

Public FERC correspondence & comments received re Docket PF14-22 / CP16-21 (Kinder-Morgan / Tennessee Gas Pipeline proposed Northeast Energy Direct (NED) pipeline)

VOLUME 9: Comments from February 1, 2016, to present

The most recent Volume is always at: http://www.Mason-NH.org/FERC_COMMENTS.pdf

The current Table of Contents is at: http://www.Mason-NH.org/FERC_Comments_TOC.pdf

Transcripts of Scoping Meetings at: http://www.Mason-NH.org/FERC_Scoping_Transcripts.pdf

Previous volumes (*links are also provided within the current volume*):

Vol 8 (pgs 5,346...6,830) January 2016	(5.6 MB)	http://www.Mason-NH.org/FERC_COMMENTS_vol_8.pdf
Vol 7 (pgs 4,736...5,345) Nov, Dec 2015	(2.3 MB)	http://www.Mason-NH.org/FERC_COMMENTS_vol_7.pdf
Vol 6 (pgs 3,591...4,735) October 2015	(4.5 MB)	http://www.Mason-NH.org/FERC_COMMENTS_vol_6.pdf
Vol 5 (pgs 3,281...3,590) September 2015	(1.3 MB)	http://www.Mason-NH.org/FERC_COMMENTS_vol_5.pdf
Vol 4 (pgs 1,885...3,280) August 2015	(5.4 MB)	http://www.Mason-NH.org/FERC_COMMENTS_vol_4.pdf
Vol 3 (pgs 1,140...1,884) June, July 2015	(2.7 MB)	http://www.Mason-NH.org/FERC_COMMENTS_vol_3.pdf
Vol 2 (r2) (pgs 580...1,139) March...May 2015	(2.1 MB)	http://www.Mason-NH.org/FERC_COMMENTS_vol_2.pdf
Vol 1 (r3) (pgs 1...579) ...February 2015	(2.2 MB)	http://www.Mason-NH.org/FERC_COMMENTS_vol_1.pdf

Editor's note:

The comments sent to FERC by citizens, local governments and organizations are meant to provide important information to FERC for use in its review of a proposed project. In this role the information flows essentially in only one direction: to FERC.

A less well known function is to encourage the exchange of information between citizens, groups and local governments. In my view this exchange is as important as informing FERC, perhaps more important.

Unfortunately, while the comments sent to FERC are made part of the public record and are placed on-line, they can be rather hard to access through FERC's somewhat opaque eLibrary interface. In practice they essentially disappear from the public eye.

*As a consequence, much of the value of the comments is lost. While some comments are simple "I'm all for it" or "don't allow it" expressions of opinion, many others contain thoughtful discussions of costs and benefits, suggestions for studies which would be important, considerations of alternative solutions, and other valuable contributions to the public discussion. **It is a terrible waste of human effort and knowledge to allow these comments to disappear from the public discussion.***

The intent of this document was to collect and make easily accessible the comments sent to FERC by citizens, organizations and local governments along with FERC's replies. I wanted to make the comments available as a collection in a small number of PDF files of manageable size - this meant that the comments would have to be in text form rather than as large image scans.

Most of the documents were scanned at FERC and then converted into text via OCR (Optical Character Recognition). While modern OCR can do a decent job, there always will be errors.

Hand-written documents are not OCR compatible and could not be converted to text. They are listed in sequence below but without text; where possible a note is made as to author and support or opposition.

Maps and similar graphical material are also not included.

Also excluded are the very large document collections provided by Kinder Morgan in their application.

Each update of their proposal includes 1,000 MB or more of files containing thousands of pages. These files are listed in sequence below and can be downloaded from FERC's eLibrary if you want them.

Much of the OCR'd text resulted in lines which did not match the page width of this collection; simply copying these short lines this would have at least tripled the length of this already very long document. Instead, after selecting the text I reformatted the paragraphs so that they would fill out the width. I did not always attempt to recreate indentations or tabular formats.

This project has been complicated by several factors:

Some documents which were fully OCR compatible were never converted, including a number which came from governmental bodies, tribes, or influential NGOs. These were stored as (large) image scans, either in PDF or TIF format. Some which had "SENT BY EMAIL" in their header, indicating they had been sent to FERC in digital text form were apparently converted into the much less useful scan image format. Processing at FERC seems somewhat inconsistent. Where possible I have applied my own OCR when only scans are provided.

Finally, there is pilot fatigue and error. Long and late hours provided ample occasion for errors and I'm sure I must have made some. I suspect the most likely would be deletions of parts of paragraphs (the Delete key being all too close to other keys I used). Please report any that you discover to Garth@Mason-NH.org and I will repair them.

In short, expect some errors. When in doubt you can consult images of the originals in FERC's eLibrary. The FERC Accession Numbers are shown as "20140917-4001", in earlier volumes a specific file number was appended in (). There usually are several files stored under each Accession Number - for example a scan Image file and also a PDF version, possibly OCR'd, or not...).

You can search FERC's eLibrary at <http://www.ferc.gov/docs-filing/elibrary.asp> where you can use "advanced search" to find all files under a specific Accession Number.

G.Fletcher.

The files are listed in numerical order - which should correspond to date, beginning with the earliest.

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20160201-5211 Motion to Intervene Out-of-Time of Alexandra Lovejoy

Good Day,

I am shocked and appalled by a country that boasts a democracy that the Tennessee Pipeline feels that they have the right to encroach, endanger, and devalue private property.

My property is 590 Kendall Rd, Tewksbury MA, 01876.

Petition for right to survey has been denied by this household. Reasons being:

Easement would require Property Deed modification

Devaluation of real estate

Environmental dangers (damages, safety, repercussions from blasting, dangers of a gas pipeline specifically horrific explosions that affect a large neighborhood and, the impact on ecosystem)

Depending on the route chosen for the pipeline, our property could abut or be directly affected by the construction or the pipeline itself.

The effect the addition of the pipeline would have on my real estate and the quality and desire of my town. I chose Tewksbury because of its beauty and quality of living. Should a pipeline be put in so close to my home, we would consider moving and in turn would take a loss on a home that I have spent close to 100K in improvements, as well as losing out on a great family-oriented community.

TGP's errors and omissions and outright misstatements of facts in its Massachusetts ENF give me no confidence in the assurances it makes in this filing to protect the environment and safety of our town and my immediate surroundings. I am aware of the Town of Tewksbury's filings, and speaking on behalf of the residents here, just like the Casino, we do not want a pipeline run through our community.

There is no upside to this project.

Thank you.

20160202-0028

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Room 1A
Washington, DC 20426

Date: 1/13/2016

Via Certified Mail, Return Receipt Requested

Re: Denying property access

As the owner of the property located at:

18 Dogwood Circle, Pelham, NH 03076

I am denying permission to the Tennessee Gas Pipeline Company, LLC (a Morgan Company), its representatives, contractors, sub-contractors, or associates to enter my land to perform surveys, or for any other purpose. Any physical entry onto my property will be considered unauthorized, and treated as trespass.

Steve Ham

20160202-0029

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Room 1A
Washington, DC 20426

Date: 1-22-16

Via Certified Mail, Return Receipt Requested

Re: Denying property access

As the owner of the property located at:

4 Rita Avenue
Pelham, NH 03076

I am denying permission to the Tennessee Gas Pipeline Company, LLC (a Morgan Company), its representatives, contractors, sub-contractors, or associates to enter my land to perform surveys, or for any other purpose. Any physical entry onto my property will be considered unauthorized, and treated as trespass.

Denise Valliere

20160202-0033

{18 pages skip to end of 20160202-0033 }

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VIA CERTIFIED MAIL/RETURN RECEIPT REQUESTED

January 19, 2016

Honorable Angela M. O'Connor
Chairperson, Department of Public Utilities
1 South Station Track 13
Boston, MA 02110

**In re: TENNESSEE GAS PIPELINE COMPANY, L.L.C.
PETITIONER D.P.U No. 16-03**

Dear Ms. O'Connor:

Please find enclosed a Motion to intervene and stay all proceedings in the aforementioned matter filed by Carolyn and Eric Ness, Meg Worcester, Michael and Kelly Paulsen, Holly and Gordon Lovelace, and Woolman Hill Inc.

Thank you for the attention you will give to this letter.

Sincerely,

Cristóbal Bonifaz

Cc: James L. Messenger, Esq., Attorney for Petitioner
Kimberly Bose, Federal Energy Regulatory Commission
Massachusetts Attorney General

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES**

TENNESSEE GAS PIPELINE COMPANY, L.L. C., | D.P.U No. 16-03
Petitioner |

**MOTION TO INTERVENE AND TO STAY
ALL PROCEEDINGS**

Dated: Conway, Massachusetts
January 19, 2016

Respectfully Submitted
By Attorney for Plaintiffs

S/ Cristóbal Bonifaz

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**MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE
AND STAY ALL PROCEEDINGS**

ABSTRACT

Carolyn and Eric Ness, Meg Worcester, Michael and Kelly Paulsen, Holly and Gordon Lovelace, and Woolman Hill Inc., Residents of Franklin County Massachusetts, (hereinafter Intervenors) Have Denied Access to their Properties Requested by Petitioner on the Grounds that the Federal Energy Regulatory Commission (FERC) Does Not Have Jurisdiction Over the Proposed Tennessee Pipeline and Therefore the Department of Public Utilities Does not Have the Authority to Approve Petitioner’s Request.

Intervenors Have Pending in Federal Court a Summary Judgment Against the United States Seeking a Declaratory Judgment Regarding the Jurisdiction of FERC in this Action. Until and unless the Federal Courts declare that FERC has Jurisdiction over the Proposed Pipeline DPU Must Stay These Proceedings.

The Summary Judgment Motion, Pending in Federal Court Follows, is Incorporated here in Full together with Plaintiffs’ Exhibits Attached in Digital Form.

The Department of Public Utilities (DPU) Must Take Notice That The Facts Supported by Admissible Testimony Incorporated Here Controvert Forcefully and Negate the Facts Alleged by Petitioner to Support its Motion.

Petitioner Fails to tell DPU that a Great Portion of the Gas to be Transported through the Pipeline is for Export to Foreign Countries as Shown here in the Facts Section to this Brief.

I. THE CLAIM

The Fifth Amendment of the United States Constitution grants the United States government the power to take private property for “**public use**,” by paying adequate compensation to property owners, and by extension, the right to grant such power to private entities. The sole issue in this litigation is the constitutionality of Section 15 U.S.C. § 717a of the Natural Gas Act 42 U.S.C. § 711 et seq., which grants the United States power to allow private entities to take Plaintiffs’ real property by eminent domain, with adequate compensation, for the construction of pipelines to carry natural gas **not for “public use” but for exportation to foreign countries**.

Congress has clearly, unequivocally, and forcefully, deprived FERC of jurisdiction over the claim here:

Federal Power Commission [now FERC] will not pass upon constitutionality of Natural Gas Act, and will not question legislative declaration, contained in 15 USCS § 717(a), that transportation and sale of natural gas in interstate commerce for resale for ultimate public consumption “is affected with public interest” and that federal regulation thereof “is necessary in public interest.” 15 USCS § 717(a).

Plaintiffs are challenging that portion of 15 USCS § 717(a) over which Congress deprived FERC of jurisdiction:

Necessity of regulation in public interest. ... [i]t is hereby declared that the business of transporting and selling natural gas for ultimate distribution to the public is affected with a public interest, and that Federal regulation in matters relating to the transportation of natural gas and the sale thereof in interstate and **foreign commerce** is necessary in the public interest. 15 U.S.C. § 717(a). (Complaint at ¶ 58).

FERC therefore has no jurisdiction over a claim of constitutionality of the challenge founded on the “public interest” section of the statute and cannot decide on the merits of the constitutional claim.

Plaintiffs, Intervenors here, have moved for summary judgment in federal court on this issue, supported by Plaintiffs' Statement of Undisputed Facts, and all Exhibits accompanying this Motion. Given the fact that this critical issue is pending in federal district court, DPU must stay all proceedings pending resolution of the constitutional claim.

II. SUMMARY JUDGMENT STANDARD

Federal Rule of Civil Procedure 56(a) provides that summary judgment should be granted, "... if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." *Fed. R. Civ.P. 56(a)*, see also *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248, 106 S. Ct. 2505, 91 L. Ed. 2d 202. In deciding a motion for summary judgment, a court must construe all facts and inferences in the light most favorable to the nonmoving party. See *Bear v. Banks* 548 U.S. 521, 529, 126 S. Ct. 2572, 2578, 165 L. Ed. 2d 697, 705. The moving party bears the burden of establishing that no genuine issue of material fact remains. See *Celotex Corp. v. Catrett*, 477 U.S. 317, 322-23, 106 S. Ct. 2548, 91 L. Ed. 2d 265 (1986). "[W]ith respect to an issue on which the nonmoving party bears the burden of proof . . . the burden on the moving party may be discharged by 'showing'--that is, pointing out to the district court--that there is an absence of evidence to support the nonmoving party's case." *Celotex*, 477 U.S. at 325.

Once the moving party has met that threshold burden, the nonmoving party "must do more than simply show that there is some metaphysical doubt as to material facts." *Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio Corp.*, 475 U.S. 574, 586, 106 S. Ct. 1348, 89 L. Ed. 2d 538 (1986). The opposing party must present actual evidence that creates a genuine issue as to a material fact for trial. *Anderson*, 477 U.S. at 248; see also *Fed. R. Civ. P. 56(c)* (setting forth types of evidence on which nonmoving party must rely to support its assertion that genuine issues of material fact exist).

Rule 56(c) mandates entry of summary judgment against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case and on which that party will bear the burden of proof at trial. In such a situation, there can be "no genuine issue as to any material fact" since a complete failure of proof concerning an essential element of the nonmoving party's case necessarily renders all other facts immaterial. The moving party is "entitled to a judgment as a matter of law" because the nonmoving party has failed to make a sufficient showing on an essential element of her case with respect to which she has the burden of proof. *Celotex*, 477 U.S. at 322-23). "[The] standard [for granting summary judgment] mirrors the standard for a directed verdict under *Federal Rule of Civil Procedure 50(a)*" *Anderson v. Liberty Lobby, Inc.*, at 250. *Celotex* at 323.

III. PLAINTIFFS' STATEMENT OF UNDISPUTED MATERIAL FACTS

Plaintiffs, in accordance with *Local Rule 56.1(a)*, have filed concurrently with the filing of this Memorandum and Motion a Statement of Undisputed Material Facts, supported by relevant affidavits and exhibits. Its factual contentions are as follows:

1. Kinder Morgan AKA Tennessee Gas Pipeline Company L.L.C. (hereinafter jointly "KM") communicated to Plaintiffs in this litigation between October of 2014 and July of 2015 that it planned to install a gas pipeline which may impact Plaintiffs. (Material Fact-1, Exhibits-1, 2, 3, 4, 5, hereinafter "MF-#, Ex.-#").
2. Kinder Morgan also stated in its communications to Plaintiffs that:

The Project is subject to regulation by the Federal Energy Regulatory Commission ("FERC") under Section 7(c) of the Natural Gas Act. On September 15, 2014 Tennessee requested authorization to use the FERCs pre-filing process ("Process") for the Project, and the FERC approved Tennessee's request on October 2, 2014 in FERC Docket No. PF 14-22-000. (MF-2, Exs.-1, 3, 5)
3. In 2005 Congress amended the Natural Gas Act and extended jurisdiction of the Federal Energy Regulatory Commission ("FERC") to the exportation of natural gas with the following language:

Necessity of regulation in public interest. As disclosed in reports of the Federal Trade Com-

mission made pursuant to S. Res. 83 (Seventieth Congress, first session) and other reports made pursuant to the authority of Congress, it is hereby declared that the business of transporting and selling natural gas for ultimate distribution to the public is affected with a public interest, and that Federal regulation in matters relating to the transportation of natural gas and the sale thereof in interstate and **foreign commerce** is necessary in the public interest. *15 U.S.C. § 717a. (Emphasis here only).*

4. The Congressional Record of S. Res. 83 (Seventieth Congress, first session 1928) does not list or disclose any reports which can in any way justify that exportation of natural gas is in the public interest. (MF-4, Exs. 6A through 6V).
5. On July 9, 2013 sixteen senators sent a letter to the US Secretary of Energy urging the Secretary to expedite approval of Liquefied Natural for export. (MF-5, Ex.-7).
6. On February 11, 2015 sixteen senators sent a letter to the US Secretary of Energy expressing opposition of approvals of Liquefied Natural for export. (MF-6, Ex.-8).
7. On July 2, 2015 FERC mailed a document to counsel in this litigation concerning the KM pipeline in which it stated in its first paragraph that FERC will use this Environmental Impact Statement (“EIS”) in its decision-making process to determine whether the “Project is in the public convenience and necessity.” (MF-7, Ex.-9 at page 1 of FERC’s June 30, 2015 Notice).
8. On December 30, 2014 counsel for Plaintiffs’ requested counsel for KM to explain why FERC has jurisdiction over the KM pipeline when a great portion of the gas is for exportation to foreign countries. (MF-8, Ex.-10A).
9. KM never responded to the letter mentioned in Material Fact #8 (MF-9, Ex.-10B).
10. Plaintiffs Carolyn and Eric Ness received a communication from KM in July of 2015 notifying them of hearings scheduled for August of 2015 by the Massachusetts Energy Facility Siting Counsel for consideration of a number of pipelines proposed by KM. (MF-10, Ex.-11).
11. The Massachusetts Energy Facility Siting Counsel was requested by KM to approve a 30- to 36-inch pipeline to transport natural gas through a number of counties in Western Massachusetts, terminating in Dracut, Massachusetts, as well as a 30-inch pipeline to transport natural gas from Dracut to a maritime terminal. (MF-11, Ex.-11).
12. The gas projected to be transported by Kinder Morgan AKA Tennessee Gas Pipeline (“KM”) is primarily for export to foreign countries. (MF-12, Ex.-12, Expert Report of David Keith at pgs. 1 and 11).
13. Up until July 24, 2015 KM projected the carrying capacity of its Northeast Energy Direct pipeline at 2.2 billion cubic feet (“Bcf/d”) of gas per day. A subsequent filing with FERC revised the application to 1.3 billion cubic feet of gas per day. (MF-13, Ex.-12, Expert Report of David Keith at page 6 and endnote x; and MF-37, Ex.-25).
14. Despite reducing planned carrying capacity to 1.3 billion cubic feet of gas per day, KM “...reserves the right to amend the Project scope and construction schedule as needed to most effectively meet the demand needs of the market commitments supporting the Project[.]” It could change back to 2.2 Bcf/d. (MF-14, Ex.-12, Expert Report of David Keith at page 6 and endnote x).
15. Allowing for energy loss in conversion to electricity, 2.2 billion cubic feet of natural gas per day could generate twenty-two times the electricity the Vermont Yankee nuclear reactor used to produce. 1.3 Bcf/d could replace that reactor thirteen times. (MF-15, Ex.-12, Expert Report of David Keith at page 5).
16. The cost of natural gas to Massachusetts consumers will increase if natural gas is allowed to be exported to foreign countries. (MF-Ex.-12, Expert Report of David Keith at page 10 and endnote xvi; (MF-16, Ex.-18, Report by Industry Expert Paul Cicio at page 4)

17. KM has applied to the Massachusetts Energy Facilities Siting Council for permits to build a 30-inch pipeline through Franklin County Massachusetts. (MF-17, Ex.-12, Expert Report of David Keith at page 10; MF-11, Ex.-11).
18. KM has applied, at the same time, to the Massachusetts Energy Facilities Siting Council for permits to build a 30-inch pipeline from Dracut, Massachusetts, connecting with the Maritimes & Northeast pipeline. The owners of that pipeline are applying to reverse its direction to take gas from Dracut to Canada, where liquefied natural gas (“LNG”) terminals are applying to liquefy and export the gas from that pipeline. (MF-18, Ex.-12, Expert Report of David Keith at page 12; MF-11, Ex.-11).
19. KM has announced that it is having four “LNG-conversion-ready” tankers built. (MF-19, Ex.-12, Expert Report of David Keith at page 9).
20. KM has only been able to contract with suppliers of gas to New England consumers for 0.5 billion cubic feet of natural gas per day. (MF-20, Ex.-12, Expert Report of David Keith at page 6).
21. KM has no significant market—including electricity generation—in New England beyond the 0.5 billion cubic feet per day of its precedent agreements. (MF-21, Ex.-12, Expert Report of David Keith at page 9).
22. KM can more cheaply bring the contracted amount of fuel to New England by “looping” the existing Line 200. (MF-22, Ex.-12, Expert Report of David Keith at page 9).
23. The US Energy Information Agency [EIA] reported last December that existing gas lines supplying 60 percent of New England’s natural gas have been operating at “between 21% and 84% below 2008 levels, with the largest percentage decline occurring on the Tennessee Gas Pipeline.” (MF-23, Ex.-12, Expert Report of David Keith at page 10).
24. When KM’s own extended open season for contracts demonstrates that demand in New England is for less than 40 percent of the pipeline’s reduced carrying capacity, the company’s decision to go ahead with the more expensive project implies the remaining 60 percent is intended for export. (MF-24, Ex.-12, Expert Report of David Keith at pages 9-11).
25. Berkshire Gas has accused Plaintiffs and others opposing the construction of the KM pipeline of eco-terrorism. (MF-25, Ex.-13).
26. The Board of Health of Deerfield, Massachusetts conducted an adjudicatory hearing on September 9, 2014 to establish the qualifications of KM to construct the projected KM pipeline. KM refused to attend the hearings. (MF-26, Ex.-14).
27. The Board of Health of Deerfield found on October 23, 2015 that the proposed KM pipeline presents an unreasonable risk to the health and lives of the residents of Deerfield based on findings of the aforementioned adjudicatory hearings. (MF-27, Ex.-15, “Facts” at pages 2 to 6).
28. KM sent a letter to the Board of Health of Deerfield stating that the Board of Health’s Order, issued on October 23, 2015 (MF-27, Ex.-15) after the adjudicatory hearing which KM refused to attend (MF-27, Ex.-14), is a “nullity.” (MF-28, Ex.-16).
29. In passing the Natural Gas Act, Congress did not define “public interest.” (MF-29, Ex.-17 at page 11).
30. Industry Expert Paul N. Cicio states in a report that exportation of natural gas will result in higher prices of natural gas for US consumers. (MF-30, Ex.-18).
31. Paul N. Cicio, who is President of Industrial Energy Consumers of America, testified in a hearing before Congress on January 29, 2015 that exporting natural gas presents risks contrary to the public interest. (MF-31, Ex.-19 at page 20).
32. The Industrial Energy Consumers of America filed a Motion to intervene in another Federal Energy Regulatory Commission matter, requesting that FERC deny permit for another gas transport pipeline, on the grounds that it is inconsistent with the public interest to grant a corporation a license to export

natural gas to other nations. (MF-32, Ex.-20 at pages, 2, 3 and 16).

