I go back home where I live.

14 In 2016 we had 10,000 earthquakes, maybe more
15 than that, and the USGS is saying that even if they stop
16 now we've still going to have a 6.0 or 6.5 or even
17 larger in our future. Probably several of them because
18 of all the faults that they've awakened now.

19 And some of our people that called in to the
20 corporation commission about their homes being destroyed
21 were told, well, you shouldn't -- you should be proud
22 because you're contributing to our independence on oil
23 and boys won't have to go to the Middle East to fight,
24 you know, so that's your sacrifice.

25 Most people don't have earthquake insurance
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1 because we're not an earthquake state. So their homes
2 didn't come with earthquake insurance. And the few that
3 did the insurance companies won't insure homes that are
4 damaged by man-made earthquakes.

5 You know, people are stuck with damaged homes
6 in the 14 counties where the earthquakes are happening
7 where the fracking is happening. And now fracking is
8 coming back because the price of oil is high.

9 So they're just going down and widening roads
10 and getting ready for huge infrastructure of oil and gas
11 exploration in these counties and the earthquakes are
12 going to be coming back big time.

13 Now they're drilling more shallow wells to get
14 at the oil that is more shallow. So more and more
15 ground water is going to be contaminated.

16 Thank you.

17 MS. FERN LICKFIELD: Hi. So I'm Fern
18 Lickfield and I am here from the Green Mountain Druids
19 School & Community. I'm based in Worcester, Vermont. I
20 teach a lot about how to be a steward and how to connect
21 more deeply with the spirit of place.

22 You know, before there were individual
23 religions with different Gods all of our ancestors, if
24 you've traced them back far enough, come from a place of
25 animism. And this is just understanding that everything
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1 is alive and all life is sacred.

2 And that means that we are connected to
3 everything else because the same spirit that animates
4 the tree animates us. And so when we remember this, and
5 I love the word remember, it's about pulling all of our
6 pieces back together and remembering that we're not on
7 top of this evolutionary pyramid. We're actually in a
8 web. And we are connected to everything. So that means
9 everything that we do affects everything else.

10 So it's very much about taking responsibility.
11 It's about understanding that the health of the human is
12 deeply dependent on the health of the land and on the
13 water and on the air. And it means also that health is
14 not just about this level of physical. You know, it's
15 not just our bodies.

16 We know that as humans for us to feel healthy
17 we have to pay attention not only to our physical health
18 but to our mental health and our spiritual health. And
19 so we also look at that at the macrocosm level with the
20 land. And really has a lot to do with slowing down
21 enough to listen and to hear what the land and the
22 waters need from us.

23 MS. VANESSA BROWN: So thanks for
24 listening to the testimony from Vermont folks and Earl
25 Hatley in Oklahoma.
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1 We have come together and talked through some
2 recommendations to make to the Tribunal. We don't agree
3 on all of them but we have a few that we would like to
4 suggest as far as what we think should be done.

5 We would like to see the Tribunal issue an
6 order requiring all the fossil fuel companies to
7 immediately disclose the chemicals that are contained in
8 the injections fluids. And to clean up the waters of
9 the earth;

10 We'd like all fracking operations to take immediate
11 action to tighten controls on infrastructure and prevent
12 methane leaks;

13 We would also like to see the immediate phase-out
14 of all fracking and also other fossil fuel operations:

15 We would like national and state governments to be
16 prevented from issuing new permits for fossil fuel
17 infrastructure;

18 We would like all fracking companies to, as an
19 alternative, have all fracking companies implement state
20 of the art measures to prevent leakage;

21 And we'd like to shut down fracking sites where
22 ground water protections are clearly failing;

23 And finally we'd like for the Tribunal to impose
24 steep and strict sanctions on public officials that
25 refuse to comply with these orders.

1 So that's what we've got and I thank you so
2 much for being here and allowing us to tell you our
3 stories.

4 DR. THOMAS KERNS: Thank you. Well, I'm
5 not one of the judges but I do have a question.

6 MS. VANESSA BROWN: Sure.

7 DR. THOMAS KERNS: About the difference
8 between regulating, you know, strictly regulating
9 fracking and banning fracking.

10 Some people have argued that it can't be
11 regulated sufficiently enough to be safe and that the
12 only way to protect human and nature's rights would be
13 to ban it.

14 So where are you on that question?

15 MS. VANESSA BROWN: I would think that --
16 I would agree as well as the other individuals who
17 testified today, would agree that fracking cannot be
18 regulated and protect human rights at the same time.
19 That they're exclusive.

20 That the technology fundamentally violates
21 human rights and the rights of nature.

22 That for a number of reasons you have green
23 house gas emissions. I believe that in my Brief I had
24 highlighted some science that concluded that fracking
25 exacerbates climate change and that the emissions from
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1 it contribute, they're much higher.

2 And so if you were to regulate it it would be
3 a half measure that doesn't -- it doesn't affect CO2
4 levels in the atmosphere. So it would not get the job
5 done basically, in effect.

6 DR. THOMAS KERNS: Thank you.

7 Gill, do you have any questions?

8 MR. GILL BOEHRINGER: No. I just wanted
9 to follow-up.

10 So I take it that you're, as we say here, your
11 ambit claim would be to ban fracking but you made some
12 recommendations or requests to the Tribunal less than
13 that. And I guess, well, it must be that you reckon
14 that in addition to asking for a ban we ought to, in the
15 meantime, until that can be worked out, suggest certain
16 measures that might help to mitigate the damage.

17 MS. VANESSA BROWN: So provisional
18 measures, yes. So when we discussed an outright ban,
19 suggesting an outright ban to you, a lot of folks laughed.

20 They said, oh, we wish that would happen. You
21 know, that that would be an order that would be complied
22 with. And so we think that is what needs to happen but
23 we see that, you know, it's likely not going to
24 happen. We're not going to be, yeah.

25 MR. GILL BOEHRINGER: It's David and
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1 Goliath at the moment isn't it?

2 MS. VANESSA BROWN: Yes.

3 MR. GILL BOEHRINGER: Golaith may be
4 weakening and David may be getting stronger.

5 Just one point. I missed it. I wasn't quite
6 sure could you tell me when Earl Hatley was talking he
7 said he was a Vermont resident but the example he was
8 giving was actually from Oklahoma.

9 MS. VANESSA BROWN: That's right. Earl
10 has moved part-time to Vermont mainly because of his
11 inability to stay on his property and so -- yeah.

12 MR. GILL BOEHRINGER: Didn't want to be
13 homeless.

14 MS. VANESSA BROWN: Right.

15 MR. GILL BOEHRINGER: Okay. Thanks.
16 That's great. Really, really good.

17 I have a nephew who has a place in Vermont
18 that I visited about a year ago.

19 Actually let's say it was in the middle of --
20 it was in January. I found it very cold but I see it's
21 a place well worth fighting for and to protect. It's a
22 beautiful area.

23 MS. VANESSA BROWN: Thank you.

24 [youtube.com/watch?v=GK_qTdSWYuw]

25