33. Defendant's Agency the US Energy Information Agency (EIA) asserted in October of 2014 "**In-creased LNG exports lead to increased natural gas prices.**" (MF-33, Exhibit 21 at page 12).
34. The question before the Supreme Court, as outlined by the City of New London, was whether the Takings Clause of the Fifth Amendment forbids an economically distressed city from employing its eminent domain power to condemn and pay just compensation for private property with the aim of reversing decades of economic decline, creating thousands of jobs, while significantly increasing property taxes and other sources of revenue for the city and realizing immediate structural and environmental benefits for the city and its residents. (MF-34, Ex.-22 at page 1).
35. Professor Bruce L. Benson has reviewed the history of the takings clause and has stated in an opinion that James Madison, who wrote the Fifth Amendment, chose the term "public use" rather than "public interest," "public benefit" or some other term, in an effort to establish a more objective requirement. (MF-35, Ex.-23 at page 10).
36. Plaintiffs have suffered a diminution of the property values, compounded by emotional distress, at the announcement by KM that it plans to obtain approval from FERC to install a natural gas pipeline through their properties, or in the case of Plaintiffs Lovelace, the installation of a compressor station in the vicinity of their property. (MF-36, Affidavits Exs.-24 A through E).
37. The Environmental Protection Agency filed comments with FERC, on October 16, 2015, regarding the KM pipeline without mentioning the issue of exportation of natural gas. (MF-37, Ex.-25).

IV. ARGUMENT

There are two fundamental hurdles Plaintiffs' must overcome in order for this Honorable Court to consider granting the Summary Judgment Motion Plaintiffs are requesting:

- A. Do Plaintiffs have standing to bring this lawsuit?
- B. Is the actual purpose of the proposed pipeline, and accompanying compressor stations, to export natural gas to foreign countries?

A. **Plaintiffs Have Article III Standing to File this Action.**

With respect to the issue of standing, all Plaintiffs have filed affidavits attesting to the fact that the announcement of the proposed installation of the pipeline and compressor station (MFs-1, 2, 7) has resulted in diminution of their real property values (MF-36, Affidavits Exs. 24A, 24B, 24C, 24D, 24E) and has caused them significant emotional distress (MF-36, Affidavits Exs. 24A, 24B, 24C, 24D), or as Plaintiffs Lovelace have clearly stated in their Affidavit referring to ¶ 16 of the First Amended Complaint (FAC):

The knowledge that the United States, through the Federal Energy Regulatory Commission, would allow the taking of their home and despite the fact that the gas to be pumped by the compression station is primarily for exportation to foreign countries has caused and continues to cause Holly and Gordon Lovelace emotional distress and anguish. (FAC at ¶ 16).

Further evidence of the devaluation of their properties is the fact that Board of Health of Deerfield, the town in which Plaintiffs Ness, Worcester, and Woolman Hill Inc. reside, ruled after an adjudicatory hearing that the proposed pipeline under evaluation by FERC presented an unreasonable risk to the health and lives of the residents of the town. (MFs. 26, 27).

The matter of the Tennessee pipeline came before the Deerfield, Massachusetts Board of Health ("BOH") at the request of citizens of Deerfield, who asked the BOH to hold adjudicatory hearings to determine whether the fracked gas pipeline KM and Tennessee propose to build through Deerfield's boundaries presents unreasonable risk to the health and lives of the citizens of Deerfield. (MF-26, Ex.-14).

Between September 9, 2014 and October 23, 2014, the BOH held the requested adjudicatory hearings to establish facts and to evaluate the dangers to the health and well-being of the residents of Deerfield. *Id.*

KM and Tennessee were invited to participate and introduce evidence at the adjudicatory hearings in person and in writing. *Id.*

KM and Tennessee refused to participate in any way at the adjudicatory hearings, thereby showing nothing but contempt for the BOH and the law in Massachusetts granting boards of health in Massachusetts the right to ban from their respective towns activities that may endanger the health and well-being of the residents of the town. *M.G.L. Ch. 111 §§. 31 and 143. Id.*

The Massachusetts Supreme Court has ruled that federal preemption does not apply to such rulings or regulations issued by Boards of Health or Town Commissioners of Health. *Arthur D. Little v. Commissioner of Health of Cambridge 395 Mass. 535; 481 N.E.2d 441; 1985 Mass. LEXIS 1720 (1985).*

After extensive adjudicatory hearings before the BOH of Deerfield between September 9, 2014 and October 23, 2014, the BOH banned the building and operation of the projected Deerfield pipeline within the boundaries of Deerfield. (MF-Ex.-27).

The Deerfield BOH established a series of facts, not contested or objected to by KM or Tennessee, at the adjudicatory hearing. The uncontested facts upon which the BOH based its decision to ban the pipeline follow. (MFs. - 26 and 27).

A Kinder Morgan subsidiary was convicted in California of **six felony counts** regarding the deaths of Javier Ramos, Israel Hernandez, Tae Chin, Victor Rodriguez and Miguel Reyes. *Id.*

The Supreme Court of the United States has rejected the argument that political speech of corporations or other associations should be treated differently under the *First Amendment* simply because such associations are not “natural persons.” *Citizens United v. Federal Election Commission Supreme Court of the United States 558 U.S. 310 at 343; 130 S. Ct. 876 at 900; 175 L. Ed. 2d 753 at 784 (2010)(citations omitted).*

The order of the Supreme Court establishing that corporations cannot be treated differently from “natural persons,” albeit in the context of the *First Amendment*, gives clear indication to the BOH that a corporation cannot be treated differently from “natural persons” in the context of felonies committed.

Felons have limited rights in Massachusetts, i.e., cannot participate in elections (as they cannot vote while incarcerated), cannot be members of the Gaming Commission, etc.

The Deerfield BOH found that a corporation convicted of felonies resulting in the tragic deaths of five people presents an unreasonable risk to the health and lives of residents of Deerfield if such felon were allowed to build a massive, high-pressure fracked-gas pipeline through Deerfield. (MFs.-26 and 27).

The Deerfield BOH found that Kinder Morgan was cited by the Hazardous Materials Safety Administration for violating its regulations five times in 2011. *Id.*

The Deerfield BOH found that in Texas, alone, from 2003 to 2014 Kinder Morgan experienced 36 “significant incidents” resulting in fatalities or hospitalization, fires, explosions or spills. *Id.*

The Deerfield BOH found that Kinder Morgan has a record of bribery, pollution, fraud, scams, thefts, deaths, felonies, environmental disasters, labor violations, unsafe working conditions, and influence-buying. *Id.*

The Deerfield BOH found that Kinder Morgan’s operations in Portland, Oregon have been host to pollution, law-breaking, and even bribery. *Id.*

The Deerfield BOH found that the Federal Bureau of Investigation determined that between 1997 and 2001 “Kinder Morgan systematically scammed some of its customers, including the Tennessee Valley Authority (‘TVA’), a publicly owned provider of electricity in the mid-South.” *Id.*

The Deerfield BOH found that the same federal investigation found that, at its Grand River Terminal in Kentucky, Kinder Morgan officials took coal from a customer’s stockpiles and resold nearly 259,000 tons. *Id.*

The Deerfield BOH found that, in another case, the US Environmental Protection Agency fined Kinder

Morgan \$613,000 for violations of the Clean Air Act after “regulators discovered that the company had been illegally mixing an industrial solvent described as a ‘cyclohexane mixture’ into unleaded gasoline and diesel.” *Id.*

The Deerfield BOH found that in 2010 the federal government fined Kinder Morgan \$1 million for repeatedly violating the Clean Air Act. The US Department of Justice found that “among other crimes” Kinder Morgan managers lied on permit applications stating that the company would control its pollution, when all the while they knew the control equipment was not being operated or even maintained properly. *Id.*

The Deerfield BOH found that currently Kinder Morgan is under investigation by the EPA for violating the federal Renewable Fuels Standard. Officials believe that Kinder Morgan purchased conventional fossil fuels while filing falsified documents certifying that the fuels came from renewable sources. *Id.*

The Deerfield BOH found that Kinder Morgan’s pipelines have endangered lives in many communities across the United States and Canada, as enumerated below. *Id.*

The Deerfield BOH found that in 2007 a Kinder Morgan pipeline ruptured in Burnaby, British Columbia, forcing 50 families to evacuate their homes as oil rained down on a residential neighborhood. *Id.*

The Deerfield BOH found that in January of 2012 a Kinder Morgan storage facility in British Columbia spilled roughly 29,000 gallons of crude oil into the community of Abbotsford. *Id.*

The Deerfield BOH found that in April of 2004 a long stretch of a Kinder Morgan corroded pipeline ruptured, spilling 123,000 gallons of diesel fuel into a sensitive saltwater wetland on San Francisco Bay. Kinder Morgan pled guilty on four counts, relating to that spill as well as an unrelated spill in Los Angeles Harbor. *Id.*

The Deerfield BOH found that in November of 2004 an oil pipeline of a Kinder Morgan subsidiary burst in the Mojave Desert, sending a jet of fuel 80 feet into the air. The break closed the nearby interstate highway and contaminated more than 10,000 tons of soil in the habitat of the federally endangered California Desert Tortoise. *Id.*

The Deerfield BOH found that in 2005 Kinder Morgan had spilled 70,000 gallons of fuel into Oakland’s inner harbor and then 300 gallons into the Donner Lake watershed in Sierra Nevada. In addition, in 2007 the City of San Diego sued Kinder Morgan for falsifying records of the clean up of a fuel leak that contaminated the aquifer. *Id.*

The Deerfield BOH found that in May of 2011 the US Pipeline and Hazardous Materials Safety Administration announced a proposed \$425,000 fine against Kinder Morgan for safety violations following a federal investigation into Kinder Morgan’s having spilled 8,600 gallons of hazardous liquids in New Jersey. *Id.*

The Deerfield BOH found that in December of 2011 a two-year-old Kinder Morgan natural gas pipeline leaked in Ohio, spewing 127,000 cubic feet of natural gas and forcing residents to evacuate their homes. *Id.*

The Deerfield BOH found that allowing Kinder Morgan, a corporation with a known record of endangering lives of residents across North America, to build and operate a massive fracked-gas-transportation-pipeline through the town would present unreasonable risk to the health and lives of residents of Deerfield. *Id.* (Emphasis here only).

The Deerfield BOH found that pipeline transportation of fuels is a dangerous operation in the United States and worldwide, as illustrated by the instances enumerated below. *Id.*

The Deerfield BOH found that from 2000 to 2009 there were 460 accidents on record related to pipeline discharges of fuels, whether gas or liquids, in the United States. *Id.*

The Deerfield BOH found that pipeline-related incidents have brought pipeline safety to national--and presidential--attention. *Id.*

The Deerfield BOH found that from 1994 through 2013, the United States had 745 serious incidents with gas distribution, causing 728 fatalities, 1059 injuries, and \$110 million in property damage. *Id.*

The Deerfield BOH found that National Public Radio reported in January of 2014 more than 6,000 leaks of natural gas had occurred in the District of Columbia alone. *Id.*

The Deerfield BOH found that in Massachusetts in the last ten years it has cost consumers more than \$1.5 billion for fuel leaked from pipelines. *Id.*

The Deerfield BOH found that there is a danger to the health and lives of residents of Deerfield if the BOH were to permit construction and operation of a natural gas pipeline within the town of Deerfield, particularly when the company constructing and operating the pipeline is Kinder Morgan. *Id.* (*Emphasis here only*).

The Deerfield BOH found that Kinder Morgan's official, Mark Hamrich, reported at a public meeting held at Greenfield Community College on July 14, 2014 that Kinder Morgan does not know the composition of the fracked gas planned to be transported through the proposed pipeline. *Id.*

The Deerfield BOH found that fracking is a process designed to extract gas from shale buried in the soil. Fracking fluid is a toxic brew consisting of multiple chemicals, which may include materials such as petroleum distillates, ethylene glycol, methanol, polyacrylamide and many others. *Id.*

The Deerfield BOH found that Kinder Morgan has not denied that some of these fracking chemicals might be present in the fracked gas to be transported through the pipeline. *Id.*

The Deerfield BOH found that the statement of Mark Hamrich of Kinder Morgan at an open meeting disingenuous as the actual composition of the gas in the pipeline can be established at any time by simple gas and/or liquid chromatography analysis. *Id.*

The Deerfield BOH found that the unknown composition of the gas in the pipeline will indeed present a danger to the health and lives of residents of Deerfield if the BOH were to permit construction and operation of a natural gas pipeline within the town of Deerfield, particularly when the company constructing and operating the pipeline, Kinder Morgan, does not know the composition of the gas to be transported through the pipeline. *Id.* (*Emphasis here only*).

The Deerfield BOH issued an Order, dated October 23, 2014, banning construction and operation of the proposed pipeline through Deerfield based on the factual, uncontroverted evidence presented at the public adjudicatory hearings held between September 9, 2014 and October 23, 2014. *Id.*

Kinder Morgan's and Tennessee's response to the Deerfield BOH Order, based on the board's findings through its extensive adjudicatory hearings (where neither Kinder Morgan nor Tennessee were willing to participate, nor did they object to the facts introduced), was a letter sent on November 17, 2014 by Kinder Morgan and Tennessee's counsel, stating that "...the Order is a nullity." (MF-28).

The aforementioned letter also states, "Tennessee expressly reserves all legal rights and remedies, including, without limitation, the right to dispute the factual allegations and legal claims in the Order." *Id.*

Neither KM nor Tennessee seems to be aware that by not participating, as repeatedly requested to do so, at the BOH hearings held between September 9, 2014 and October 23, 2014, they waived their right to object to the factual findings of the BOH.

Kinder Morgan stated at a public relations meeting held at Greenfield Community College on July 14, 2014 that the thickness of the walls of the proposed 36-inch to 42-inch pipeline will be only 60% of the thickness of other pipelines that pass through more populated areas.

Wall thickness of gas pipes is one of the major costs of pipelines for manufacture, installation, and operation. The thinner projected pipeline represents savings in the hundreds of millions of dollars in the projected five-billion-dollar project.

KM/Tennessee rationalizes implementation of the thinner-walled pipelines by using a cost-benefit analysis which values **total expected lives lost** in an explosion in rural areas much lower than total expected lives lost in a more populated area based on the projected lower number of deaths.

Plaintiffs' lives and other lives possibly lost by an explosion are thus merely a cost of doing business for

KM/Tennessee.

Massachusetts recognizes that “An owner of real estate . . . having adequate knowledge of his property may express an opinion as to its value.” *Southwick v. Massachusetts Turnpike Authy.*, 339 Mass. 666, 668, 162 N.E.2d 271 (1959). Indeed, Massachusetts cases speak to the presumption that an owner is sufficiently familiar with his property so as to qualify him to opine as to its value. See *Patch v. Boston*, 146 Mass. 52, 57, 14 N.E. 770 (1888); *Meyer v. Adams Exp. Co.*, 240 Mass. 94, 95, 132 N.E. 672 (1921); *Menici v. Orton Crane & Shovel Co.*, 285 Mass. 499, 503-504, 189 N.E. 839 (1934), and cases cited. The presumption is not absolute. “The rule which permits an individual owner to testify to the value of real . . . property does not rest upon his holding the legal title, but is based upon his familiarity with the characteristics of the property, his knowledge or acquaintance with its uses and his experience in dealing with it.” *Blais-Porter, Inc. v. Simboli*, 402 Mass. 269, 272, 521 N.E.2d 1013 (1988), quoting from *Winthrop Prods. Corp. v. Elroth Co.*, 331 Mass. 83, 85, 117 N.E.2d 157 (1954). The same rule applies to corporate officers testifying as to corporate property. *Blais-Porter, Inc. v. Simboli*, *supra* at 273. Whether the witness has the necessary knowledge and familiarity about his property to enable him to express his opinion about its market value is a preliminary question of fact for the trial judge, and we will not disturb the trial judge’s determination on the issue unless it is erroneous as matter of law. *Southwick v. Massachusetts Turnpike Authy.*, *supra* at 668-669. See *Blais-Porter, Inc. v. Simboli*, *supra*. *CBI Partners Limited Partnership vs. Town of Chatman*, 41 Mass. App. Ct. 923 at 925; 671 N.E.2d 523 at 525-526; 1996 Mass. App. LEXIS 834, (1996)

To satisfy the “irreducible constitutional minimum of standing,” a plaintiff must demonstrate three elements. First, the plaintiff must have suffered an “injury in fact” -- an invasion of a legally protected interest which is (a) concrete and particularized, *see id.*, at 756; *Warth v. Seldin*, 422 U.S. 490, 508, 45 L. Ed. 2d 343, 95 S. Ct. 2197 (1975); *Sierra Club v. Morton*, 405 U.S. 727, 740-741, n. 16, 31 L. Ed. 2d 636, 92 S. Ct. 1361 (1972); and (b) “actual or imminent, not ‘conjectural’ or ‘hypothetical’” *Los Angeles v. Lyons*, 461 U.S. 95, 102, 75 L. Ed. 2d 675, 103 S. Ct. 1660 (1983)). Second, there must be a causal connection between the injury and the conduct complained of -- the injury has to be “fairly . . . trace[able] to the challenged action of the defendant, and not . . . the result [of] the independent action of some third party not before the court.” *Simon v. Eastern Ky. Welfare Rights Organization*, 426 U.S. 26, 41-42 (1976). Third, it must be “likely,” as opposed to merely “speculative,” that the injury will be “redressed by a favorable decision.” *Id.*, at 38, 43. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61, 112 S. Ct. 2130, 119 L. Ed. 2d 351 (1992).

Furthermore, Plaintiffs’ properties are unmarketable since they have a duty to disclose to any potential buyer, under *M.G.L. Ch. 93A*, as well as under regulations of the Attorney General 940 Code Mass. Regs. § 3.16 (2) (1994) (adopted pursuant to the authority contained in *M.G.L. c. 93A*), which provides, in relevant part, that a violation of *M.G.L. c. 93A* occurs if “any person . . . fails to disclose to a buyer or prospective buyer any fact, the disclosure of which may have influenced the buyer or prospective buyer not to enter into the transaction.” The provision seeks to extend liability under *M.G.L. 93A* to cases of nondisclosure of material fact. See *Sheehy v. Lipton Indus., Inc.*, 24 Mass. App. Ct. 188, 195, 507 N.E. 2d 781 (1987).

Here all five Plaintiffs have filed Affidavits stating that their properties have lost significant value (MF-36, Affidavits Exs. 24A, 24B, 24C, 24D, 24E) and that they have suffered emotional distress (MF-36, Affidavits Exs. 24A, 24B, 24C, 24D) as a result of the announcement by Kinder Morgan of the proposed pipeline.

Plaintiffs therefore have Article III standing to bring this action since Defendant through its agency, the Federal Energy Regulatory Commission, is moving forward in considering approval of the pipeline impervious to the impact on the property values and emotional lives of Plaintiffs. (MFs-1, 2, 7).

Plaintiffs here have suffered “injury in fact” as (1) their real estate properties have suffered significant devaluation and they personally have suffered emotional distress as a result of FERC’s consideration and evaluation of the KM proposed pipeline; (2) there is a direct, actual connection between FERC’s actions and Plaintiffs’ injuries; and (3) Plaintiffs’ injuries will be “redressed by a favorable decision.”

B. The Natural Gas to Be Transported by the KM Pipeline is Mostly for Export to Foreign Countries.

That a great portion of the gas will be used for export to foreign countries is an uncontested fact in this litigation. (MFs. 8, 9, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24).

V. THE NATURAL GAS ACT AND THE FEDERAL ENERGY REGULATORY COMMISSION

The Natural Gas Act was enacted by Congress in 1938 and was subsequently amended in 1954 and 1992. June 21, 1938, ch 556, § 1, 52 Stat. 821; March 27, 1954, ch 115, 68 Stat. 36; Oct. 24, 1992, P.L. 102-486, Title IV, § 404(a) (1), 106 Stat. 2879.

In 1977 Congress created the Federal Energy Regulatory Commission (“FERC”) and granted the newly created agency responsibility for formulation and implementation of a national energy program, whereas previously that responsibility had been fragmented among various departments and agencies of the Federal Government. 42 U.S.C. § 711 et seq.

The newly created federal agency assumed, as of that date, full responsibility for creation of regulations and implementation of the Natural Gas Act, previously assigned to the Federal Power Commission and terminated as of the date of enactment of 42 U.S.C. § 711 et seq., 15 U.S.C. § 717. *Transfer of Functions*.

From the date of its inception in 1977 through 2005 the Federal Energy Regulatory Commission lacked the power to regulate natural gas for import and export, and Courts clearly recognized this lack of power:

An **exporter** of natural gas that, like Entex, is not otherwise engaged in interstate gas transactions is not a “natural-gas company” within the meaning of the Act, because the Act defines a “natural-gas company” as a “person engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of such gas for resale,” Natural Gas Act § 2(6), 15 U.S.C. § 717a(6) (1976), and defines “interstate commerce” as “commerce between any point in a State and any point outside thereof, or between points within the same State but through any place outside thereof, **but only insofar as such commerce takes place within the United States,**” *Id.* § 2(7), 15 U.S.C. § 717a(7) (Emphasis added). See *Border Pipe Line Co. v. Federal Power Commission*, 84 U.S.App.D.C. 142, 171 F.2d 149 (1948); *Compañía de Gas de Nuevo Laredo v. Energy Regulatory Commission* 606 F. 2d 1029 (1979) (*Emphasis here only*).

In 2005, with the advent of fracking in the United States, Congress amended the Natural Gas Act and extended jurisdiction of the Federal Energy Regulatory Commission to the exportation of natural gas with the following language:

Necessity of regulation in public interest. As disclosed in reports of the Federal Trade Commission made pursuant to S. Res. 83 (Seventieth Congress, first session) and other reports made pursuant to the authority of Congress, it is hereby declared that the business of transporting and selling natural gas for ultimate distribution to the public is affected with a public interest, and that Federal regulation in matters relating to the transportation of natural gas and the sale thereof in interstate and **foreign commerce** is necessary in the public interest. 15 U.S.C. § 717a. (*Emphasis here only*).

Congress erred in justifying inclusion of jurisdiction of gas for **export** based on public interest referring to “...S. Res. 83 (Seventieth Congress, first session) and other reports made pursuant to the authority of Congress.” *Id.*

The Congressional Record of S. Res. 83 (Seventieth Congress, first session) 1928 contains nothing that in any way justifies the action of Congress taken, allegedly, based on this record. (MF-4, Exs.-6A through 6V).

The Natural Gas Act was enacted in 1938, and the awarding of gas for export jurisdiction to FERC took place in 2005. Congress’s assertion of public interest in its amendment to the Natural Gas Act of 2005 was not only baseless but highly premature, as evident from the two attached letters to the Department of Energy of the United States (“DOE”) by two different groups of senators, one group arguing that gas exportation is

in the public interest, the other asserting that it is not in the public interest. (MFs-5 and 6).

Important public policy issues related to exportation of gas have not yet been dealt with by either group of senators.

Exportation of United States gas to foreign countries depletes a national resource for the use by future generations without bringing any benefit whatsoever to the public interest.

Exportation of United States gas to be burned into carbon dioxide and water in foreign countries adds significantly to climate change, an issue of great concern to the people of the United States and their government.

It is a self-evident fact that exporting natural gas depletes a national resource from usage by future generations.

The issue of climate change, the result of such export, touches on a topic which has generated a great deal of concern to the government of the United States and other governments around the world. The purpose of reducing carbon dioxide emissions is vacated when at the same time a country exports fossil fuels. If and when the United States becomes an exporter of energy reaped by fracking, any agreement between the United States and countries such as China for emission reduction within the United States is rendered meaningless since those exported fossil fuels will be converted to carbon dioxide in other countries. Carbon dioxide emitted by exported fossil fuels is not taken into account in the United States-China agreement to reduce carbon dioxide emissions within each country.

Public interest is not, however, the deciding factor as to whether FERC can regulate transportation of natural gas across the United States for export, nor as to whether DOE can approve transportation of natural gas across the United States for export through pipelines regulated by FERC.

The critical issue is that the 2005 amendment to the Natural Gas Act permitting jurisdiction by FERC to regulate transport of gas for export is unconstitutional because the Natural Gas Act provides for eminent domain taking of property to satisfy goals set by FERC.

h) Right of eminent domain for construction of pipelines, etc.

When any holder of a certificate of public convenience and necessity cannot acquire by contract, or is unable to agree with the owner of property to the compensation to be paid for, the necessary right-of-way to construct, operate, and maintain a pipe line or pipe lines for the transportation of natural gas, and the necessary land or other property, in addition to right-of-way, for the location of compressor stations, pressure apparatus, or other stations or equipment necessary to the proper operation of such pipe line or pipe lines, it may acquire the same by the exercise of the **right of eminent domain** in the district court of the United States for the district in which such property may be located, or in the State courts. The practice and procedure in any action or proceeding for that purpose in the district court of the United States shall conform as nearly as may be with the practice and procedure in similar action or proceeding in the courts of the State where the property is situated: Provided, That the United States district courts shall only have jurisdiction of cases when the amount claimed by the owner of the property to be condemned exceeds \$3,000. *15 U.S.C. § 717f. (Emphasis here only).*

To the extent that FERC includes exportation of gas in its regulatory domain, it is violating the *Fifth Amendment of the United States Constitution* which clearly states that:

“[N]or shall private property be taken **for public use**, without just compensation.” U.S. Const., Amdt. 5. That Clause is made applicable to the States by the *Fourteenth Amendment*. See *Chicago, B. & Q. R. Co. Chicago, 166 U.S. 226, 41 L. Ed. 979, 17 S. Ct. 581 (1897)*. (*Emphasis here only*).

FERC’s consideration for approval of pipelines carrying gas for export is in conflict with *Fifth Amendment* law as interpreted by the Supreme Court of the United States.

On the one hand, it has long been accepted that the sovereign may not take the property of A for the sole purpose of transferring it to another private party B, even though A is paid just compensation. On

the other hand, it is equally clear that a State may transfer property from one private party to another if future “**use by the public**” is the purpose of the taking; the condemnation of land for a railroad with common-carrier duties is a familiar example. *Susette Kelo et al., v. City of New London Supreme Court of the United States 545 U.S. 469, 477; 125 S. Ct. 2655, 2661; 162 L. Ed. 2d 439, 444 (2005.) (Emphasis here only).*

In *Kelo Id.*, in an opinion by Justice Stevens, J., joined by Justices Kennedy, Souter, Ginsburg, and Breyer, JJ., it was held that the city’s proposed disposition of property under the development plan qualified as a “**public use**” under the *Fifth Amendment*, so that the city properly could use the power of eminent domain to acquire the unwilling sellers’ property.

We emphasize that nothing in our opinion precludes any State from placing further restrictions on its exercise of the takings power. Indeed, many States already impose “**public use**” requirements that are stricter than the federal baseline. Some of these requirements have been established as a matter of state constitutional law, while others are expressed in state eminent domain statutes that carefully limit the grounds upon which takings may be exercised. As the submissions of the parties and their *amici* make clear, the necessity and wisdom of using eminent domain to promote economic development are certainly matters of legitimate public debate. ***This Court’s authority, however, extends only to determining whether the City’s proposed condemnations are for a “public use” within the meaning of the Fifth Amendment to the Federal Constitution.*** *Kelo Id. 545 U.S.469 at 489; 125 S. Ct. 2655 at 2668; 162 L. Ed, 2d 439 at 457-458 (2005.) (Emphasis here only).*

Were the Supreme Court to eventually rule that a foreign trade benefit justifies *Fifth Amendment* takings, the prophetic words of Judge O’Connor in her dissent, joined by the Chief Justice and Justices Scalia and Thomas, in *Kelo Id.*, would come to pass:

...nearly any lawful use of real private property can be said to generate some incidental benefit to the public. Thus, if predicted (or even guaranteed) positive side effects are enough to render transfer from one private party to another constitutional, then the words “**for public use**” do not realistically exclude any takings, and thus do not exert any constraint on the eminent domain power. *Kelo Id. 545 U.S.469 at 501; 125 S. Ct. 2655 at 2675; 162 L. Ed, 2d 439 465 (2005.) (Emphasis here only).*

Once trade benefit is accepted as “**public use**,” Congress could allow the taking of virtually any private property that could more profitably be marketed abroad which taking might improve the economy of the United States. Congress could, for example, permit one of its agencies to confiscate all automobiles in the United States older than three years. This congressional agency could then confer this power on a corporation, which would pay wholesale value for the automobiles (just compensation) and sell them at a profit in foreign markets. This too easily imagined nation would no longer be the United States of America.

Kelo Id. is not the case here. The strip mall to be built on Mrs. Kelo’s property was to be used by the public, and that is exactly what the majority of the justices concluded. Furthermore, contrary to Congress’s vague referral to an obscure 1928 interstate trade report, the City of New London clearly put forward the argument that the taking of Mrs. Kelo’s property was for public use. (MF-34).

FERC is about to approve the installation of a gas pipeline, subject matter of this action, destroying the value of Plaintiffs’ properties, while this pipeline cannot be considered under any definition of the term to be for “**public use**” since it is only going to transport less than thirty percent of the gas for use within the United States, with the balance going for export to foreign countries for the sole purpose of enrichment of the corporations planning the gas transportation.

Defendant may argue that because thirty percent of the natural gas to be transported by the pipeline is for “**public use**” (as it will be used in New England) the entire pipeline transporting the balance of the gas for export qualifies as “**public use**” within the meaning of the *Fifth Amendment*.

Such an interpretation of the *Fifth Amendment* “**public use**” clause will create a slippery slope, destroying the meaning of the “**public use**” term. How far would the Defendant go if it uses this argument? Is it thirty percent? Is it twenty percent? Is it one percent? Is it one thousandth of one percent?

The United States Department of Energy is considering granting permits for construction of Liquefied Natural Gas Plants (“LNGP”) to export natural gas approved for transportation through pipelines approved by FERC. (MF-19).

Exportation of natural gas is a very profitable venture for private parties and, per *Kelo Id.*, such enrichment of a private party is not justification for Fifth Amendment takings.

In the last analysis, what FERC and DOE are overlooking is that “**public interest**” is not equivalent to “**public use**” within the meaning of the *Fifth Amendment*.

The framers of the United States Constitution did not say that governments had the right to take private property if such takings are in the public interest. What they said was that government had the right to take private property for “**public use.**” (MF.-35).

Taking of private property because it is in the public interest is a fallacious excuse for eminent domain takings since in a democratic society anything a government does is by definition in the “public interest.”

Adoption of the “public interest” term as a justification for eminent domain takings will simply turn the *Fifth Amendment* provision permitting eminent domain takings into useless paper.

Congress, the Executive branch, and the Courts can approve gas or oil transportation pipelines for **exportation** of oil and/or gas, or the building of LNG facilities using transported gas or oil for export, only when pipelines proposed to carrying oil and gas for exportation **do not take private land by eminent domain, nor threaten to take private land by eminent domain.** This is the restriction imposed by the Fifth Amendment, whether the proposed pipeline is the Kinder Morgan pipeline, pipelines scheduled to transport tar-sands oil for export, or any other similar pipelines.

VI. KINDER MORGAN AND THE FRACKING GAS INDUSTRY

Kinder Morgan’s subsidiary, the Tennessee Gas Pipeline Company, L.L.C. (“Tennessee”), filed on September 15, 2014 a request with the Federal Energy Regulatory Commission seeking eventual approval to build a pipeline to carry 2.2. billion cubic feet of natural gas per day from the Marcellus Shale through New England. (MFs-7, 37).

Prior to September 15, 2014 and starting sometime in 2014, Kinder Morgan conducted a series of public meetings in Franklin County, Massachusetts, describing the nature and extent of the project, including the projected pipeline capacity and the volume of gas expected to be transported through the pipeline.

At no time has FERC conveyed to Kinder Morgan, or any of its subsidiaries or affiliated companies that since a portion of the gas expected to be transported through the pipeline is for export to foreign countries rather than for usage within the United States. FERC has been and will continue to be in violation of the United States Constitution if it continues to take any action regarding the project.

On or about July 2, 2015, FERC mailed Plaintiffs’ counsel a Notice of Intent to Prepare an Environmental Impact Statement (“EIS”) for the Planned Request for the “Northeast Energy Direct Project...involving construction and operation of facilities by Tennessee Gas Pipeline Company, L.L.C. (“Tennessee”)” (MF-Ex.-7).

FERC states in its July 2, 2015 communication “The Commission will use this EIS in its decision-making process to determine whether the Project is in the public interest and necessity.” (MF-7, Ex.-9 at page 1 of FERC’s June 30, 2015 Notice).

FERC continues on in its July 2, 2015 communication:

If you are a landowner receiving this notice a Tennessee Gas Representative may contact you about the acquisition of an easement to construct, operate, and maintain the planned facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the Project, the approval conveys with it the right of eminent domain. Therefore if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accord with state law. (*Refer to MF-7, Ex.-9 at page 1 of FERC’s June 30, 2015 Notice*).

The majority of gas to be transported by the proposed Tennessee pipeline is for export to foreign countries. (MFs. 8, 9, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24). Defendant's agency, FERC, is aware or should be aware that a great portion of the natural gas to be transported by the proposed Tennessee pipeline is for export to foreign countries.

Neither Kinder Morgan nor Tennessee nor FERC have ever denied in any forum that the great portion of the natural fracked gas to be transported in the Tennessee pipeline is, in fact, for export.

FERC is aware or should be aware that Tennessee has not been able to contract more than thirty percent of the gas projected to be transported by the proposed pipeline for sale within the United States. (MF-20, Ex.-12 at page 6).

On December 30, 2014, counsel for the Plaintiffs raised the issue of jurisdiction of FERC over a pipeline to be used for exportation of gas with Kinder Morgan's counsel. (MF-8, Ex.-10A)

Neither Kinder Morgan nor Tennessee ever responded to counsel's letter dated December 30, 2014 (MF-8, Ex.-10A), thus admitting by their silence that FERC has no jurisdiction over the proposed pipeline given the fact that most of the gas to be transported is for export to foreign countries. (MF-9, Ex.-10B).

The Department of Energy of the United States claims jurisdiction over the exportation of natural gas.

At no time has DOE taken into account, in its permitting processes for exportation of natural gas, that gas for foreign export, including KM's gas, is transported through pipelines approved by FERC under authority allegedly granted them by the 2005 amendments to the Natural Gas Act ("NGA") and that approval by FERC of such transportation of natural gas for exportation is in violation of the Constitution of the United States.

The United States Department of Energy is aware or should be aware that a great portion of the natural gas to be transported by the proposed Tennessee pipeline is for export to foreign countries.

The United States Department of Energy is aware or should be aware that Tennessee has only been able to contract for sale within the United States less than thirty percent of the gas projected to be transported through the proposed pipeline. (MF-20, Ex.-12 at page 9).

The lack of communication to anyone by DOE of these facts, while at the same time continuing to grant permits to transport natural gas for foreign export through FERC-approved export gas pipelines, represents a continuing violation of Fifth Amendment rights of individuals, such as Plaintiffs, who stand to have their land taken for use in transportation of natural gas intended for exportation to foreign countries, solely for the enrichment of Kinder Morgan and Tennessee.

In July of 2015, Plaintiffs Eric and Carolyn Ness received a letter from KM, addressed through Plaintiffs' counsel. KM's submission through this letter was a Notice for Public Comment Hearings by the Massachusetts Energy Facilities Siting Board regarding the gas pipeline and associated facilities in Berkshire, Essex, Franklin, Hampden, Hampshire, Middlesex, and Worcester Counties proposed by the Tennessee Gas Pipeline Company. (MF-10, Ex.-11).

Tennessee admits in its application to the Energy Facilities Siting Board that the diameter of the Main Line Pipeline coming from Pennsylvania into Massachusetts is 30 or 36 inches. *Id.* Tennessee also admits that the diameter of the Maritime Delivery Line is 30 inches. *Id.* Thus Tennessee is admitting that a minimum amount of gas scheduled for export through the Maritimes Delivery Line is, in fact, seventy per cent of the gas to be transported by the Main Pipeline entering Massachusetts. This irrefutable conclusion comes about from the fact that the volumes to be transported through the Main Delivery Line and the Maritimes Lines are proportional to the square of the diameters of the pipelines. (See also MFs. 17 and 18).

**VII. THE ALLEGATION BY FERC THAT THE PIPELINE PROJECT
IS IN THE “PUBLIC CONVENIENCE AND NECESSITY”
IS IRRELEVANT TO THE FIFTH AMENDMENT CLAIM
SUBJECT MATTER OF THIS COMPLAINT
AND IT IS ALSO NOT TRUE**

Defendant US through FERC justifies, in its July 6, 2015 letter that the pipeline project subject matter of this action is “**in the public convenience and necessity.**” (MF-7, Ex.-9 at page 1 of FERC’s June 30, 2015 letter). FERC is now arbitrarily modifying the language of 15 U.S.C. § 717a from “**public interest,**” as justified by a 1928 interstate trade report, to “**public convenience and necessity,**” thus in its mind trying to simulate, desperately, the *Fifth Amendment* language of “**public use.**” What the *Fifth Amendment* states is that:

“[N]or shall private property be taken **for public use**, without just compensation.” U.S. Const., Amdt. 5. That Clause is made applicable to the States by the Fourteenth Amendment. See *Chicago, B. & Q. R. Co. v. Chicago*, 166 U.S. 226, 41 L. Ed. 979, 17 S. Ct. 581 (1897). (*Emphasis here only*).

The 2005 amendment to the Natural Gas Act, subject matter of this action, allegedly grants FERC jurisdiction over exported gas based on “**public interest**” allegedly justified by a 1928 interstate trade report which does equate to “**public use.**”

The effort of FERC to recast the basis of its jurisdiction, allegedly based on an interstate trade report, to “**public convenience and necessity**” is a futile effort to place a square peg into a round hole.

Defendant cannot rewrite the statute. This attempted rewriting of 15 U.S.C. § 717a as justifying takings of land based on “**public convenience and necessity**” deserves an E grade for effort on the part of the agency, and nothing more, since the statute reads “**public interest,**” justified by a 1928 interstate trade report, and the *Fifth Amendment* reads “**public use.**”

Defendant’s attempt to rewrite the statute suffers from an identical flaw as exemplified by the term “**public interest**” justified by a 1928 interstate trade report language of 15 U.S.C. § 717a since **neither “public interest justified by a 1928 interstate trade report” nor “public convenience and necessity” can be equated with “public use.”**

Defendant admitted in 2014 in a report prepared by one of its agencies, the General Accounting Office (“GAO”), that “In passing the NGA, Congress did not define public interest.” (MF-29, Ex.-17).

This Court is faced with three separate and distinct explanations as to why Defendant claims justification for KM/Tennessee to take Plaintiffs’ property by eminent domain:

- a. Congress, in enacting 15 U.S.C. § 717a, justified the taking of private property by eminent domain based on an obscure 1928 interstate trade report. (MF-4, Exs. 6A through 6V).
- b. FERC justifies the taking of private property by eminent domain based on a rabbit pulled out of a hat which it calls “public convenience and necessity.” (MF-7, Ex.-9 at page 1 of FERC’s June 30, 2015 Notice).
- c. The General Accounting Office (“GAO”) comes clean and admits that Congress failed to define the public interest in taking private property by a multibillion-dollar company to enrich itself by exportation of gas to foreign countries. (MF-29, Ex.-17 at page 11).

The fact that GAO in 2014 found that the Natural Gas Act does not define public interest should give this court pause, seeing how far Defendant is willing to go to recast the statute as if it says “**public convenience and necessity,**” which it does not, and which in any case is not “**public use**” and so does not pass the threshold requirements of the *Fifth Amendment*.

Moreover, the projected pipeline is not even in the “public convenience and necessity” since it is going to result in a sharp increase in natural gas costs, nor is it needed to supply natural gas to New England. (MFs. 16, 30, 31, 32, 33).

Plaintiffs' expert David Keith has testified that the natural gas expected to be transported through the pipeline is not needed in New England. (MFs. 13, 14, 15).

Industrial expert Paul Cicio, CEO of Industrial Energy Consumers of America, has opined that consumer prices of natural gas will most likely increase if natural gas is exported to foreign countries. (MF-30).

The testimony of Mr. Paul Cicio is particularly swaying as CEO of the Industrial Energy Consumers of America ("IECA"), a nonpartisan association of leading manufacturing companies with \$1.0 trillion in annual sales, over 2,900 facilities nationwide, and more than 1.4 million employees worldwide. IECA is an organization created to promote the interests of manufacturing companies through advocacy and collaboration, for which the availability, use and cost of energy, power, or feedstock play a significant role in their ability to compete in domestic and world markets. IECA membership represents a diverse set of industries, including chemical, plastics, steel, iron ore, aluminum, paper, food processing, fertilizer, insulation, glass, industrial gases, pharmaceutical, building products, brewing, independent oil refining, and cement. (MF-30, Ex.-18).

Paul Cicio has presented similar testimony to Congress (MF-31) and in the intervention of the Industrial Energy Consumers of America in the matter of Pieridae application for export of liquefied natural gas. (MF-32).

Defendant's own agency, the United States Energy Information Administration, has concluded unequivocally "**Increased LNG exports lead to increased natural gas prices.**" (MF-33).

VIII. ARTICLE X OF THE MASSACHUSETTS CONSTITUTION

Article X of the Massachusetts Constitution tracks the language of the Fifth Amendment of the United States Constitution with regards to takings of private properties:

Every individual of the society has a right to be protected by it in the enjoyment of his life, liberty, and **property**, according to standing laws. ... And whenever the public exigencies require that the property of any individual should be appropriated to **public uses**, he shall receive a reasonable compensation therefor. [*Article X Massachusetts Constitution. (Emphasis here only)*].

Given the fact that a great portion of the gas to be transported through this pipeline is for export, a fact never denied by Petitioner, all arguments made here about violations of the Fifth Amendment of the United States Constitution are all fully applicable to Article X of the Massachusetts Constitution. Thus any cooperation by DPU with the Tennessee Pipeline Co., in the matter of this pipeline, will be a violation of the Massachusetts Constitution for which DPU will have to answer in a court of appropriate jurisdiction.

IX. CONCLUSION

For all the reason stated in this Memorandum, Supported by Undisputed Material Facts 1 to 33 and accompanying Exhibits 1 to 27, as well as all other documents in the record of these proceedings, including all prior letters submitted by Intervenors to DPU, DPU must stay these proceedings pending final adjudication of Civil Action 3:15-cv-30131 (MAP) currently pending in Federal Court for the District of Massachusetts.

Dated: Conway, Massachusetts
January 19, 2016

Respectfully Submitted
By Attorney for Plaintiffs

S/ Cristóbal Bonifaz
Cristóbal Bonifaz, Esq. (BBA #548405)
LAW OFFICE OF CRISTÓBAL BONIFAZ
180 Maple Street
P.O. Box 180
Conway, Massachusetts 01341

Telephone: 413-369-4263
Cell Telephone: 413-522-7604
Fax: 413-369-0076
cbonifaz@comcast.net
ccrbonifaz@icloud.com

CERTIFICATION OF SERVICE

I hereby certify that this document with digital copies of all mentioned Exhibits was served today by Certified Mail/Return Receipt Requested upon the following:

Honorable Maura Healey
Attorney General Massachusetts
One Ashburton Place
Boston, MA 02108-1518

James L. Messenger, Esq., Attorney for Petitioner
Gordon & Rees, Scully Mansukhani
745 Atlantic Avenue 4th Floor
Boston, Massachusetts 02111

Dated: January 19, 2016

/s/ Cristóbal Bonifaz

Cristóbal Bonifaz

{end of 20160202-0033}

20160202-0036

Dracut Pipeline Awareness Group

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First St., NE, Room 1A
Washington, DC 20426

Docket #CP16-21-000

STOP THE NED PIPELINE AND COMPRESSOR STATION!! PROTECT MA LAND FROM EMINENT DOMAIN!

I oppose the Kinder Morgan Northeast Energy Direct (NED) EXPORT pipeline.

Ernlsslons, indusinalizatlon, pollution, fires and explosions from the construclon and operation of this facility will put our health and safety at risk, as well scar our landscape, and put at risk our water, wildlife, forests, agricultural lands and rural character. **GREED, NOT NEED, IS FUELING THIS PROJECT!**

Say NO to this private company that will take our lands with NO BENEFIT TO US!

Jennie Grath(?)

?

Reading, MA

20160202-0040

{same as 20160202-0036 (STOP THE NED PIPELINE & COMPRESSOR STATION...), signed by: }
{poor scan, name & address not legible}

20160202-0042

{same as 20160202-0036 (STOP THE NED PIPELINE & COMPRESSOR STATION...), signed by: }
Teresa E. Lippiello 45 Lawrence St, Apt 2 Wilmington, MA 01887

20160202-0262

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Room 1A
Washington, DC 20426

Date: 1/20/16

Via Certified Mail, Return Receipt Requested

Re: Denying property access

As the owner of the property located at:

295 Windham Road, Pelham, NH 03076

I am denying permission to the Tennessee Gas Pipeline Company, LLC (a Kinder Morgan Company), its representatives, contractors, sub-contractors, or associates to enter my land to perform surveys, or for any other purpose. Any physical entry onto my property will be considered unauthorized, and treated as trespass.

Joel Peter Hone
Sharon L. Hone

20160203-0008

{47 cards from separate individuals, all bundled into this single submission}

{each same or similar text as 20160202-0036 (STOP THE NED PIPELINE...) above, except signed by: }

Pauline Natter, 59 Kenwood Rd, Dracut, MA 01826

Diana Ryder, 148 Flower Lane, #25, Dracut, MA 01826

Karen Pimental, 41 Circuit Rd, Medford, MA 02155

Megan & Dave Kepple, 126 Aldrich St, Roslindale, MA 02131

John Young, 39 Greenridge Rd, Dracut, MA 01826

Lindsay Clapp, 82 Saw Mill Dr, Dracut, MA 01826

Darnelle ?, 223 Jones Ave, Dracut, MA 01826

Norman Scafidi, 75 Cherry Rd, Tewksbury, MA 01876

Mark Peters, 167 Ruby Rd, Dracut, MA 01826

Denise Valentin, 27 Cart Path Rd, Dracut, MA 01826

Bob Marshall, 16 Shore Dr, Dracut, MA 01826

Amy Glaving, 17 Farmgate Rd, Dracut, MA 01826

Rick Jones, 75 Kenwood Rd, Dracut, MA 01826

Doris Peters, 31 Greenridge Rd, Dracut, MA 01826

Michelle Eld, 67 Ruby Rd, Dracut, MA 01826

Mike Anzalone, 11 Joseph Ave, Dracut, MA 01826

Cassandra Johnson-Lally, 36 Kendall Rd #6, Tyngsboro, MA 01879

Eduarda Amaral, 78 Concord Rd, Dracut, MA 01826

Robert G. Richardson, 84 Methuen Road, Dracut, MA 01826

Bettyanne Richardson, 21 Dallas Drive, Dracut, MA 01826

Jennifer Lourey, 151 Brigham Ave, Dracut, MA 01826

Francine Marion, 804 Riverside Dr, Methuen, MA 01844

Gloria Fadden, 15 Bouchard Ave, Dracut, MA 01826
Brian Fernald, 225 Willard St, Dracut, MA 01826
Robert Johnson-Lally, 435 Dunstable Rd, Tyngsborough, MA 01879
Jodi Jones, 75 Kenwood Rd, Dracut, MA 01826
Lisa Chappell, 4 Farm Gate Rd, Dracut, MA 01826
Ann Marie Palmer, 8 Barn Rd, Dracut, MA 01826
Matt Sansone, 106 Cart Path Rd, Dracut, MA 01826
Ann Medici, 35 Kenwood Rd, Dracut, MA 01826
Lindsay Reed, 93 Cart Path Rd, Dracut, MA 01826
Kin McCullough, 73 Cart Path Rd, Dracut, MA 01826
James O'Brien, 10 Farmgate Rd, Dracut, MA 01826
Andres Aristizabal, 1359 Pawtucket Blvd, #24, Lowell, MA 01854
Bob Christy, 74 Kenwood Rd, Dracut, MA 01826
Sharon C. Sperounis, 27 Kenwood Rd, Dracut, MA 01826
Leona D Capoive, 28 Kenwood Rd, Dracut, MA 01826
Kylee Jones, 75 Kenwood Rd, Dracut, MA 01826
Audrey Elliot, 13 Corrigan Ave, Lowell, MA 01852
Sandra Nutter, 51 Kenwood Rd, Dracut, MA 01826
Lewis R Capoive, 28 Kenwood St, Dracut, MA 01826
Donna Squires, 14 Paddock Ln, Dracut, MA 01826
Charles Saindon, 62 Autumn Rd, Dracut, MA 01826
Sarah Fernald, 225 Willard St, Dracut, MA 01826
Shelley Lippiello, ?Laawrence St, ?, MA 0188?
James R. Gath, 190 High St, Reading, MA 01867
?,?,? {*scan too faint to read*}

20160203-0020 **MA House Minority Leader Bradley H Jones**
{*duplicate copy of 20160115-5529 above*}

20160203-0108

{29 cards from separate individuals, all bundled into this single submission}
{each same or similar text as 20160202-0036 (STOP THE NED PIPELINE...) above, except signed by: }
Erin DeMartino, 110 Cart Path Rd, Dracut, MA 01826
Andrea Trovato, 29 Barn Rd, Dracut, MA 01826
Rebecca Davison Landers, 92 Cart Path Rd, Dracut, MA 01826
Lisa Ward, 64 Cart Path Rd, Dracut, MA 01826
Christopher Reed, 93 Cart Path Rd, Dracut, MA 01826
Pamela Lewis, 29 West St, Wilmington, Mass 01887
Brian O'Connor, 137 Ruby Road, Dracut, MA 01826
Pamela Bowles, 14 Hillside Rd #2, Dracut, MA 01826
Marianne Blanchet, 165 Lakeshore Drive, Dracut, MA 01826

Rich McCullough, 73 Cart Path, Dracut, MA 01826
Jason Trovato, 29 Barn Rd, Dracut, MA 01826
Matthew Bogle, 141 Cart Path, Dracut, MA 01826
A? G Sa?sone, 106 Cart Path Rd, Dracut, MA 01826
Elaine Buoti, 215 Va? Rd, Dracut, MA 01826
Jason P. Goebel, 11 Farm Gate Rd, Dracut, MA 01826
Michele Moynihan, 96 Meadow Creek Drive, Dracut, MA 01826
Brian Rourke, 7 Barn Road, Dracut, MA 01826
Ryan Connor, 12 Barn Rd, Dracut, MA 01826
David Pereira, 9 Farmgate Rd, Dracut, MA 01826
Lisa LaForte, 128 Cart Path Rd, Dracut, MA 01826
Charles N. Cutler, 25 Arbor Rd, Lowell, MA 01852
Karla Pereira, 9 Farmgate Rd, Dracut, MA 01826
Kevin Mao, 100 Cart Path Rd, Dracut, MA 01826
Michelle & Scott Mugford, 21 Barn Rd, Dracut, MA 01826
The D'Avolio Family, 87 Dadak Dr, Dracut, MA 01826
Christine Godin, 6 Gervaise Dr, Derry, NH 03038
Heather Keegan, 90 Autumn Rd, Dracut, MA 01826
Eric LaForte, 128 Cart Path Rd, Dracut, MA 01826
Sue Charity, 74 Kenwood Rd, Dracut, MA 01826

20160204-0008

Dracut Pipeline Awareness Group

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission (FERC)
888 First St., NE, Room 1A
Washington, DC 20426

Docket #CP16-21-000

STOP THE NED PIPELINE AND COMPRESSOR STATION!! Protect MA land from Eminent Domain!

I oppose the Kinder Morgan Northeast Energy Direct (NED) EXPORT pipeline. The pipelines, and compressor station will scar the MASS landscape and put our water, wildlife, forests, agricultural lands and rural character at risk. These include health and safety risks from emissions, industrialization, pollution and the devastating effects of fire and explosions. Greed, not need is fueling this project. Say NO to this private company that will

TAKE OUR LANDS with NO BENEFIT TO US.

Joan Fleury
81 Rainbow Ave
Dracut, MA 01826

20160204-0017

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Jame Nutter, Sr.

51 Kenwood Rd

Dracut, MA 01826

20160204-0018

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Thomas E. Sperwinis

27 Kenwood Rd

Dracut, MA 01826

20160204-0019

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Debra Ahern

44 Kenwood Rd

Dracut, MA 01826

20160204-0020

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

David Clapp

82 Saw Mill Rd

Dracut, MA 01826

20160204-0021

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Dana & Jennifer Atwood

86 Pelczar Road

Dracut, MA 01826

20160204-0022

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

David Dumaresq

437 Parker Rd

Dracut, MA 01826

20160204-0023

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Peter Hone

295 Windham Rd

Pelham, MA 03076

20160204-0024

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Sharon Hone

295 Windham Rd

Pelham, MA 03076

20160204-3007

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

OFFICE OF ENERGY PROJECTS

In Reply Refer To:

OEP/DPC/CB-2

Tennessee Gas Pipeline Company, L.L.C.

Northeast Energy Direct Project

Docket Nos. CP16-21-000, PF14-22-000

Section 375.308(x)(3)

February 4, 2016

Mr. J. Curtis Moffat

Deputy General Counsel and Vice President

Tennessee Gas Pipeline Company, L.L.C.

1001 Louisiana Street

Houston, TX 77002

Re: Data Request

Dear Mr. Moffat:

Provide the information described in the enclosure to assist in our analysis of the above-referenced certificate application. File your response in accordance with the provisions of the Commission's Rules of Practice and Procedure. In particular, 18 CFR 385.2010 (Rule 2010) requires that you serve a copy of the response to each person whose name appears on the official service list for this proceeding.

You should file a complete response within 20 days of the date of this letter. The response must be filed with the Secretary of the Commission at:

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington, DC 20426

If the information cannot be provided in the time frame indicated, explain which items will be delayed and why, and provide a projected filing date. **You should be aware that the information described in the enclosure is necessary for us to continue reviewing your filing.**

File all responses under oath (18 CFR 385.2005) by an authorized Tennessee Gas Pipeline Company, L.L.C. representative and include the name, position, and telephone number of the respondent to each item.

In addition, please send a courtesy copy to Olubukola Pope at Olubukola.Pope@ferc.gov.

Sincerely,
Olubukola Pope
Project Manager
Certificate Branch 2
Office of Energy Projects

cc: Public File, Docket Nos. CP16-21-000, PF14-22-000
All Parties

ENCLOSURE

Tennessee Gas Pipeline Company, L.L.C. (NED Project)
Docket Nos. CP16-21-000, PF14-22-000

Engineering:

The Commission is interested in examining the potential for energy efficiency in connection with its consideration of major pipeline infrastructure projects. In February 2008, the Interstate Natural Gas Association of America (INGAA) issued a white paper titled Waste Energy Recovery Opportunities for Interstate Natural Gas Pipelines, February 2008 (INGAA white paper). The INGAA white paper identifies initial threshold criteria for determining whether waste heat generation is feasible. Specifically, compressor stations must have a total of 15,000 horsepower provided by gas turbine compressor units and these units must operate for a total of 5,250 hours per year (60% load factor). Further, the INGAA white paper recommends that interstate gas pipeline companies post information regarding potential waste-heat recovery on their websites.

Tennessee proposes the new Supply Path Head Station, Market Path Head Station, Market Path Mid Station 1, Market Path Mid Station 2, Market Path Mid Station 3, and Market Path Mid Station 4.

1. Explain whether or to what extent Tennessee explored installing waste heat cogeneration facilities at the aforementioned compressor stations. Provide the results of such studies, and provide any industry studies that explore this issue. If it was determined that heat recovery was not practical or simply not part of the business plan at this time, discuss whether such technology can be installed at a later date.
2. Will Tennessee conduct periodic reviews to assess the energy efficiency of its pipeline operations and determine whether improvements can be made in that area? If not, why not?
3. Additionally, provide the pipeline computer models supporting each flow diagram provided in Exhibit G

to Tennessee's application. Tennessee should file the engineering models electronically or in electronic format (CD, DVD, flash memory, etc.) with the Commission.

Accounting:

1. In Exhibit Y, Tennessee proposes to record \$1,919,611.41 as a debit to Account 410.2, Provision for Deferred Income Taxes, Other Income and Deductions, to adjust the deferred income tax balance in Account 282, Accumulated Deferred Income Taxes, Other Property, to reflect the abandonment of gas utility plant.
 - a. Please provide additional details on how the \$1,919,611.41 of deferred taxes result from the abandonment of gas utility plant, and how the deferred taxes will turn around in future periods.
 - b. The instructions in Account 282 provide that this account shall be credited and Account 410.1, Provision for Deferred Taxes, Utility Operating Income, or Account 410.2, Provision for Deferred Income Taxes, Other Income and Deductions, shall be debited with tax effects related to property where taxable income is lower than pretax accounting income, due to differences between the periods in which revenue and expense transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income.

Please provide the basis for which Account 410.2 is used in adjusting the deferred tax balance in Account 282 to reflect the abandonment of gas utility plant.

2. In Exhibit Y, Tennessee proposes to record \$1,919,611.41 as a credit to Account 409.2, Income Taxes, Other Income and Deductions, to adjust the current income tax accrued in Account 236, Taxes Accrued, to reflect the abandonment of gas utility plant.
 - a. The instructions in Account 409.2 provide that this account shall include the amount of local, state and Federal income taxes, which relate to Other Income and Deductions.

Please provide the basis for which Account 409.2 is used in adjusting the accrued taxes in Account 236 to reflect the abandonment of gas utility plant.

20160204-5210

Barbara Spink, Castleton, NY.

February 4, 2016

From: Barbara Spink, 2 Star Terrace, Schodack, NY 12033

To:

I am writing to express my opposition to the Kinder-Morgan gas pipeline proposed to be built in Schodack, NY. I am especially dismayed that they are now considering a location in the heart of Schodack, on the Route 9 corridor at Ken Morris and Sons Excavating. This site is 1.5 miles from my home, and much closer to a number of residences. It will be situated over the Schodack Terrace Aquifer, which is the source of drinking water for Schodack, not to mention situated near 3 schools and a number of churches. Although not zoned residential, the area is populated by many homes. Those of us in this area have been fighting for residential status for years. Because of its proximity to the highway, this area is considered ideal for development. However, I strongly disagree that this kind of development is appropriate for a residential area such as ours.

With the recent changes in our weather, including tornados, hurricanes, storms, floods and the like, it is becoming more apparent that we need to end our addiction to fossil fuel. When NY State banned fracking, it was a great step forward for New Yorkers, but we need to go further and withdraw support for the fracking infrastructure. I urge you to oppose the building of this dangerous, high-pressure pipeline, which will only benefit Kinder-Morgan and Tennessee Gas Pipeline LLC, and have only deleterious effects on the residents and ecosystems of NY State.

Sincerely,

20160208-5019

Motion to Intervene Out-of-Time of Dale & Jennifer Smith

As residents of Rindge, New Hampshire my wife Jennifer and I write to object to the construction of the proposed NED pipeline. We own the property at 83 Lord Hill Rd, we are abutters to the currently proposed NED pipeline. Since our objections are the same as those of the majority of objectors, many of whom have expressed their rationale for opposition far more articulately than we could, we did not file to intervene in a timely manner. But it has since occurred to us that we cannot expect our neighbors to voice their opposition on our behalf. There are many reasons for our objection, but let us state just a few here:

1. Danger of destruction of our septic field
2. Pollution of our well
3. Devaluation of our property
4. As a local resident, the pipeline will not only interfere with the integrity, worth and safety of our property, but also the properties of local neighbors and friends
5. The proposed pipeline will be destructive to the local environment – destroying pristine natural lands that make our town so desired and loved, seriously impacting our quality of life
6. The pipeline will contribute to greater environmental issues due to the destructive nature of non-renewable fossil fuels in the form of fracked nature gas

We very much want to be made aware of any proposed changes to the route so we can take appropriate action; therefore, we are filing this motion to intervene out of time and we're confident that, because it is early in the proceeding, this intervention will not be disruptive or prejudicial to others in the proceeding.

I hope you seriously consider my above points, and take into consideration the countless interventions from people who care about the local environment's health, as well as our planet's collective wellbeing.

Respectfully Submitted,

Dale & Jennifer Smith

20160208-5092

Tennessee Gas Pipeline
Company, L.L.C
a Kinder Morgan company

February 8, 2016

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Room 1A
Washington, DC 20426

Re: Tennessee Gas Pipeline Company, L.L.C.
Northeast Energy Direct Project; Docket No. CP16-21-000
Response to January 28, 2016 Data Request

Dear Ms. Bose:

On November 20, 2015, Tennessee Gas Pipeline Company, L.L.C. ("Tennessee") filed with the Federal Energy Regulatory Commission an application for a certificate of public convenience and necessity ("Application") for the proposed Northeast Energy Direct Project ("Project") in the above-referenced docket.

On January 28, 2016, the Commission issued a Data Request to Tennessee in the above-referenced docket. Enclosed with this filing is Tennessee's response to the Data Request.

In accordance with the Commission's filing requirements, Tennessee is submitting this filing with the Commission's Secretary through the eFiling system. Copies of this filing are being served on all parties on

the official service list for the above-referenced docket. Any questions concerning this filing should be addressed to Ms. Jacquelyne Rocan at (713) 420-4544 or to Ms. Shannon Miller at (713) 420-4038.

Respectfully submitted,

TENNESSEE GAS PIPELINE COMPANY, L.L.C.

By: J. Curtis Moffatt

Deputy General Counsel and Vice President Gas Group Legal

Enclosure

cc: Terry Turpin (Commission Staff); Rich McGuire (Commission Staff);
Eric Tomasi (Commission Staff); Olubukola Pope (Commission Staff)
Mr. Wayne Kicklighter (Cardno)
Official Service List

Tennessee Gas Pipeline Company, L.L.C.
Northeast Energy Direct Project (“Project”), Docket No. CP16-21-000
Data Request No. 2, issued January 28, 2016

1. On Page 34 of Tennessee’s transmittal it states “Tennessee proposes to use separate incremental postage stamp recourse rates under Rate Schedules FT-A and IT for service on the Market Path Component and Supply Path Component facilities. Thus a shipper using only the Market Path Component facilities or only the Supply Path facilities will only pay for the costs associated with the facilities actually used.” Please explain whether Tennessee proposes to charge its existing system zonal recourse rates as well as the postage stamp recourse rates for any recourse rate shipper contracting for capacity as part of the Project.

Response:

No. A recourse rate shipper contracting for service on the Project facilities would only be subject to the applicable base incremental postage-stamp rate under Rate Schedule FT-A or IT, plus any applicable demand and commodity surcharges and applicable fuel and lost and unaccounted-for charges and electric power cost charges. These rates and charges are set forth in the pro-forma Tariff sheets (Sheet Nos. 19A and 45) included as part of Tennessee’s certificate application in Exhibit P.

Respondent: Martin G. O’Leary, CFA
Title: Manager, Rates and Regulatory Affairs
Phone: (713) 420-7363

2. Pages 35-36 of Tennessee’s transmittal states that “The incremental cost of service for the Market Path Component and Supply Path Component facilities reflect...depreciation expense using a straight-line rate of 3.33 percent, based on an estimated useful life of the Market Path Component and Supply Path Component facilities of 30 years.” Please provide Tennessee’s last approved and stated depreciation rate for mainline facilities.

Response:

Tennessee’s last approved general system depreciation rate for its onshore transmission facilities is 1.85 percent. As shown in the table below, based on current net plant balances and depreciation expense levels, the remaining depreciable life of these facilities as of December 31, 2015 is approximately 28 years.

Net Book Value at 12/31/2015	\$2,855,228,226.38
Depreciation Expense	\$103,554,726.30
Remaining Life	27.57 years

Thus, Tennessee believes that its proposal to depreciate the Project facilities using a 3.33 percent rate is appropriate as it is consistent with Commission precedent as well as with the remaining depreciable life of its

general system onshore transmission facilities.

Respondent: Martin G. O'Leary, CFA
Title: Manager, Rates and Regulatory
Phone: (713) 420-7363

3. Please explain why Tennessee is proposing zonal fuel rates as shown on Page 4 of Exhibit Z- 7 of its application when Tennessee proposes to charge initial rates for the Project that are postage stamp?

Response:

Given the beneficial impact that the Project Supply Path Component and Market Path Component facilities are expected to have on general system fuel use and the highly integrated operation of the Project facilities with Tennessee's existing system, Tennessee is proposing to roll-in the Project's fuel and electric power costs into Tennessee's general system fuel tracker. Since Tennessee's general system fuel and electric power cost rates are zone-based, Project shippers will be subject to the general system fuel and electric power cost rates applicable to their nominated transportation path (i.e., from zone of receipt to zone of delivery).

In contrast to its proposal to roll-in the Project's fuel and electric power costs into its fuel tracker and charge the Project shippers the applicable general system fuel and electric power cost rates, Tennessee is proposing incremental postage stamp base rates to recover the costs of the Market Path Component and Supply Path Component facilities since these incremental base rates exceed the otherwise applicable general system base rates for comparable transportation service.

Respondent: Carlos Oblitas
Title: Director, Regulatory
Phone: (713) 420-5771

4. Please provide an updated fuel study that reflects Project volumes at 100% load factor utilization (i.e. design capacity).

Response:

Please refer to Attachment 1 to this response for the estimated pre- and post-expansion general system fuel rates assuming a 100% volumetric load factor utilization of the Project facilities. For the Supply Path Component, the estimated post-expansion general system fuel rate per 100 Dth-Mile, assuming a 100% volumetric load factor utilization of the Supply Path Component facilities, is estimated to be 0.199% (Line 9, Column (6)). This rate is 0.005% above the estimated post-expansion general system fuel rate of 0.194% based on a more realistic 85% volumetric load factor utilization (see Exhibit Z-7, page 4 of 5, Line 9, Column (6)) but still below the pre-expansion general system fuel rate of 0.205% (Line 9, Column (2)). For the Market Path Component, the estimated post-expansion general system fuel rate per 100 Dth- Mile, assuming a 100% volumetric load factor utilization of the Market Path Component facilities, is estimated to be 0.221% (Line 9, Column (7)). This rate is 0.020% above the estimated post-expansion general system fuel rate of 0.201% based on a more realistic 85% volumetric load factor utilization (see Exhibit Z-7, page 4 of 5, Line 9, Column (7)) and slightly above the pre-expansion general system fuel rate of 0.205%.¹

As discussed in Exhibit Z-7 of Tennessee's certificate application, Tennessee performed its fuel analysis using a 85% volumetric load factor utilization based on the historical system-wide volumetric load factor experienced on its system. The appropriateness of using a 85% volumetric load factor is also based on a review of Tennessee's historical load factor utilization of its 200 and 300 Lines that serve the same northeast region that the Project is intended to serve. Tennessee has check meters at Station 245 (West Winfield, New York) on the 200 Line, and at Station 321 (West Clifford, Pennsylvania) on the 300 Line that are typically used as scheduling/restriction points for gas flowing from west to east. The volumetric load factor utilization of Stations 245 and 321 over the last twelve month period was 87% and 83%, respectively, resulting in a combined weighted average volumetric load factor utilization of approximately 85%. Tennessee also notes that weather driven changes in customer demand, combined with planned and unplanned equipment outages, are additional factors that constrain a pipeline's ability to operate at a 100% volumetric load factor

utilization over extended periods of time.

In addition, Tennessee believes that it is more likely that the overall system load factor on its system will decrease below the 85% load factor utilization once the Project facilities are placed in-service as Project volumes displace some of the capacity release transactions that the power generation market currently relies on to serve their needs, thereby resulting in additional fuel savings to the benefit of its general system shippers.²

Given the beneficial impact that the Project Supply Path Component and Market Path Component facilities are expected to have on system fuel use and the highly integrated operation of the Project facilities with Tennessee's existing system, Tennessee believes that it is appropriate for the Project Supply Path Component and Market Path Component facilities' fuel and electric power costs to be rolled-in into Tennessee's general system fuel tracker up to the design capacities of 1.2 Bcf per day and 1.3 Bcf per day, respectively.

Footnotes:

- 1 The estimated pre-expansion general system fuel rate reflects historical system-wide fuel usage and transportation throughput for calendar year 2014.
- 2 Assuming a 70% load factor utilization of the Project facilities, the estimated post-expansion general system fuel rates per 100 Dth-Mile for the Supply Path Component and the Market Path Component facilities would decrease by an additional 2 percent and 5 percent, respectively, from the levels shown in Page 4 of Exhibit Z-7.

Respondent: Michael A. Stokdyk
Title: Staff Engineer, System Design
Phone: (713) 420-2415

Respondent: Carlos Oblitas
Title: Director, Regulatory
Phone: (713) 420-5771

5. In Exhibit N, Page 2, Tennessee estimates its 1st year O&M Expenses for the Supply Path Component of this project to total \$11,227,000 and the Market Path Component of this project to total \$15,566,000. Provide a breakdown of these expenses by (1) FERC account number and (2) labor and non-labor costs.

Response:

Attachment 1 to this response provides a breakdown of the estimated 1st year O&M expense for the Supply Path Component and the Market Path Component of the Project by (1) FERC account number, and (2) labor and non-labor expense. Attachment 1 also details, by FERC account, the estimated variable O&M expense included in the non-labor expense category.

Respondent: Joseph Holland
Title: Sr. Regulatory Analyst
Phone: (713) 420-4609

Attachment 1 to DR2-04, "Fuel Analysis at 100% Load Factor Utilization"
{ 1 page spreadsheet omitted, can be downloaded (120 KB) at: }

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14141466>

Attachment 1 to DR2-05 "Operation and Maintenance Expense Detail"
{ 1 page spreadsheet omitted, can be downloaded (85 KB) at: }

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14141467>

{ Affidavits of respondents, omitted, can be downloaded (736 KB) at: }

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14141468>

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

In the Matter of)	Docket No. CP16-21-000
Tennessee Gas Pipeline Company, L.L.C.)	
Northeast Energy Direct Project)	

**MOTION TO INTERVENE OUT OF TIME
OF THE TOWN OF BETHLEHEM, NEW YORK**

Pursuant to Rules 212 and 214 of the Federal Energy Regulatory Commission’s (“FERC”) Rules of Practice and Procedure, 18 C.F.R. §§ 385.212 and 385.214, the Town of Bethlehem, New York, hereby submits this motion to intervene out of time in the above-captioned proceeding.

1. The Town of Bethlehem, located in Albany County, New York (“Town”) has a population exceeding 35,000 citizens. Approximately 7.3 miles of the pipeline proposed by the Tennessee Gas Pipeline Company, L.L.C. (“TGP”) will traverse the Town.

2. The Town has a significant interest in this proceeding, both as the representative of its citizens and as the owner of critical municipal infrastructure that will be directly affected by the proposed TGP pipeline.

3. The Town opposes the construction of the proposed TGP pipeline because of the dangers that it presents to Town citizens, Town infrastructure, and Town economic development, and because the TGP pipeline is unnecessary and will provide no economic benefit to the Town or its citizens.

4. The proposed TGP pipeline will run in close proximity to several Town population centers and places of public gathering. There are a total of 875 housing lots in the Town within one-half mile of the proposed pipeline. Among other things, the proposed TGP pipeline will run in close proximity to the following:

- Tendercare Child Center on Elm Ave. - pipeline is ¼ mile away.
- Van Allen Senior Apartment, Route 9W - pipeline is ½ mile away.
- Becker Elementary School- pipeline is ¼ mile away
- Jericho Drive-In, Jericho Road/Route 9W - pipeline is ½ mile away
- Glenmont Job Corps Site Campus, Route 144 - pipeline is located on the campus which has dormitory rooms for young people ages 16 to 24.

5. The proposed TGP pipeline will also traverse or run in close proximity to numerous important elements of Town infrastructure serving thousands of residents. The proposed TGP pipeline will cross Town water lines in at least the following locations:

- Route 32
- Fairlawn Ave.
- Wildwood Lane
- Route 9W
- River Road

6. The proposed TGP pipeline will traverse important Town sewer lines. The line crosses over the Town’s interceptor sewer at the Dowerskill stream corridor. If this were compromised, it would leave approximately 10,000 customers without sewer service. This would also create the potential for 4.5 million gallons of raw sewage per day flowing into the Dowerskill, which flows directly into the Hudson River. This could create a major environmental catastrophe. The line also crosses the Town’s sewer force main at Fairlawn Avenue. If this were compromised, it would leave approximately 170 residences without sewer service.

7. The proposed pipeline is approximately 175 feet from the dam holding the Town’s New Salem reservoir,

which is located in the Town of New Scotland. This currently supplies over 11,500 customers. If the dam were compromised, between seven and 14 homes could be destroyed by flooding. It would also cost the Town approximately \$2M per year to replace this water.

8. The proposed TGP pipeline also runs in close proximity to private well systems. Approximately 140 housing lots within one mile of the TOP pipeline are not connected to the public water system, meaning they obtain their water from private wells. Located in the area of the TGP pipeline are the most significant groundwater resources in Town: (a) the shallow, unconfined aquifers consisting of sands and gravels and (b) the semi-confined buried sand and gravel aquifers. These aquifers are extensive and provide the best yields of any groundwater resources in Town. They are a major source of water in both the southern portion of the community and east of the Route 9W corridor, both of which are within the vicinity of the TGP pipeline project. These aquifers are susceptible to contamination. The Town is concerned about the potential contaminants that may be included in the natural gas transmitted through the proposed pipeline from the extraction process or as an odorant.

9. The proposed TGP pipeline also runs in close proximity to important park and recreational resources in the Town. The proposed TGP pipeline will cross the Hudson River less than one-half mile upstream of the Town's Henry Hudson Park. This provides an important public fishing and boating access to the Hudson River for the Town's and the region's citizens. The Hudson River crossing will require excavation and possible blasting of the streambed, which may stir dangerous encapsulated sediments in the Hudson River, jeopardizing an important recreational resource.

10. The proposed TGP pipeline will also be located (a) within one-tenth of a mile of the Town's Moh-He-Con-Nuck Nature Preserve, located on the bank of the Hudson River, (b) within one mile of the Town's Elm Avenue Park, which is the Town's primary park and recreational facility, and (c) within one-half mile of the Town's Maple Ridge Park, located along Elm Avenue East between Holly Mill Road and Crescent Creek Way.

11. The proposed TOP pipeline will also run through an important private recreational resource, running directly through the Van Rensselaer Forest Wildlife Preserve, owned by the First Reformed Church of Bethlehem. This will cut a wide swath of natural vegetation, impairing the scenic beauty of this facility and its function as a recreational amenity. The Church is also listed on the National Register of Historic Places.

12. The proposed TGP pipeline will have other negative impacts on economic development within the Town. The location of the pipeline will discourage additional housing construction along the pipeline corridor and will reduce the value of existing housing. Additionally, the pipeline will cut large swaths of natural vegetation in the area, adversely affecting the aesthetic beauty of the Town and reducing its attractiveness for additional residential and commercial development.

13. The Town and its citizens will realize no economic benefit from the proposed TGP pipeline. There is no proposal to permit a tap in to the line and, more importantly, the Town is already adequately served with existing energy resources.

14. The Town has good cause for failing to move to intervene within the time prescribed. The Town was not made aware of the extent of the pipeline's location near sensitive public and private facilities until after the official filing deadline, and was not aware that it could intervene in this proceeding until after that deadline had passed. Moreover, we understand that the filing deadline had been extended to January 15, 2016, so there will be no prejudice or disruption in the proceeding in granting this application.

15. The contact information for the Town is as follows:

John Clarkson
Town Supervisor
Bethlehem Town Hall
445 Delaware Ave.
Delmar, NY 12054
(518) 439-4955

jclarkson@townofbethlehem.org

Robert Leslie
Director of Economic Development & Planning
Bethlehem Town Hall
445 Delaware Ave.
Delmar, NY 12054
(518) 439-4955
rleslie@townofbethlehem.org

James T. Potter
Town Attorney
Bethlehem Town Hall
445 Delaware Ave.
Delmar, NY 12054
(518) 436-0751
Jpotter@townofbethlehem.org

16. For the reasons set forth herein and for other important reasons that will be developed in this proceeding, the Town opposes the construction of the pipeline and respectfully requests that its motion be granted.

Respectfully submitted,

James T. Potter
Town Attorney

CERTIFICATE OF SERVICE

Wherefore on this day, February 8, 2016, J caused to be served the foregoing Motion to Intervene Out of Time electronically on all parties on the Commission's electronic service list in this proceeding, in accordance with the Commission regulations.

James T. Potter
Town Attorney
Town of Bethlehem, Albany County, New York
jpotter@townofbethlehem.org

20160209-0006

{58 cards from separate individuals, all bundled into this single submission}

{each same or similar text as 20160204-0008 (STOP THE NED PIPELINE...) above, except signed by: }

Brian Dorion, 111 Heather Rd, Dracut, MA 01826

Nicole Manning, 18 Horseshoe Rd, Dracut, MA 01826

Amy & Sal Caputo, 10 Boxwood Circle, Dracut, MA 01826

Dina Borritein, 64 Regency Drive, Dracut, MA 01826

John Grzesik, 100 Old Parker Rd, Dracut, MA 01826

Caroline B. Zuk, 100 Old Parker Rd, Dracut, MA 01826

Tom Simpson, 80 Horseshoe Rd, Dracut, MA 01826

Krista Simpson, 80 Horseshoe Rd, Dracut, MA 01826

Violeta Pone, 24 Brook St, Roslindale, MA 02131

Marselo Demo, 84 Stedman St, Quincy, MA 02169

Elida Dedaj, 77 Holbrook Rd, Quincy, MA 02171

Samantha Nugent, 170 Mystic Valley PKwy, Arlington, MA 02474

Altin Demo, 84 Stedman, Quincy, MA 02131
Bernard R ?, Jr., 53 Reagan Rd, Dracut, MA 01826
Jennifer Sawyer, 834 Salem Rd, Dracut, MA 01826
William Greenwood, 50 Gloria Ave, Dracut, MA 01826
Colleen Barclay, 24 Justin Ct, Dracut, MA 01826
Lois Bradbury, 282 New Boston Rd, Dracut, MA 01826
Dennis M. Hayes, 1386 Merrimack Ave, Dracut, MA 01826
Sharon Santos, 65 Trout Brook Rd, Dracut, MA 01826
William Bradbury, 282 New Boston Rd, Dracut, MA 01826
Jillian Albuja, 1374 Broad? Pond, Dracut, MA 01826
Peter Brox, 1558 Broadway, Dracut, MA 01826
Virginia Courtenay, 954 Mammoth Rd, Dracut, MA 01826
Mike Santos, 64 Trout Brook Rd, Dracut, MA 01826
John F. Brox, 1363 Broadway, Dracut, MA 01826
John Andre, 710 Skyline Dr #7, Dracut, MA 01826
Linda Marsden, 14 Gregg St, Woburn, MA 01801
John G Young, 39 Greenridge Rd, Dracut, MA 01826
Ashley Hoffman, 203 Jones Ave, Dracut, MA 01826
C. Loomis, 86 Bedford Rd, Woburn, MA 01801
James Squires, 14 Paddock Ln, Dracut, MA 01826
Dana Taplin, 489 Wheeler Rd, Dracut, MA 01826
Kathie Ignacie, 623 Arlington St, Dracut, MA 01826
Joe Gallagher, 16 Joseph Ave, Dracut, MA 01826
Erica Walther, 101 Mill St. Apt 201, Dracut, MA 01826
Brittany DaSilva, 205 Pleasant St Bldg 10, Dracut, MA 01826
Elaine Hayes, 1386 Merrimack Ave, Dracut, MA 01826
Emile De?s, 1261 Keshore Dr, Dracut, MA 01826
David Powers, 22 Passaconaway Dr, Dracut, MA 01826
Hannah Allard, 211 Fletcher St, Lowell, MA 01852
Ronnie Hoey, 180 Methuen Rd, Dracut, MA 01826
Brad Volpe, 32 Clement Rd, Dracut, MA 01826
Suzanne Noel, 834 Salem Rd, Dracut, MA 01826
Kerrie Chappel, 73 Bancroft St, Dracut, MA 01826
Lillian Vinal, 24 Royal Ave, Dracut, MA 01826
Colleen Ranahan, 1 Brook Farm Rd, West Roxbury, MA 02132
Janice Dudevoir, 107 Lexington Rd, Dracut, MA 01826
Anthony L. Archinski, 76 D Street, Dracut, MA 01826
Jennifer Schule, 23 Rachel Rd, Dracut, MA 01826
John McDo?, 72 Saw Mill Dr, Dracut, MA 01826
Lynne R?, 7 Barn Rd, Dracut, MA 01826

information necessary for staff to determine the potential impacts associated with constructing and operating the project. The ongoing status of potential mitigation for these impacts, including recommendations by the New Hampshire Department of Environmental Services as well as mitigation that may be required by the U.S. Army Corps of Engineers pursuant to its statutory authority. will be discussed in the draft and final EIS for the project.

Your letter identified your concerns with Tennessee Gas's conduct of outreach efforts. Our regulations concerning notification require applicants to correspond with affected landowners as well as local governments. The Commission encourages cooperation and good-faith negotiation between Tennessee Gas and local landowners, including local governments. Your concerns will be entered into the docket for this project and considered during the Commission's review.

As in any Commission matter, please be assured that we strive to make our review of proposals both accessible and transparent to the public. If I can be of any further assistance in this or any other Commission matter, please let me know.

Sincerely

Norman C. Bay
Chairman

20160209-5019 Mason Pipeline Committee: New Pipelines are More Dangerous than Old Ones

February 9, 2016

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE Room 1 A
Washington, DC 20426

re: Tennessee Gas Pipeline Company, L.L.C., Docket No. CP16-21

From Mason (NH) Pipeline Committee

New Pipelines Are More Dangerous than Old Ones

Dear Secretary Bose:

The Pipeline Safety Trust (<http://pstrust.org>) of US Pipelines and Hazardous Materials Safety Administration (PHMSA) has documented that pipelines installed since 2010 have MORE incidents annually than those installed in all previous decades. Even the most ancient pipelines have FEWER incidents per year than the newest pipelines. This is true for both hazardous liquid and gas pipelines.

To discover this surprising fact, the Pipeline Safety Trust analyzed incident data from 2005 through 2013. Here are the numbers on the oldest, newest, and safest decades of installation –

Hazardous Liquid Pipelines:	Installed in 1920s	8.7 incidents annually per 10,000 miles
	Installed after 2010	13.5 incidents annually per 10,000 miles
	Safest installation decade: 1970s	4.0 incidents annually per 10,000 miles
Gas Pipelines:	Installed before 1940	6.1 incidents annually per 10,000 miles
	Installed after 2010	6.6 incidents annually per 10,000 miles
	Safest installation decade: 1990s	0.8 incidents annually per 10,000 miles

What's going wrong? Why are new pipelines failing more often than older ones?

Could it be poorly manufactured pipes? Can it be careless workmanship? Insufficient inspections? Relatively untested materials or methods? Dangerous siting of pipelines, burying them close to powerlines where the electric field accelerates pipeline corrosion? Or the tremendous rush to install new pipelines, to market the glut of fracked gas and oil? Or ALL these causes?

This dangerous record calls for a Moratorium on new pipelines while PHMSA researches the causes of recent pipeline failures. Until the causes of the higher rate of incidents on new pipelines can be determined,

the Federal Energy Regulatory Commission (FERC) should call a halt to the approval and installation of new pipelines, other than emergency repairs.

In light of the Pipeline Safety Trust's evidence attached below, to continue approving new pipelines is reckless. Mason Pipeline Committee calls upon FERC to act prudently. It's time for a Moratorium on new pipelines to protect public safety.

Liz Fletcher

Mason NH Pipeline Committee

Article with graphs: "***Are Old Pipelines Really More Dangerous?***", *Safe Pipelines* - Spring 2015, Page 6, A Publication of the Pipeline Safety Trust - <http://pstrust.org>

{ article omitted, full submission with article & graphs can be downloaded at: }

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14142157>

20160209-5088

submitted by Maryann Harper

Eminent Domain for Private Gain: The Sleeper Issue in the Presidential Race

By Jane Kleeb - February 8, 2016

{ photo omitted, complete submission can be downloaded (1 page, 311 KB) at: }

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14142459>

Donald Trump stood on the debate stage, with all his famous gusto, and proclaimed he loves eminent domain.

Trump continued to say, "Keystone XL could not be built without it." Well Mr. Trump, that is the point—our founding fathers never intended private corporations to use eminent domain for their private gain.

While hugging eminent domain might work in the corporate world, for real-world voters it's an issue that bridges conservatives, progressives and everyone in between to stand together to protect our property rights.

New Hampshire landowners are currently fighting eminent domain abuse from Kinder Morgan, a corporation run by a former Enron executive. Kinder Morgan joins Enbridge and TransCanada in their desire to build a spider web of pipelines across our country to access the international export market. Kinder Morgan's New Hampshire pipeline, just like Keystone XL, is not being built for "public purpose" instead it is for private gain putting land and water at-risk along the way.

American landowners face serious risks with eminent domain for private gain, beyond the obvious loss of property rights. If a permitting agency like FERC or the State Department rejects a pipeline, exactly like what happened with Keystone XL, the pipeline company still owns the land they took through eminent domain. Pipeline companies with a rejected permit can turn around and sell the easement to any company they want and the landowner has no say in the land sale process. How's that for making America great again?

States are beginning to stand up on eminent domain abuse and see the fundamental difference between public good and private gain. Kentucky stood with landowners and told the Bluegrass pipeline they cannot use eminent domain because their project was for private gain. South Carolina has a bill, spurred by an export pipeline Kinder Morgan wants to build, that forbids private, for-profit pipeline companies from using eminent domain. Georgia recently told Kinder Morgan they could not use eminent domain because their pipeline has no public use. These are hardly "blue" states. These are states with strong leaders standing up for property rights with actions, not words.

A federal and state-based solution is needed that protects all Americans' property rights beyond fancy talking points from politicians on the campaign trail. A clear process must be laid out for pipelines since right now each state does it differently thereby adding confusion to a process already rigged for Big Oil.

We know where Trump stands—he loves eminent domain even for private gain. The real question is where

Norma J. Taplin, 489 Wheeler Rd, Dracut, MA 01826
Stacey Nocholes, 9 1/2 Kingsbury Street #A, Derry, NH 03038
Paul Gagnon, 56 Higland Ave, Lowell, MA 01851
Bernie Terrilli, 57 Reagan Rd, Dracut, MA 01826
P? C?, 21 Nick Lane, Maynard, MA 01754
Jamie Lee Flynn, 15 Willow Ave, Dracut, MA 01826
Michael Bornstein, 64 Regency Drive, Dracut, MA 01826
Joseph Lima, 24 Chesterfield St, Readville, MA 02136
Kathy Moriarty, 247 Broadway Rd #39, Dracut, MA 01826
Christine LoVuolo, 10 Dennis Dr, Burlington, MA 01803
Allison Volpe, 32 Clement Rd, Dracut, MA 01826
Brian Braga, 63 Dadak Dr, Dracut, MA 01826
Larin Albee, 1324 Broadway, Dracut, MA 01826
Jodie Young, 39 Greenridge Rd, Dracut, MA 01826
J Dellolio, 113 H?ley Ave, Dracut, MA 01826
Caroline McIntosh, 3 Macintosh Drive, Dracut, MA 01826
David Aldrich, 81 Cross St, Andover, MA 01810
Tara Gervais, 60 Florry Dr #29, Dracut, MA 01826
Lisa Smith, 23 Macintosh Dr, Dracut, MA 01826
Steven Smith, 23 Macintosh Dr, Dracut, MA 01826
Lorraine B ?, 16 Bailey Rd, Dracut, MA 01826
Theresa Noel, 10 Armstrong Ave, Methuen, MA 01844
Brian Chappel, 13 Bancroft St, Dracut, MA 01826
?
Mathew D. Terilli, 53 Reagan Rd, Dracut, MA 01826
John Peters, 31 Greenridge Rd, Dracut, MA 01826
Evangelos Gakis, 31 Baldwin Rd, Dracut, MA 01826
Dylan Girard, 1520 Broadway Rd, Dracut, MA 01826
Sarah Santiago, 42 Frederick St, Dracut, MA 01826
Dave Sutherland, 114 Stonebridge Dr, Dracut, MA 01826
Gale Terilli, 53 Reagan Rd, Dracut, MA 01826

20160210-0022 Polar Beverages

{same as 20160129-0007 with 2 changes: "CP16-21" replacing "PF14-22" & Jan 21 replacing Jan 8}

20160210-0032 Michael Bernard

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Michael Bernard 10 Cart Path Rd Dracut, MA 01826

20160210-0033 Alicia Bogle

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Alicia Bogle 141 Cart Path Rd Dracut, MA 01826

20160210-0034 **Miranda Anzolowe**

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}
Miranda Anzolowe 11 Joseph Ave Dracut, MA 01826

20160210-5015

Submission Description: (doc-less) Out-of-Time Motion to Intervene of Boyle Energy Services & Technology, Inc. under CP16-21-000.

Submission Date: 2/9/2016 5:39:09 PM Filed Date: 2/10/2016 8:30:00 AM

Dockets

CP16-21-000 Application for a Certificate of Public Convenience and Necessity (NED Project)

Filing Party/Contacts:

Filing Party Signer (Representative) Other Contact (Principal)

Boyle Energy Services & Technology, Inc. jfinn@boyleenergy.com

Basis for Intervening:

Motion to Intervene of Boyle Energy Services & Technology, Inc.

Pursuant to the Federal Energy Regulatory Commission's Rules of Practice and Procedure, Boyle Energy Services & Technology, Inc. ("BES&T"), a small New Hampshire business and landowner that will be directly affected by the proceeding (Docket No. CP16-21-000), represented by its In-House Counsel, Justin Finn, hereby moves to intervene as a party to this proceeding.

In support of this Motion, BES&T states as follows:

- 1) BES&T owns real property along the proposed project path.
- 2) The project would have a significant impact on BES&T's real property and/or business activities.
- 3) BES&T should be considered to have "good cause" for not filing timely. BES&T only first received notice that its real property would be impacted by the project from Tennessee Gas Pipeline Company, L.L.C. on December 28, 2015. BES&T is a small business with approximately fifty (50) employees. BES&T's only In-House Counsel became a parent to a newborn infant in early December and was using parental/family/medical leave during this period. This was the cause of BES&T's failure to file timely. The extent of delay is not significant, and at this early stage would not cause disruption to the proceeding. Permitting BES&T to intervene would not involve significant prejudice to, or additional burden on, existing parties.

Respectfully submitted,

Justin Finn, Esq. (NH Attorney # 265400)

General Counsel

Boyle Energy Services & Technology, Inc.

237 Daniel Webster Hwy

Merrimack, NH 03054

20160211-5187 **Pixie Holbrook**

WILL YOU BE OUR VALENTINE?

- By stopping the NED pipeline that runs 1/4 mile behind our home
 - By saving our beloved family farm
 - By saving our Bed and Breakfast retirement income
- By keeping the value in the home we built by our own hands
 - By maintaining the beauty and quality of our rural town

You, FERC Valentine, will be in our hearts forever!

With love,

Pixie Holbrook
John Rioux
Conway, MA

{photos omitted}

20160212-0006 Motion to Intervene of National Alliance of Concerned Americans for the

Hand written letter + printed brochure: Douglas E. Wight, president, National Alliance Of Concerned Americans For The Wellbeing Of All People And Earth, Inc., 172 Highland Ave, Greefield, MA 01301. Dated January 11, 2016.

{submission can be downloaded (2 pages, 103 KB) at: }

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14145412>

20160212-0007

**STATE OF NEW HAMPSHIRE
OFFICE OF THE GOVERNOR**

MARGARET WOOD HASSAN
Governor

February 10, 2016

Norman C. Bay
Chairman, Federal Energy Regulatory Commission
888 First Street NE
Washington, DC 20426

RE:Docket Number CP16-21

Dear Chairman Bay:

I write to request that the Federal Energy Regulatory Commission (FERC) consider requiring a health impact assessment as part of the review of the Northeast Energy Direct (NED) Project.

It goes without saying that the health of our children and families is critically important and we have long fought to create a healthier environment for all of our citizens. While the Environmental Impact Statement (EIS) will assess the potential impact of the project on water resources and air quality, among other issues, my understanding is that the EIS process may not fully capture health impacts.

An independent and comprehensive health impact assessment would allow for a thorough review of the project and a complete understanding of any potential negative health effects that may be caused by the construction and operation of the NED pipeline and could provide important baseline information upon which to assess potential future health impacts.

Protecting the health of our citizens is one of the most important roles of any local, state or federal government entity. A health impact assessment would help to ensure that we are fulfilling our obligation to our citizens to ensure that they have a healthy environment to live, work, and raise their families.

Thank you for your consideration of this request.

With every good wish,
Margaret Wood Hassan
Governor

20160212-0008

**Congress of the United States
House of Representatives
Washington, DC 20515-2103**

NIKI TSONGAS

3rd District, Massachusetts

February 11, 2016

Chairman Norman C. Bay
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: CP16-21-000—Waiver of Landowner Notification Provisions of Section 157.6(d)

Dear Chairman Bay,

I write with concern regarding Tennessee Gas Pipeline Company, LLC's (Tennessee) request to waive landowner notification provisions of Section 157.6(d).

According to a filing in the official Federal Energy Regulatory Commission (FERC) docket for CP 16-21-000 on January 6, 2016, Tennessee requested this waiver due to the discovery that 19 landowners within a 1/2 mile of the proposed Market Tail Compressor Station located in Dracut were inadvertently not notified when Tennessee filed the certificate application on November 20, 2015 or the updated landowner list filed on December 21, 2015.

I appreciate Tennessee's subsequent good-faith efforts to properly notify the 19 landowners. According to the January 6 letter, residents were provided all of the required documents and the company will continue to monitor documents that are returned as undeliverable. However, I am very concerned that 1) Tennessee is planning a significant infrastructure project without up-to-date data and were notified of the situation through public comments and 2) that the general survey conducted by Tennessee's land agents along public rights-of-way did not discover a development and make note to notify residents. This is especially concerning considering the development is located within a 1/2 mile from the proposed Market Path Tail Compressor Station in Dracut.

Given this series of events, I am very skeptical of Tennessee's request to waive FERC's landowner notification requirements in Section 157.6(d). I respectfully ask that FERC deny the waiver request and remedy the situation by extending the official period of time to make motions to intervene for 15 days. This action will ensure that Tennessee meets all of FERC's landowner notifications requirement and provides my constituents will ample time to review materials and file motions to intervene.

Sincerely,
Niki Tsongas
Member of Congress

20160212-0013

United States Senate
Washington, DC 20510

Kelly A. Ayotte
New Hampshire
February 11, 2016
The Honorable Norman C. Bay
Chairman
Federal Energy Regulatory Commission
888 First Street, NE
Washington, D.C. 20426

Dear Chairman Bay:

I write regarding Kinder Morgan's proposed Northeast Energy Direct (NED) pipeline, Docket No. PF14.22 000.

As you know, on September 10, 2015, I joined the New Hampshire congressional delegation in sending a letter to you requesting a substantive response to several specific questions and concerns raised by New Hampshire citizens, including the following:

- Do you agree that FERC should make the threshold determination for “public need” before siting a proposed pipeline? Has FERC made that threshold determination in the case of Kinder Morgan’s proposed Northeast Energy Direct (NED) pipeline? If so, please share with us your detailed analysis regarding the determination.
- Do you agree that in determining the “public need” for a proposed pipeline in a particular region, FERC should evaluate the potential impact of other proposed projects in the region, which may collectively provide unneeded excess capacity? Has it done so for the proposed NED project?
- Do you agree that FERC should give strong consideration during its “public need” review to a project’s economic and environmental impact on communities? Has it done so for the proposed NED project?
- The public comment system is receiving a very high volume of comments. What steps do the Commissioners take to directly review information on “public need” submitted via that system? Does FERC staff review, analyze, and brief Commissioners on those submissions?
- How do stakeholders with information relevant to the determination of “public need” ensure Commissioners will directly review that information?
- Do you agree that the Pipeline and Hazardous Materials Safety Administration (PHMSA) should have a role in FERC’s determination of whether to permit a proposed pipeline? Has PHMSA provided FERC with safety analysis for the proposed NED project?

In addition to the outstanding questions our delegation has raised as detailed above, my constituents continue to raise a number of questions and concerns about the proposed pipeline route both individually and through their local representatives. I continue to strongly believe their concerns should be meaningfully answered and addressed. Please find enclosed copies of two separate correspondence from my constituents.

{Note: above referenced correspondence copies not included in submission}

I urge you to substantively answer and address the questions and concerns raised by New Hampshire residents and our congressional delegation. As I have previously expressed, unless and until these questions and concerns are meaningfully addressed and answered, I oppose this project going forward.

Sincerely,

Kelly A. Ayotte
U.S. Senator

20160212-0022

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}
MaKendra Looney 98 Lake Shore Dr Dracut, MA 01826

20160212-0023

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}
Jill McKinstry 16 Shephard Rd Pelham, NH 03076

20160212-0024

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}
John Amaral 78 Concord Rd Dracut, MA 01826

20160212-5017

CONSERVATION COMMISSION
30 PAYSON HILL ROAD, PO BOX 163
RINDGE, NH 03461
Tel. (603) 899-5181 Fax (603) 899-2101 TOO 1-800-735-2964

February 10, 2016

Lucas Meyer
Consultant, Public Affairs
Kinder Morgan, Inc.
31 Old Nashua Rd., #8
Amherst, NH 03031

Mr. Meyer.

On January 11, 2016, the Rindge Conservation Commission met with KM-TPG representatives John Murray, Kasia Ingram and Adele Fiorillo to discuss the issue of mitigation of wetland impacts arising from the NED pipeline project. Following our subsequent meeting on January 28, 2016, the Rindge Conservation Commission offers the following responses.

1. We believe the 30 day window to offer possible mitigation projects to be arbitrary, unrealistic and not a necessary part of the requirements of the New Hampshire DES permitting process for wetland disturbances from our discussions with that department.
2. We do not agree with the stated amount of impacted wetlands, given in your Resource Report and as presented to us on January 11, as 4.66 acres. Based on preliminary reports from our hired consultant and information from conversations with representatives of New Hampshire DES, we believe the amount of wetland area which will be impacted, and thus that needs to be mitigated, will be several times higher than the stated amount.
3. Due to the uncertainty in the amount of funding that might be involved, the nature and final locations of the impacts, and because we believe there is no need for haste, we reaffirm our contention of January 11, that it would be premature for us to present mitigation options at this time. We will continue to investigate and analyze the temporary and permanent impacts to offer a more complete and accurate summary of the total impact of this project as proposed. Our impact conclusions and proposed mitigation plan will be submitted to NHDES after they have requested our review and opinion of the application as part of the NHDES application review process.

Sincerely

David G. Drouin, Chairman
Rindge Conservation Commission

CC:

Rindge Board of Selectmen, NH DES, NH PUC, NH SEC, FERC

20160212-5023

Photo of Valentine card & note: Julia Blyth, Northfield, MA, opposing NED.

20160216-0007

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

February 12, 2016

OFFICE OF THE CHAIRMAN

The Honorable Stan Rosenberg

The Commonwealth of Massachusetts Senate
Office of the President
State House, Room 332
Boston, MA 02133

Dear Senator Rosenberg:

Thank you for your December 30, 2015, letter regarding Tennessee Gas' proposed Northeast Energy Direct Project (Docket No. PF14-22-000).

The purpose of the analysis under the National Environmental Protection Act is to ensure that the Commission takes meaningful consideration of all the environmental impacts of a proposed project. Commission staff reviews natural gas applications on a project-by-project basis, preparing NEPA analyses that are reflective of the specific facts and circumstances of each case, including discussing greenhouse gas emissions and potential impacts on climate change where appropriate. As required by NEPA, Commission staff's reviews include consideration of the direct, indirect, and cumulative impacts of proposed projects based on available sound science.

The Commission issued a Statement of Policy on September 15, 1999, in Docket No. PL99-3-000 that provides information about how the Commission considers the impact of new projects on existing pipelines, the possibility of overbuilding, the avoidance of unnecessary disruption of the environment, and the consideration of the enhancement of competitive transportation alternatives. The Commission will use the processes described in the policy statement to evaluate the Northeast Energy Direct project proposal.

As in any Commission matter, please be assured that we strive to make our review of proposals both accessible and transparent to the public. If I can be of any further assistance in this or any other Commission matter, please let me know.

Sincerely,
Norman C. Bay
Chairman

20160216-0077

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Room 1A
Washington, DC 20426

Date: 5 February 2016

Via Certified Mail, Return Receipt Requested

Re: Denying Property Access

As the owner of the property located at:
75 Dutton Rd; 77 Dutton Rd; 116 West Shore Dr
Pelham, NH

Let It be known that I am denying permission to the Tennessee Gas Pipeline Company, LLC (a Kinder Morgan Company), its representatives, contractors, subcontractors, or associates to enter my land to perform surveys, or for any other purpose. Any physical entry onto my property will be considered unauthorized, and treated as trespass.

Constance Pozniak Loschi

20160216-5019

Submission Description: (doc-less) Motion to Intervene of Cal F Page under CP16-21-000.

Submission Date: 2/15/2016 9:14:38 AM

Filed Date: 2/16/2016 8:30:00 AM

Dockets

CP16-21-000 Application for a Certificate of Public Convenience and Necessity (NED Project)

Filing Party/Contacts:

<u>Filing Party</u>	<u>Signer (Representative)</u>	<u>Other Contact (Principal)</u>
Individual	page.cal@gmail.com	

Basis for Intervening:

I live in Brookline, NH , and want to intervene in this proceeding to oppose the NED pipeline. I have an interest which may be directly affected by the outcome of the proceeding because I am a resident expected to be in the "blast radius"/my daily commute crosses over the proposed pipeline route, so I will be at physical risk.

20160216-5032

Submission Description: (doc-less) Out-of-Time Motion to Intervene of Frank J Kerepka under CP16-21-000.

Submission Date: 2/15/2016 5:52:37 PM

Filed Date: 2/16/2016 8:30:00 AM

Dockets

CP16-21-000 Application for a Certificate of Public Convenience and Necessity (NED Project)

Filing Party/Contacts:

<u>Filing Party</u>	<u>Signer (Representative)</u>	<u>Other Contact (Principal)</u>
Individual	FrankKerepka@yahoo.com	

Basis for Intervening:

My name is Frank Kerepka. I live at 406 Methuen Road, Dracut, MA. I am filing this Motion to Intervene because the pipeline will go right through my property and I am within a half mile radius of the proposed compressor station. My family and property will be substantially and directly impacted by the construction and operation of the Northeast Direct Project and, therefore, would submit this intervention in opposition of this project.

I am a livestock farmer in Dracut. Kerepka Farm specializes in producing grass fed beef for consumption. My farm relies on a chemical and stress free natural environment for my livestock. The air and soil pollution from this project will destroy my farm.

My home and farm are in close proximity to the compressor station and will be affected by toxic emissions and noise. I am concerned about the adverse impact the compressor station, and particularly from compressor station blow downs, will have on my ponds, livestock, pastures, family health, safety, and my property value.

Toxic discharges from the compressor station, and from the construction and operation of the project, will pollute the air and soil on my farm; and, therefore, contaminate my cattle. Particularly, I am very concerned about compressor station blow down toxins, including lead, that will be deposited on my pasture polluting the soil and water. Any lead that is deposited on the crazing pastures will be ingested by my cattle. Crazing cattle are the most at risk for lead poisoning, and minimal exposure is very harmful. Humans who consume the tainted meat will also be at risk. It is unlikely that anyone would want to purchase my beef. And how could I, in all good conscience, sell it. Also, the noise from the compressor station, and blow downs in particular, will cause the cattle to become stressed.

In addition, pipelines are often maintained by aerial spraying and the spraying of these herbicides will be harmful to my livestock and pastures.

My farm business is dependent on a chemical free product and would be irrevocably damaged. This project will severely disrupt the natural environment which is crucial to the livelihood of my farm.

This project undermines the efforts of my farm to market a natural product as the presence of a compressor station pumping out emissions taints the farm and its products.

Health hazards associated with compressor station leaks and toxic discharges and emissions causes me deep concern for the health of my family. There are known and proven health affects associated with these chemical emissions and discharges; such as nose bleeds, headaches and more frequent rates of chronic conditions such as respiratory illnesses and cancers.

Safety issues are also a great concern. According to the DOT, there were well over 300 “significant” incidents related to pipelines in 2014. With the pipeline going directly through my land, and the compressor station within a half mile, when a significant incident occurs, I worry that my family would have no means of escape.

As a Dracut resident with the pipeline passing through my property, and my property being in close proximity to the compressor station, my home and farm will be damaged by this project. I have an interest which may be directly affected by the outcome of this proceeding and my participation is in the public interest. For all of the reasons above, and more, I request that my Motion to Intervene be accepted.

Thank you,

Frank Kerepka

20160216-5060

John Mikullitz

RE: Town of Schodack: Gas Compressor Station Project Public Safety & Health Concerns

February 14, 2016

Docket No. CP16-21-000

Executive Summary

I am a Town of Schodack resident, and a 22-year expert in the energy industry. Although I have been aware of the recent gas pipeline proposal that is being considered by the Town of Schodack, I was misinformed and/or unaware that a Gas Compressor Station was included in this proposal. Upon further investigation, I realized that many of the proposed sites are located within local residential communities.

As someone who works in this industry and leads the development of energy programs for a Fortune 500 Organization, I am a supporter of expanding our natural gas infrastructure as part of an overall government strategy to become more energy independent and lower our nation’s carbon footprint. However, this must be accomplished using a strategic and tactical approach that does not negatively impact entire communities.

I realize that you are all well-informed of the significant health and safety risks associated with these compressor stations, but any consideration of installing a station within a 10-mile radius of where thousands of people reside is unconscionable. Local and State government must take a step back and challenge corporations on their irrational proposals, and in particular, challenge Richard Kinder and his \$110 billion Organization which has become the third largest energy company in North America. This compressor station should be proposed for a more rural area of New York State, and not located in a populated suburb that is approximately 10-miles from our State Capital.

Many Schodack residents are unaware there is a proposal to install a 36-inch diameter natural gas pipeline through our town. For those who are aware of this proposed project, they may not understand the details or impact this project will have on their lives and the overall community. More importantly, the Tennessee Gas Pipeline company (Kinder Morgan) is proposing to construct a gas compressor station within a residential community of the Town of Schodack as part of the project scope. This will become one of the largest north-east gas compressor stations placed in operation within the United States, according to a Federal Listing.

This proposed project will pose one of the most significant health and safety risks to our families who reside in the Town of Schodack, and others who reside within 10 miles from the plant. In addition, many of the locations are within 6 miles from three of our schools (Donald P. Sutherland ES, West Sand Lake ES, and our Regional Columbia High School). This project is quietly being considered with many local residents being

unaware of the project and permanent impact it will have on their lives.

On behalf of my community, I ask that you consider identifying a more industrial and/or rural location for this Gas Compressor where it will have minimal impact on the thousands of full-time residence in our community.

What Safety and Health Concerns Exist to our Local Community?

Being one of the largest compressor stations to be installed in the United States, this plant will create an immediate negative impact on our property value, and create safety and health risks for the local community. The following are a few brief examples of these potential health and safety risks.

- o Through what is called plant blowdowns, these compressor stations release formaldehyde, benzene, toluene, ethyl benzene, xylene, hydrogen disulfide, carbon monoxide, sulfur dioxide, methane and other compounds that are toxic, carcinogenic or neurotoxic. Many of these particulates are prone to causing major adverse health effects in humans and animals.
- o The gas infrastructure (piping, equipment, etc) will eventually leak, which is a common issue in an industry that does not set-aside enough funding to perform proper preventive maintenance. These deferred needs cause the natural gas to pollute soil, air and aquifers. Many of us in the town rely on well-water for drinking and bathing.
- o In the town of Minisink, New York (approximately 100 miles southwest) residents live with the air contaminants from an operating gas compressor station that now exceeds what would be found even in a big city, says environmental health consultant. The plant being proposed in Schodack is more than 3 times the size of this plant. The residents of the Town of Schodack should seek feedback from the residents in Minisink about their experiences so the public who are undecided on this issue can make an informed decision. We should ask our local government to schedule this community event.
- o In a study with regards to the Minisink compressor station, which was released last year, it was found that spikes in air toxins around the compressor coincided with residents' adverse health symptoms. The study involved 35 residents who lived within a mile from the plant. Air monitors were used to measure fine particulate matter in air near residences for the two months, from October 19 to December 17 of 2014. Participants additionally used special canisters to capture air samples during "odor events," periods when the compressor emitted strong odors. Asthma, nosebleeds, headaches, and rashes were very common among the 35 participants in eight families living within one mile of the compressor.
 - 50% of the children studied had nosebleeds, which was attributed to elevated blood pressure or irritation of mucous membranes by formaldehyde, a carcinogen found in excess around compressors in a recent SUNY Albany study.
 - During the monitoring period, average particulate matter was **three times** the regional average of 6.3. So it was regularly beyond the Environmental Protection Agency limit by **nearly 200%**. Multiple episodes of peaks into the hundreds, as high as 426, were also recorded. **This is 200 times ABOVE the limits set by the EPA.**
 - These high levels also double the risk of a newborn having autism if the mother is exposed during her third trimester of pregnancy, according to a study published in Environmental Health Perspectives in December 2014 by Harvard epidemiologist Marc Weisskopf and his colleagues.
 - Low Frequency noise between 25 and 500 cycles per second (cps) frequency and is below the normal human hearing range of 500 to 20,000 cps frequency. However, it impacts 70% of people in its five to eight mile path in every direction.
 - Can cause well-water pollution over time due to pipe leakage.

Please take a few minutes and go on-line and search Gas Compressor Station Health Risks, and you will find hundreds of articles that speak to the safety and health risks associated with this type of project. Below are a few such recent (2015) articles.

20160217-0017

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}
Eric Catenacci 789 Nashua Rd Dracut, MA 01826

20160217-0018

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}
Mary Tryon 10 Monte Rd Dracut, MA 01826

20160217-0019

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}
Richard Cayer 16 Ansonia St Dracut, MA 01826

20160217-0020

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}
Michelle Gagnor 27B Darrin Rd Dracut, MA 01826

20160217-0021

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}
Donna Gill 3 Wilfred St Methuen, MA 01844

20160217-0022

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}
Anthony Cateracci 38 A St Dracut, MA 01826

20160217-0023

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}
Melanie Chandennet 38 A St Dracut, MA 01826

20160217-0024

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}
Albert Gagnon 2104 Lakeview Ave Dracut, MA 01826

20160217-0025

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}
Sue Kozalka 37 Sawyer Ave Dracut, MA 01826

20160217-0026

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}
Ray Chandennet 79 Willard St Lowell, MA 01850

20160217-0027

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}
Robert L. Dickerman 32 Alexander Hill Road Northfield, MA 01360

20160217-0028

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Marcelle Morgan

104 Old Cricket Hill

Conway, MA 01341

20160217-0029

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Beverly Edwards

41 Twillingate Rd

Temple, NH 03084

20160217-0030

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Maryalice Burns

24 Royal Ave

Dracut, MA 01826

20160218-0046

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Lori Goebel

11 Farm Gate Rd

Dracut, MA 01826

20160218-0047

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Liliana Traboini

253 Belgrade Ave

Roslindale, MA 02131

20160219-0025

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Neil Zuk

100 Old Parker Rd

Dracut, MA 01826

20160219-0026

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Anastasios Gakis

5 Smith Farm Way

Dracut, MA 01826

20160219-0027

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Kristen Powers

22 Passaconaway Dr

Dracut, MA 01826

20160219-0035

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Kathy Siggins

24 Carriage Dr

Dracut, MA 01826

20160219-0036

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Emma Siggins

24 Carriage Dr

Dracut, MA 01826

20160219-0038

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Anna Siggins

24 Carriage Dr

Dracut, MA 01826

20160219-5087

MassDEP Transmittal No. X265051

TENNESSEE GAS PIPELINE COMPANY, L.L.C.
(A KINDER MORGAN Company)

**COMMONWEALTH OF MASSACHUSETTS
FIVE-YEAR VEGETATION MANAGEMENT PLAN
2016-2020**

Submitted by:
Tennessee Gas Pipeline Company
Prepared By:
Vegetation Control Service, Inc.

Submitted: January 20, 2016

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{body of report omitted, can be downloaded (31 pages, 1,017 KB) at: }

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14150355>

20160219-5145

Susan M Baxter, Appleton, WI.

I have placed a copy of the recently submitted Integrated Vegetation Management Plan for MA into the record for this Docket. (NED CP16-21) This proposed plan will be discussed in MA at some time in the near future. I am sending this e-mail to all on the service list for this docket since there is no way to differentiate between who might or might not be affected by this proposed vegetation management plan. The proposed IVM plan would apply to CP16-21 if built.

With respect to the assertion in the IVM Plan that TGP is required to keep their ROW free of obstructions (trees) in order to monitor the ROW by aircraft, there is no requirement that monitoring be done by air, simply a requirement that monitoring be done. It is also very important to pay careful attention to the verbiage used to describe the long term ROW management proposed for CP16-21. Deviations from the FERC Procedures are allowable. They are, however, supposed to be more protective of the environment. There is no real clarity about how wetlands will be delineated in the field during operational vegetation maintenance events, and no requirement that municipalities and landowners be informed prior to non-chemical vegetation maintenance. Personally, I feel that if the wetlands deserve the protection of only a 10 foot wide maintained area over the pipeline mowed at maximum on a yearly basis, with selective tree removal for only 15 ft on either side of the pipe, the uplands deserve the same protection.

With respect to the FERC Plan and Procedures not applying to any pipeline built prior to 1983, I would like to know in Massachusetts which pipeline ROW's are currently maintained according to the FERC Plan and Procedures. At Kamposoa Bog, the third pipe was put in after 1983. Are two different methodologies for maintenance being used? An unknown method for the 24 and 30 inch pipes, and the Plan and Procedures for the 36 inch pipe? The information should be readily available about each pipeline section which will be co-located with this newly proposed line, and I look forward to seeing it.

According to the FERC

“Each FERC-jurisdictional project is required to comply with the measures in our Upland Erosion Control, Revegetation, and Maintenance Plan (Plan) and Wetland and Waterbody Construction and Mitigation Procedures (Procedures). “

(page 9, Northeast Upgrade Project Supplemental Environmental Analysis, November 2015, FERC # 20151119-3114)

Is the FERC wrong? If the FERC is wrong, who corrects them?

I am also placing a copy of this e-mail into the record for the FERC's attention. Sincerely, Susan Baxter

I certify that I sent a copy of this e-mail to everyone on today's list for cp16-21 including ibobsteele@comcast.com.

20160222-5009

Sulli Sullivan, New Ipswich, NH.

The Tennessee Gas Pipeline company/Kinder Morgan/NED has filed an Application for a Certificate of Public Convenience & Necessity with FERC.

I was at the FERC Scoping Meeting held in Nashua, NH on Wednesday, July 29, 2015

I was at the FERC Scoping held in Milford, NH on Thursday July 30, 2015

At the Nashua Scoping meeting there were about 28 elected officials speaking before the FERC members. Not one of these elected officials agreed that the TN Gas Pipeline/Kinder Morgan/NED project was necessary. I do not know how many private individuals spoke. I would guess that only 5 or 6 individuals spoke for the pipeline to be built. These individuals were all union members who wanted union jobs. I am not anti union. I have been a member of my union since 1973. I am pro union. I am anti pipeline.

At the Milford Scoping meeting there were 28 elected officials speaking before the FERC members. Not one

elected official spoke in favor of the pipeline. There were 43 private individuals who spoke at the Milford Scoping meeting. Not one of those private individuals was in favor of the pipeline project.

If the Federal Energy Regulatory Commission is not a “Rubber Stamp” for the fossil fuel companies now that Tennessee Gas Pipeline Company/Kinder Morgan/NED has filed an Application for a Certificate of Public Convenience & Necessity I request that FERC DENY this application from the TN Gas Pipeline Co/Kinder Morgan/NED.

This pipeline is NOT for “public convenience”. This pipeline is NOT for “necessity”. This pipeline is strictly for PROFIT by a private company.

There are three other pipelines that can transport this gas from the Marcellas Shale in Pennsylvania to/ through New England.

FERC’s own rules state that the public benefits of a pipeline must exceed the costs to society. The upgrades already in various planning stages to existing pipelines provide alternative gas infrastructure projects that have a smaller impact and costs to landowners, communities and the environment.

I urge FERC to just say no and DENY the Tennessee Gas Pipeline Company/Kinder Morgan/NED project slated to come through southern NH with a compressor station planned for New Ipswich, NH (Docket # CP16-21)

20160222-5010

Gerald DeBonis, Sharon, NH.

February 20, 2016

Norman C. Bay, Chairman

FERC

Washington, DC

Docket No. PF14-22-000

Dear Chairman. Bay:

I request that FERC reject Tennessee Gas Pipeline Company’s proposed NED project.

The pipeline and compressor station are located within unacceptable proximity to unique and valuable religious, educational, farming and conservation institutions.

New England already has a FERC approved natural gas pipeline, and there is no recognizable need for an additional line.

I am concerned the pipeline will release toxins and radiation harmful to people, animals and plants.

Respectfully:

Gerald M DeBonis

20160222-5016

Evelyn Taylor, New Ipswich, NH.

I request an investigation of the regulatory review and approval processes and methods in place that are being used to evaluate and determine whether the Tennessee Gas Pipeline’s Northeast Energy Direct (NED) pipeline project can be built and put into operation.

I suggest that the processes and methods are a deceptive scheme created over time to dupe the public into believing there is nothing irregular or dangerous about pouring thousands of tons of extremely hazardous chemicals into the environment with an expected outcome of no significant harm inflicted to the environment or to humans and other wildlife.

The current regulatory process skewed in favor of energy companies is preposterous and those following along that privileged path of swift and certain approval cannot be trusted to protect the public from harm.

Contrary to statements from Kinder Morgan and Tennessee Gas that the gas destined to travel through this NED pipeline is clean and safe, scientific evidence readily at hand shows that is impossible as the unconventional fracked gas extraction and transmission process disallows it.

Methane gas can kill by asphyxiation in minutes or explode and burn one to death in seconds. It is clearly understood by all involved in the specialized collection and handling of methane that those properties are inherent to that gas. Worst yet, because methane is odorless and invisible, those hazards can occur without notice and thus without opportunity to escape. No escape is a deliverable of this pipeline. Those who are entrapped by this private profit intrusion and must live nearby or even within just feet away from the pipeline by default have no escape.

Benzene is a known cause of leukemia and other ailments and can also quickly kill in minute quantities. Those who are involved in the use and handling of benzene must undergo specialized training and thus are fully aware of the severe impacts to the environment and human exposure to benzene. Benzene is not a safe escapee of a pipeline yet it is allowed to escape.

Radioactive isotopes, lead, hydrogen sulfide, volatile organic compounds (VOCs) and hundreds of other substances associated with pipeline operations are also harmful to the environment and to humans yet the FERC's Commissioners and the EPA and other accountable entities assigned to oversee the public safety readily approve fracking and the associated operations and pipelines despite thousands of injuries, illnesses and deaths reported by those exposed.

It is inexcusable in my mind that non-disclosure is allowed to suppress notice of harm being done by these pipelines. It is inexcusable in my mind that the energy entities are not mandated to fund proper independent scientific study of the impacts they are imposing upon the environment and the public.

It is inexcusable and criminal in my mind that the public has had to succumb to the illusory propaganda of fracked gas being clean and safe only to find through illness or death that it is not.

My home is within the incineration zone of the proposed NED compressor station in New Ipswich, New Hampshire. I am not a willing victim of this pipeline and I will not accept being harmed by substances that are known causes of disease and death. Anyone who contributes to the approval of this project must be held accountable for every ounce of harm it will inevitably deliver. I demand justice and proper protection from the malice this pipeline will impose. Given the known impacts and lapse of conscience on the part of Kinder Morgan, Tennessee Gas Pipeline, the EPA and the FERC, the burden is on the public to insist there is NO BUILD of this pipeline. If those who are being paid and entrusted to protect us refuse to do so, then we have no option but to protect ourselves. I will do everything in my power to protect myself from this pipeline. I will not endure toxins spewed upon me.

20160222-5028

Deirdre (Dee) & William (Bill) Murphy
189 Burden Lake Road
East Greenbush, NY 12061
dmurph2@nycap.rr.com

February 19, 2016

Sarah McKinley
Email and e-file
Federal Energy Regulatory Commission (FERC)
202-502-8368
sarah.mckinley@ferc.gov

Steve Martin (via email)
Tennessee Gas Pipeline
1615 Suffield Street

Agawam, Massachusetts 01001
steve_martin2@kindermorgan.com

Regarding: FERC Docket CP16-21-00 submitted by Tennessee Gas Pipeline a Kinder Morgan company, Northeast Energy Direct Project: supplemental filings for Environmental Information Request No. 1, submitted as of December 30, 2015 by J. Curtis Moffatt Deputy General Counsel and Vice President Gas Group Legal to Kimberly D. Bose, Secretary Federal Energy Regulatory Commission

Ms. McKinley and Mr. Martin:

Thank you for your time speaking with me yesterday. This letter is intended to formally outline my concerns and actions I noted during our discussion.

- Mr. Martin will investigate and reply on behalf of the Tennessee Kinder Morgan (TG/KM) filing regarding compressor station locations that are of specific concern as they appear to directly impact our property, (market mid station 1 sites 1&7) in Schodack, NY and noted below.
- Ms. McKinley will ensure that we are added as potentially impacted landowners for future FERC communications for the Schodack/Nassau alternate compressor station locations and for future relevant notifications of the status of the NED project.
- FERC and TG/KM will make note in their files, that as impacted property owners for the alternative compressor station locations, our family does not consent to have any pipeline or compressor related activity occur on our property and we are not willing to sell any property to TG/KM.
- I will attach this communication to a FERC e-filing to register this concern formally.

My husband and I live at 189 Burden Lake Road in the town of East Schodack (mailing address is East Greenbush, and both are within Rensselaer county, New York. Our house is surrounded by a large area of property owned by my mother Charlene Petsch. The property has intentionally been preserved in a natural state of wooded areas and wetlands that feed the Moordener Kill, and that also supply the necessary aquifer to support clean well water for local residents. Our family has lived in this area for many years and we feel that it is the wrong decision to place the compressor station within this residential country setting. We request that FERC consider our input for their decision regarding the NED project.

Our specific concern references documents from the 12/30/15 supplemental filing from TG/KM to FERC. The 51 page Attachment B Alternative Compressor Station mapbook drawn by Hatch Mott MacDonald 12/2015; has multiple examples of impacts to my mother's property, located directly across the street from our residence, which is also visible on those maps.

- Page 18 alternative 3 segment F, Parcel HMMID: 25163, around pipeline #38, shows a proposed "red hatch mark access road" directly across from our house on my mother's property that runs through a heavily wooded and wetland area. There is currently no road or clearing on that section of the property, and the location would be an extremely dangerous entry/exit location on Burden Lake Road due to the flow of the road and lack of visibility for traffic in either direction. It is not an acceptable alternative.
- Page 22 alternative 7 segment F, Parcel HMMID: 25151 shows the yellow boundary line for the compressor station as completely overtaking all the property my mother owns on that side of the road, and covering a massive wetlands. That area would border our house and two other residences and also impact the natural water flow already mentioned. It is not an acceptable alternative.
- Referencing Attachment B CS Quad mapbook: proposing alternate compressor stations 1, 7 or any of the other compressor station locations directly within the Burden Lake Road "corridor" is not viable, without posing a significant impact to the local residents and natural habitats. The options do not appear to have had the necessary due diligence to meet minimum criteria for feasibility, relevant to landowner willingness to sell and terrain. They are not acceptable alternatives.
- Attachment A FERC CS Alternative Table December 30 Final: presents the original compressor site in Nassau, 9 alternate sites proposed by TG/KM, and 4 FERC alternative sites. The references

related to reason for dismissal or continued planned evaluation by TG/KM; are not easy to follow for the specific locations that would directly impact our family. Reference to landowners having been contacted in this process; did not include anyone from our family.

- TG/KM is requested to remove from their filing to FERC, all alternate compressor locations that are not viable due to either conditions of the property or confirmation that the owners are not willing to sell.
- FERC is requested to require an updated supplemental filing from TG/KM, prior to considering their environmental response 1 action as satisfied. The TG/KM response should be more than an exercise to “check the box” on a FERC deliverable; it should contain only feasible alternatives for compressor locations.

If our local tax assessors can reach us when it is time to collect taxes, TG/KM and/or FERC should also be able to identify and communicate with those residents and landowners that are potentially impacted with the proposed locations and alternate sites that are part of the formal filing. Responsible industrial growth, including pipeline expansion and new compressor station sites; must be properly planned for locations that are zoned as industrial and confirmed to have the support infrastructure required.

There would be significant negative environmental impacts, safety concerns, infrastructure support challenges, and disruption for local residents; if any of the compressor station locations noted in alternative options 1-7, or the original site proposed in Nassau were implemented. Any compressor station location within 5 miles of our property on Burden Lake Road is not acceptable.

Thank you again for your time yesterday and your attention to our concern.

Sincerely,

Dee Murphy

Deirdre (Dee) & William (Bill) Murphy

518-477-8058 home

518-588-0256 cell

Charlene Petsch

518-477-8049

Email copy to

Dennis Dowds, Schodack Town Supervisor

265 Schuurman Rd.

Castleton, NY 12033

(518) 477-7918

dennis.dowds@schodack.org

Jim Hartman

Right-of-Way Agent for Kinder Morgan

(860) 763-6033

jim_hartman@kindermorgan.com

Allen Fore

Public Affairs

Kinder Morgan

(630) 725-3044

Allen_fore@kindermorgan.com

Attachments from Kinder Morgan 12/30/15 supplemental filing

Page 4 – is snippet of Page 18 attachment B mapbook Petsch Property

Page 5 – is snippet of Page 22 attachment B mapbook Petsch Property

Page 6 – is a snippet of Page 7 attachment B quad mapbook all locations of concern in this view –and note

that any other alternatives within a 5 mile range of our property is a concern and we suggest must be moved to a business/industrial zoned location

Page 7-8 is a snippet of Page 5 attachment A FERC alternative table 120315 final –sample only as table is too large to fit in this format

{attachments (maps, charts) omitted; full submission can be downloaded (8 pages, 2,896 KB) at: }

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14150998>

20160222-5045

P•L•A•N
PIPE LINE AWARENESS NETWORK
for the NORTHEAST, Inc.

February 22, 2016

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington, DC 20216

Re: Docket No. CP16-21, TGP Northeast Energy Direct – LNG Storage and Affiliate Relationships

Dear Secretary Bose:

Filings in state regulatory proceedings indicate that Tennessee Gas Pipeline Company, L.L.C. (“Tennessee” or the “Company”), and its partners in the Northeast Energy Direct (“NED”) project, have plans, pre-dating the filing of the application (the “Application”) in this proceeding, to add a massive liquefied natural gas storage facility to the NED project, at an undisclosed location in Massachusetts.

Specifically, Liberty Utilities (Pipeline & Transmission) Corp., an investor in the NED project,¹ is also an investor in Northeast Energy Center, LLC (“Northeast Energy”), “a Delaware limited liability company that intends to develop, permit, construct, own and operate a nature gas liquefaction and storage facility in Massachusetts.”² This Northeast Energy LNG project is further described as follows:

- (a) The Northeast Energy [LNG] project is FERC jurisdictional and the project intends to make a FERC certificate application.
- (b) The Northeast Energy project has an option agreement for the project site.
- (c) The Northeast Energy project is a joint venture between Liberty Utilities (Pipeline and Transmission) Corp, a wholly owned affiliate of Liberty Utilities Co., and RBS Energy, LLC, an entity owned by Samson Energy Company, LLC and Northstar Industries.
- (d) The expected date of completion for the project is spring of 2019. However, given the various federal and local development milestones necessary to commence construction, it is possible that the project will not be completed until 2020.
- (e) The project has submitted an interconnection request to Tennessee Gas Pipeline.
- (f) The project will connect to Tennessee Gas Pipeline’s existing 200 segment.³

Separate filings indicate that the NED project “will include a 3.3 Bcf LNG storage facility to be located on Tennessee’s 200 line that will provide winter peaking services.”⁴ It should be noted that, regardless of Tennessee’s involvement with the LNG facilities, NED investor Liberty Utilities (Pipeline & Transmission) Corp. is also an affiliate of Liberty Utilities (EnergyNorth Natural Gas) Corp., which is seeking to contract for capacity on NED. These and other affiliate relationships should be carefully scrutinized in the context of any public interest evaluation of NED capacity contracts and the NED project as a whole. (See the response to a discovery request pertaining to Liberty Utilities’ corporate structure and investment in NED, Attachment A hereto.⁵)

With respect to the liquefaction and LNG storage facilities described above, we request that the Commission ask Tennessee to confirm whether or to what extent an LNG storage facility is, in fact, a planned component of the NED project, and whether the above-referenced 3.3 Bcf LNG storage facility is the same project as the Northeast Energy LNG project outlined above. If any LNG storage project is part of NED, why did the Company leave it out of the Application?

The Company has, for many months, referenced an anticipated supplemental April 2016 filing with the Commission. Perhaps this LNG facility is to be announced as part of that filing. Perhaps the Commission is already aware of these liquefaction and storage plans. The public has a right to know about these plans – particularly the public within the undisclosed municipality that is proposed to host this facility,⁶ as well as ratepayers who may ultimately be asked to finance the facility.

If Tennessee has added LNG storage to its NED plans in response to criticism that calls LNG storage a preferred alternative to NED, the Company fundamentally misinterprets the proposed alternative. We and others have called the better utilization of existing LNG infrastructure a lower cost, lower impact alternative to the creation of new and excessive infrastructure. In fact, existing LNG infrastructure was better utilized last winter and has been available this winter, and we have concurrently seen lower wholesale energy prices in New England without additional natural gas infrastructure.

Respectfully submitted,

Kathryn R. Eiseman, President

Pipe Line Awareness Network for the Northeast, Inc.

(413) 320-0747

eiseman@plan-ne.org

Footnotes:

- 1 The Company's Application states: "Northeast Expansion LLC is a joint venture between Kinder Morgan OLPA, Liberty Utilities (Pipeline & Transmission) Corp., and UIL Holdings Corporation. ... Northeast Expansion, LLC will be a passive owner of the Market Path Component facilities, and those facilities will be exclusively controlled and operated by Tennessee pursuant to a long-term lease and operating agreement." Application, p. 20.
- 2 Petition of Boston Gas Company and Colonial Gas Company (each d/b/a National Grid) for Approval of Contracts with GDF Suez Gas NA LLC, Northeast Energy, LLC, Gaz Metro LNG, L.P., and National Grid LNG, MA DPU Docket No. 15-129, dated August 20, 2015, p. 2 (http://web1.env.state.ma.us/DPU/FileRoomAPI/api/Attachments/Get/?path=15-129%2fInitial_Filing.pdf).
- 3 National Grid's September 24, 2015 response to DPU Data Request 1-7 in DPU Docket No. 15-129, available at http://web1.env.state.ma.us/DPU/FileRoomAPI/api/Attachments/Get/?path=15-129%2fNG_resp_DPU1stSet_92415.pdf.
- 4 Petition of National Grid for Approval of Gas Infrastructure Contracts with Tennessee Gas Pipeline Company LLC for the Northeast Energy Direct Project, MA DPU Docket No. 16-07, January 15, 2016, p.3, fn. 1 (<http://web1.env.state.ma.us/DPU/FileRoomAPI/api/Attachments/Get/?path=16-07%2fInitialFiling.pdf>).
- 5 Liberty Utilities (EnergyNorth Natural Gas) Corp. ("EnergyNorth") January 30, 2015 Response to NHPUC Data Request No. Staff 1-19 in In re Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities, NH-PUC Docket No. DG 14-380, available at <https://www.puc.nh.gov/Regulatory/Docketbk/2014/14-380/TRANSCRIPTS-OFFICIAL%20EXHIBITS-CLERKS%20REPORT/14-380%202015-07-22%20EXH%2036.PDF>.
- 6 According to documents submitted as Exhibit #52 in the Liberty Utilities case cited above, an option to purchase a 220-acre parcel in "south, central Massachusetts" has been secured (attached hereto as Attachment B and available at <https://www.puc.nh.gov/Regulatory/Docketbk/2014/14-380/TRANSCRIPTS-OFFICIAL%20EXHIBITS-CLERKS%20REPORT/14-380%202015-07-22%20EXH%2052.PDF>). The MA DPU record indicates that the local fire chief, the property owner, and abutters are aware of the proposed location of the Northeast Energy LNG project. See National Grid's October 14, 2015 response to DPU Information Request 2-15, available at http://web1.env.state.ma.us/DPU/FileRoomAPI/api/Attachments/Get/?path=15-129%2fNGGrid_resp_DPU_Set2.pdf.

Source: N.H.P.U.C. Case No. DG14-380, Exhibit #36, Witness: Panel #1

Liberty Utilities (EnergyNorth Natural Gas) Corp d/b/a Liberty Utilities

DG 14-380

Petition for Approval of a Firm Transportation Agreement with the Tennessee Gas Pipeline Company, LLC

Staff Data Requests - Set 1

Date Request Received: 1/14/15

Date of Response: 1/30/15

Request No. Staff 1-19

Respondent: Richard Leehr

REQUEST:

Please describe in detail the Algonquin or Algonquin affiliate companies planned investment in Northeast Energy Direct (NED) Market Path project and the status of the investment. Provide a timeline showing expected corporate and regulatory approvals and financing. Provide a graphic representation showing the ownership structure of EnergyNorth, Liberty Utilities, Algonquin Power and Utilities Corp. and NED following the NED investment.

RESPONSE:

Liberty Utilities (Pipeline & Transmission) Corp. ("LUPT") is not a party to this proceeding but nonetheless is providing information responsive to this request to aid the Commission in its review of Liberty Utilities (EnergyNorth Natural Gas) Corp.'s request for approval of a firm transportation agreement with Tennessee Gas Pipeline Company, L.L.C. LUPT's investment in the Market Path Component of the NED Project is in the form of a membership interest in Northeast Expansion LLC. LUPT's initial membership interest is 2.5%, with the right to increase its membership interest up to 10% prior to project certification by the Federal Energy Regulatory Commission ("FERC"). In addition, LUPT has the right to terminate its membership interest in certain circumstances, and its membership interest can be bought-out by Kinder Morgan Operating Limited Partnership under certain circumstances.

As to the NED Project's timeline, the following illustration highlights some of the critical dates and milestones:

{remaining 5 pages of letter (charts) omitted; can be downloaded (6 pages, 289 KB) at:}

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14151186>

Source: N.H.P.U.C. Case No. DG14-380, Exhibit #52, Witness: Panel #1

Northeast LNG Project

Local Plant, Domestic Supply

NECA Fuel Conference

Sept 18, 2014

{submission (maps & charts) omitted; can be downloaded (12 pages, 1,045 KB) at: }

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14151187>

20160222-5097

Submission Description: (doc-less) Motion to Intervene of Carolyn Ness, Eric Ness, Meg Worcester, Holly Lovelace, Gordon Lovelace, Mike Paulsen, Kelly Paulsen, Woolman Hill Inc. under CP16-21-000.

Submission Date: 2/22/2016 1:20:41 PM

Filed Date: 2/22/2016 1:20:41 PM

Dockets

CP16-21-000 Application for a Certificate of Public Convenience and Necessity (NED Project)

Filing Party/Contacts:

Filing Party _____ Signer (Representative) _____ Other Contact (Principal) _____

Carolyn Ness, Eric Ness, Meg Worcester, Holly Lovelace, Gordon Lovelace, Mike Paulsen, Kelly Paulsen, Woolman Hill Inc. cbonifaz@comcast.net

Basis for Intervening:

Notice of Federal Court's Ruling Related to Previous Motion to Intervene and Notice of Mootness of prior Motion to Stay. Notification to FERC that Plaintiffs' Motion to Intervene is Ripe for Adjudication by FERC

20160222-5116

OEP/DG2E/Gas Branch 3
Tennessee Gas Pipeline Company, LLC
Northeast Energy Direct Project
Docket Nos. CP16-21-000, PF14-22-000

February 22, 2016

In re: Carolyn and Eric Ness, Mega Worcester, Michael and Kelly Paulsen, Holly and Gordon Lovelace, and Woolman Hill Inc., Intervenor's Motion Filed With the Commission on January 12, 2016.

Dear OEP/DG2E/Gas Branch 3 Tennessee Gas Pipeline Company, LLC Northeast Energy Direct Project
Docket Nos. CP16-21-000, PF14-22-000:

Mentioned individuals and corporations (hereinafter Plaintiffs) filed on January 12, 2016 a Motion to Intervene and to Stay Proceedings in the aforementioned matter on the grounds stated in the Motion. The Federal Court ruled from the bench on February 17, that it has no jurisdiction to hear the argument introduced in the motion of lack of constitutionality of the 2005 Amendment to the National Gas Act. The Motion to Stay the proceedings here is therefore moot.

Plaintiffs' Motion to Intervene remains in the docket of these proceedings ripe for adjudication.

Respectfully submitted,

By Attorney for Plaintiffs

Cristobal Bonifaz
LAW OFFICES OF CRISTOBAL BONIFAZ
180 Maple Street
P.O. Box 180
Conway, Massachusetts 01341
Tel: 413-369-4263
Electronic Mail: cbonifaz@comcast.net

20160223-0014

SIX NATIONS HISTORIC PRESERVATION CONSULTING FIRM, LLC

NEW FEE: Effective January 1, 2016

Project ID: OEP/DG2E/Gas Branch 3, Tennessee Gas Pipeline Company LLC, Docket1PF14-22-0

The Oneida Nations Historic Preservation Consulting Firm, LLC, (WIS) Office received your request for information related to properties of traditional religious and cultural significance within the vicinity of the proposed facility and any comments or concerns for affects to those properties as according to your obligations under Section 106 of the National Historic Preservation Act and the Native American Graves Protection Act.

The Oneida Historic Preservation Consulting Firm, LLC does not release information related to properties of traditional religious and cultural significance to anyone. However, through government-to-government consultation, we will review project documents to determine whether or not any of these sites exist within the Area of Potential Effects and if so what those effects may be. If we have identified any sites of concern in our research of the project area, we will notify you of the fact.

Tom Siggins

24 Carriage Dr

Dracut, MA 01826

20160223-0054

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Thomas Cox

25 Draycott Ave

Dracut, MA 01826

20160223-0055

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Evelyn Cox

25 Draycott Ave

Dracut, MA 01826

20160223-5145

February 24, 2016

Dear Secretary Bose,

In May 2015, the Medical Society of the State of New York(MSSNY) passed a resolution recognizing the potential health impacts of natural gas infrastructure and called for a governmental assessment of the health and environmental risks associated with natural gas pipelines. Further, in June 2015, the American Medical Association (AMA) adopted a similar resolution that supports legislation requiring all levels of government to seek a comprehensive Health Impact Assessment regarding the health and environmental risks associated with natural gas pipelines.

The MSSNY Resolution states(1):

the chemical and radioactive emissions associated with high volume hydro-fracking are not limited to the drilling and extraction technologies at well pads, but are also detected all along the extensive, intersecting network of natural gas pipelines, Compressor Stations, Metering Stations and other facilities associated with the entire natural gas infrastructure

Based on the resolutions adopted by the AMA and The MSSNY, the Town of Oneonta, NY unanimously passed a similar resolution on February 10th, 2016. (attached) The town of Oneonta is in close proximity to the proposed 50,000 horse power compressor station in Franklin NY.

Further, in its application for the Northeast Energy Direct(NED), Kinder Morgan has proposed a natural gas fired power and states that it has a signed contract to deliver 235 Million cubic feet of fracked gas per day to this plant, along the New York portion of the route. The location of this power plant remains undisclosed, however no matter where it is built, communities all along the proposed right of away should be deeply concerned about their health and welfare. This would be the largest gas-fired power plant in New York and it is estimated that the facility would spew 4.5 Million tons of additional greenhouse gas emissions into the atmosphere annually, undermining New York state's renewable energy and climate goals and exposing New Yorkers to toxic chemicals and carcinogens like carbon monoxide, sulfur dioxide, and formaldehyde. The following are estimates of what communities would be exposed to if Kinder Morgan is permitted to build this power plant:

720 tons/year of Carbon Monoxide

400 tons/year of Nitrogen Oxide

200 tons/year of Particulate Matter

140 tons/year of Volatile Organic Compounds (VOCs)

90 tons/year of Sulfur Dioxide

30 tons/year of Sulfuric Acid

Section 102(2)C of the National Environmental Policy Act(NEPA) mandates the U.S. Department of Health and Human Services (DHHS) to review and comment on the potential public health impacts of all proposed projects that pertain to the NEPA review. According to the Center for Disease Control's website, the health

review required by NEPA should examine(2):

A range of issues that can affect human health, including exposures to hazardous substances, emergency contingency plans, groundwater contamination, air pollution, noise, radiation, contamination of food sources, waste disposal, occupational health and safety, multimodal transportation accommodation such as bicycle and pedestrian infrastructure, and vehicular and pedestrian injury prevention measures.

To the detriment of communities living near gas infrastructure, FERC relies on EPA's outdated national air standards which are based on yearly average emissions and fail to account for exposure to significant spikes in concentration of air pollutants during accidental or planned blowdown events and other routine pipeline operations. Indeed, evidence of adverse health impacts for residents living near compressor stations have been documented(3), including a recent health study conducted near the Minisink Compressor station on the millennium Pipeline in NY. While FERC approved this project and assured the public that adverse impacts would be reduced to "less than significant levels", this in fact is not the outcome of that project. (4)

The EPA only provides a minimum standard in the Clean Air Act which does not restrict state's authority to develop stronger air quality regulations and affected states should immediately undertake this effort, considering the current massive expansion of natural gas infrastructure. Until this happens, FERC should conduct what is required by NEPA in its environmental review: a full objective examination of potential health impacts by independent health experts on the impacts of gas infrastructure, regarding every natural gas project being vetted by the agency. In this case, a health review should be implemented immediately for the proposed NED project.

Thank you for your consideration,

Rachel Soper
Oneonta, NY
rrsoper@stny.rr.com

- 1) <http://concernedhealthny.org/wp-content/uploads/2015/05/MSSNY-Resolution-2015-2.pdf>
- 2) <http://www.cdc.gov/nceh/publications/factsheets/PublicHealthImpactAssessmentinNEPA.pdf>
- 3) <http://www.environmentalhealthproject.org/wp-content/uploads/2012/03/Compressor-station-emissions-and-health-impacts-02.24.2015.pdf>
- 4) <http://www.environmentalhealthproject.org/wp-content/uploads/2015/06/Summary-of-Minisink-Results.Public.pdf>

At a Regular Meeting of the
Town Board of the Town of Oneonta
held on
February 10, 2016 at 7:00 pm

RESOLUTION OF THE TOWN BOARD FOR THE TOWN OF ONEONTA

In the Matter of Protecting Public Health from the Impacts in the Town Of Oneonta of Large-Scale New Pipeline Projects and Compressor Stations

WHEREAS, in April, 2015, the Medical Society of the State of New York passed Resolution 2015-159 (with citations below), calling for "governmental assessment of the health and environmental risks that are associated with natural gas pipelines"; and

WHEREAS, in the second week of June, 2015 at their Annual Meeting in Chicago, the American Medical Association passed Resolution No. 519 that reads in full "that our American Medical Association recognize the potential impact on human health associated with natural gas infrastructure"; and

WHEREAS, the American Medical Association supports legislation that would require a Comprehensive Health Impact Assessment regarding the health risks that may be associated with natural gas pipelines; and

WHEREAS, all of the information below “is as cited by the Resolution” passed by the Medical Society of the State of New York; and

WHEREAS, Governor Andrew Cuomo determined that High Volume, Horizontal Hydraulic fracturing (HVHF) energy technology posed too great a threat to the long-term health and quality of life for New Yorkers, and ultimately banned the process within the State of New York on December 17, 2014, and

WHEREAS, the chemical and radioactive emissions associated with HVHF are not limited to the drilling and extraction technologies at wellpads, but are also detected all along the extensive, intersecting network of natural gas pipelines, Compressor Stations, Metering Stations and other facilities associated with the entire natural gas infrastructure, and

WHEREAS, this extensive infrastructure extends into regions of New York State and other Northeastern states that are located far away from the Marcellus Shale region and from the actual drilling sites or wellpads, and

WHEREAS, the pipeline infrastructure exposes humans and animals to the same chemical and radioactive emissions as those released at drilling sites, which include dangerous mixtures of contaminants such as carcinogens, mutagens, endocrine disruptors,

WHEREAS, transmission and distribution of natural gas through the extensive, far-reaching infrastructure can cause adverse health effects similar to those seen near drilling sites for HVHF, and neurotoxins, respiratory irritants, mucocutaneous irritants and toxins, and hematological, and cardiovascular toxins, and which are especially damaging to the development of embryos, fetuses, and children, as well as reproduction and survival of livestock, poultry and wild animals, and

WHEREAS, there is documented evidence of frequent ‘accidents’ involving infrastructure components, due to faulty construction, and general breakdown including, but not limited to internal and external corrosion, stress corrosion, welding failure at pipeline seams, damage to existing pipelines during construction of nearby new pipelines, damage to existing pipelines during agricultural activities, leading to chemical leaks, explosions, and fires, and

WHEREAS, these ‘accidents’ can result in injury and death to humans, as well as damage to the homes, farms, and businesses of local residents, and

WHEREAS, Pipelines and Compressor Stations have been documented to sustain damage during natural extreme weather events such as floods, tornados, hurricanes, landslides, and lightning storms, and result in explosions, fires, and other life-threatening events, and

WHEREAS, the pipeline infrastructure in New York State involves between 53,542 - 89,705 miles of natural gas pipeline, with Compressor Stations located every 50-100 miles along these pipelines, and

WHEREAS, the Compressor Stations are powered by exceedingly strong engines varying from 12,000 Hp up to more than 70,000 Hp, which operate continuously, 24 hours a day, 7 days a week, 365 days per year, and routinely ‘vent’ methane gas into the environment, and

WHEREAS, the permitting process to proceed with proposed expansions of various infrastructure segments depends upon the environmental risk assessment conducted by the Federal Energy Regulatory Commission (FERC), and

WHEREAS, FERC is considering proposals by multiple natural gas pipeline companies to expand the system of pipelines and compressor stations throughout New York State, including Rockland, Westchester, and Putnam Counties (Spectra Algonquin), Orange County (MilleniumlMinisink), Delaware County (Constitution/Hancock), Schoharie County (Constitution/Wright Interconnect Project), and Chemung, Madison, Montgomery, and Tompkins Counties (DominionlNew Market Project), and other counties affected by the Dominion New Market pipeline, and

WHEREAS, the American Medical Association (AMA) passed Resolution No. 519 (A-15) recognizing the potential impact on human health and the environment associated with natural gas infrastructure (New HOD Policy) and requested government assessment at all levels and a directive to take action regarding the health

and environmental risks that are associated with natural gas pipeline, and

WHEREAS, Town Board members of the Town of Oneonta are diverse in their views of the value of natural gas infrastructure expansions, but are unanimous in their commitment to promote and protect public health and safety by all reasonable means,

WHEREAS, in addition to the information cited by the Resolution passed by the American Medical Association, other proposed gas infrastructure projects are planned for Broome County (Northeast Energy Direct Pipeline), Schoharie County «Northeast Energy Direct Pipeline), and Delaware County (Northeast Energy Direct Pipeline) with a proposed large scale gas fired electric power plant, as well as a 50,000 horsepower compressor station, which due to its proximity could pose additional significant health threats to the residents of the Town of Oneonta, and

WHEREAS, the EPA's measurements of emissions from compressor stations are based on yearly averages and fail to account for exposure to significant spikes in concentration of air pollutants during accidental or planned blowdown events and other routine pipeline operations, and

WHEREAS, the EPA only provides a minimum standard in the Clean Air Act which does not restrict the State's authority to develop stronger air quality regulations,

NOW THEREFORE BE IT RESOLVED, that the Town of Oneonta joins the AMA and The Medical Society of the State of New York in recognizing the potential impact on human health and the environment associated with natural gas infrastructure and requests New York State to perform a full and comprehensive assessment regarding the health and environmental risks that are associated with natural gas pipelines prior to permitting of construction of any new gas infrastructure.

NOW THEREFORE BE IT RESOLVED further, that the Clerk of the Town of Oneonta send copies to Governor Andrew Cuomo, New York State Department of Environmental Conservation Acting Commissioner, New York State Department of Health Commissioner, Senator James Seward, Assemblyman William Magee, and Commissioners Tony Clark and Cheryl Lafleur of the Federal Energy Regulatory Commission.

References

1. McKain M, Down A, Raciti SM, et al; Methane emissions from natural gas infrastructure and use in the urban region of Boston, Massachusetts, Proc Nat Acad Sci U.S.A.; 2015, 112(7):1941-6 (ISSN:1091-6490) <http://www.pnas.org/content/112/7/1941.abstract>
2. Jackson, RB, Down A, Phillips NG, et al, Natural Gas Pipeline Leaks across Washington, DC; Env Sci Tech, 2014, 48:2051-8 3 <http://sites.biology.duke.edu/jacksonlest2014.pdf>
3. Pipeline Safety Trust: State by State Pipeline Information <http://pstrust.org/about/pipelines>
4. Bamberger, M, Oswald R, Impacts of Gas Drilling on Human and Animal Health, New Solutions; 2012; 22(1):51-77. doi: 10.2190/NS.22.1.e. http://cumulativeimpacts.org/documents/Bamberger_Oswald_NS22_in_press.pdf
5. Colborn T, Kwiatkowski C, Schultz K, Bachran K, Natural Gas Operation from a Public Health Perspective, Hum Ecol Risk Assess: An International Journal, 2011, 17(5):1039-56 <http://www.tandfonline.com/doi/abs/10.1080/10807039.2011.605662#.VQMISvldWPN>
6. Webb E, Bushkin-Bedient S, Kassotis C et al, Developmental and Reproductive Effects of Exposure to Chemicals Associated with Unconventional Oil and Natural Gas Operations; Rev Env Health; 2014, 29(4):307-318 <http://catskillcitizens.org/learnmore/reveh-2014-0057.pdf>
7. Peter Kinsey Health, Safety, Security, & Environmental (HSSE) Management Consulting Services for the Pipeline Construction Industry (See Tab: 'Accidents and lessons learned') <http://pipe-line-safety.com/Accident.php>
8. List of Pipeline Accidents in the United States in the 21st Century; Wikipedia http://en.wikipedia.org/wiki/List_of_pipeline_accidents_in_the_United_States_in_the_21st_century
9. Pipeline Safety Trust; Pipeline mileage by state, as of 2013: <http://pstrust.org/wp-content/uploads/2013/03/IPST-Pipe-Mileage-States.pdf>
10. Pipeline Miles and Facilities in New York State as 3/12/2015: https://hip.phmsa.dot.gov/analytics/SOAP/saw.dll?Portalpages&NQUser=PDM_WEB_USER&NQPassword=Public_Web_User_I&PortalPath=%2Fshared%2FPDM%20Public%20Website%2F_portal%2FPublic%20Reports&Page=Infrastructure
11. Spectra Energy, New Projects, Algonquin Incremental Market (AIM) Project <http://www.spectraenergy.com/Operations/New-Projects-and-Our-Process/New-Projects-in-US/Algonquin-Incremental-Market-AIM-Project>
12. Christopher E. Smith, "Millennium expands capacity with Minisink compressor station" Oil & Gas Journal, June 5, 2013

13. Millennium Pipeline Company, Recent Projects, Hancock Compressor, <http://www.millenniumpipeline.com/hancock.html>
14. Federal Energy Regulatory Commission, Draft Environmental Impact Statement Constitution Pipeline and Wright Interconnect Projects, 2014 <http://www.ferc.gov/industries/gas/enviro/eis/2014/02-12-14-eis.asp>
15. Dominion Transmission, Inc. New Market Project. <https://www.dom.com/business/gas-transmission/new-market/index.jsp>
16. Southwest Pennsylvania Environmental Health Project, Summary on Compressor Stations and Health Impacts <http://www.environmentalhealthproject.org/wp-content/uploads/2012/03/Compressor-station-emissions-and-health-impacts-02.24.2015.pdf>
17. Physicians for Social Responsibility Compendium Of Scientific, Medical, And Media Findings Demonstrating Risks And Harms Of Fracking (unconventional gas and oil extraction) Third Edition October 14, 2015 <http://www.psr.org/assets/pdfs/fracking-compendium.pdf>

WHEREUPON, this Resolution was declared adopted by the Town Board Of the TOWN Of Oneonta:

Town Board Member Patricia JaCOB so moved; TOWN Board Member Patricia Riddell Kent seconded, and the Town Board VOTed as fOLLOWS:

- Town Board Member JaCcob - Aye
- Town Board Member Holleran - Aye
- Town Board Member Riddell Kent - Aye
- Town Board Member Stolzer - Aye
- Supervisor Wood - Aye

STATE OF NEW YORK }
 COUNTY OF OTSEGO }
 TOWN OF ONEONTA }

I have compared the preceding copy With the original Resolution on file in this Office adopted bY the Town Board Oof Oneonta at a regular meeting held February 10, 2016, and I DO HEREBY CERTIFY the same to be a correct transcript therefrom and of the whole of the Original. I further certify the vote thereon was as follows:

<u>MEMBERS PRESENT</u>	<u>VOTE</u>
Patricia Jacob	Aye
Brett Holleran	Aye
Patricia Riddell Kent	Aye
Michael Stolzer	Aye
Robert Wood	Aye

Witness my hand and the seal of the Town of Oneonta, this 18th day Of February, 2016.

Cheryl L. Shackelton Town Clerk
 Town of Oneonta

Congress of the United States
House of Representatives
 Washington, DC 20515

Chris Gibson
 19th District, New York
 February 19, 2016
 Narman Bay, Chak5nan
 Federal Energy Regulatory Commission
 888 First Street, NE
 Washington, O.C. 20426

RE: FERC Docket No. PF 16-3

Dear Chairman Bay,

This is a follow-up to my March, 2015 letter to Chairman Laster regarding the compressor station issues that many of my constituents have contacted me about. Because of the rapid development of natural gas extraction in Pennsylvania and other nearby states there are several new natural gas pipelines proposed to cross New York State, as well as expansion of several existing pipelines. I have questions about the proposed compressor station in the Town of Highland in my district in Sullivan County, and the issues that need to be addressed should be of interest to FERC.

There is evidence that leaks and releases from compressor stations in other areas are associated with elevated concentrations of organic compounds that are components of natural gas. This includes methane, hexane, benzene and a variety of other compounds. Some of these compounds are known to be carcinogenic, and any cancer caused by them may appear only after a number of years to those persons exposed. In addition, there could be additional negative effects on the respiratory and nervous systems for residents living near these compressor stations.

FERC has traditionally relied on review of compliance with federal exposure standards for air toxins. However there are several reasons why these standards may be inadequate to protect public health. Many of these standards were set many years ago, and may be obsolete on the basis of current information concerning risks to humans from inhalation of these chemicals. Most standards and indeed most monitoring around compressor stations are based on average concentrations measured over relatively long periods of time, and may not address higher exposure rates at peak release times.

FERC should routinely include public health experts in its review process, a practice that is not done routinely at present. This is a concern because the protection of the health of the people living near to these sites should be a top priority. Workers and nearby residents must be protected against negative health impacts that may result from exposure both in the short and long term.

I request the FERC immediately take the following actions before issuing any approval for the Highland, NY compressor station

1. Include public health expertise on an Environmental Assessment and Environmental Impact Statement teams assigned to this project. Such individuals must be independent, credible and free from conflicts of interest
2. Convene an independent expert panel to review the current federal exposure standards around compressor stations to assure that they are adequately protective of human health.
3. Insure that all approvals with respect to compressor stations comply with whatever health standards are developed through this process.
4. Work closely with local and county officials to take into account and mitigate as much as possible our constituent's concerns regarding the siting and impacts a compressor station may have.

It is only through a transparent and effective review process that our citizens can be assured that there are no negative health impacts with any projects that FERC and other governmental agencies are charged to regulate. And it is therefore only through satisfactory mitigation and prevention actions that citizens can be assured that all reasonable steps have been taken to address these issues before any approvals are issued.

Thank you very much for reviewing this information. Please direct any response to my District Director Steve Buiger at steve.buiger@house.gov.

Sincerely,

Chris Gibson
Member of Congress

{poor quality scan resulted in many OCR errors}

DEPARTMENT OF THE ARMY

US Army corps of Engineers, ATTN: CENAN-OP-RU
Upstate Regulatory Field Office
1 Buffington St., Building 10, 3rd Fl. North
Watervliet, New York 12189-4000

Regulatory Branch

Upstate New York Section

SUBJECT: Permit Application Number NAN-2014-007S1-USH
by Tennessee Gas Pipeline Company, LLC
Northeast Energy Direct Pipeline

Gina Dorsey
Director EHS - Project Permitting
Tennessee Gas Pipeline Company, LLC
1001 Louisiana Street, Suite 1000
Houston, Texas 70022

Dear Ms. Dorsey:

This letter is in reference to your request for Department of Army (DA) authorization for the discharge of fill material into waters of the United States (WOUS), including wetlands, to facilitate the construction of approximately 420 miles of pipeline (new pipeline, looping pipeline segments, and laterals) in Pennsylvania, New York, Massachusetts, New Hampshire, and Connecticut (hereafter referred to as the Project). Additionally, as part of the Project, you propose to construct new compressor and meter stations and modify existing compressor and meter stations along the proposed and existing pipeline- system. There will also be construction of appurtenant facilities, including mainline valves (“MLVs”), cathodic protection, and pig facilities through the Project area. This request was submitted to the U.S. Corps of Engineers (Corps) New York and Buffalo Districts, the Baltimore District, and the New England District.

All four Districts are currently reviewing the application materials as an Individual Permit application, with New York serving as the Lead District. This letter presents the interim comments that have led to the determination that the application is incomplete. The following information must be provided in order for the Corps to deem the application complete and conduct a thorough evaluation/assessment of the proposed project:

1. Only a portion of the Project review area has been field delineated, with a large portion being reviewed utilizing aerial photography and digital mapping. Although permanent and temporary impacts to WOUS have been quantified and provided, these totals fail to provide an accurate representation of what will actually be impacted as a result of the proposed project. We understand that at this time, that access to all of the project area has not been granted. However, until we receive a field delineation of the entire project area, with a listing of impacts to waterways and wetlands we will be unable to make a permit decision on this Project. Therefore, please provide revised drawings and tables that clearly and accurately represent the actual permanent and temporary impacts to WOUS, once field delineations are complete, utilizing the federal wetland technical guidance outlined in the following documents (or current versions): U.S. Army Corps of Engineers. 2011. Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region (Version 2.0), ed. J.S. Wakeley, R.W. Lichvar, C.v. Noble, and J.F. Berkowitz. ERDC/EL TR-12-1. Vicksburg, MS: U.S. Army Engineer Research and Development Center; and Environmental Laboratory. 1987. Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, US Army Engineer Waterways Experiment Station, Vicksburg, MS;
2. Please note that after a cursory review of the soils data presented in the data' sheets currently provided, incorrect hydric soils indicators were selected that did not match the soils profile presented. Please review the submitted data forms, revise those that need correcting, and ensure future forms correctly

represent the appropriate field conditions;

3. The application notes that plans have not yet been finalized, including access roads, contractor yards, horizontal directional drills, bank stabilization, etc. The Corps cannot complete its review until these plans have been finalized, the impact areas have been delineated, and the impacts quantified;
4. The submitted compensatory mitigation plan is conceptual in nature and does not provide sufficient details to evaluate whether, in consideration of the potential direct and indirect adverse environmental effects associated with the Project, the activity would result in more than minimal individual or cumulative adverse environmental effects or be contrary to the public interest. Upon the completion of field delineations, and the completion of revised drawings and tables that clearly and accurately represent the actual permanent and temporary impacts to WOUS, please provide an updated mitigation plan that will allow the Corps to determine if the activities associated with the proposed project would result in more than minimal individual or cumulative adverse environmental effects, or be contrary to the public interest;
5. Plan-view and cross-section drawings for each proposed permanent stream crossing structure depicting that they would comply with the Corps Best Management Practices for the construction of road crossings. The attached document provides requirements specifically for the portion of the project within Massachusetts, but can be utilized as a resource tool for the entire project;
6. Please provide a hard copy of the Environmental Construction Plan;
7. The application notes that the 404(b)(1) analysis will be forthcoming. This information will be necessary for the USACE to determine if the Project represents the least environmentally damaging practicable alternative. At a minimum, the analysis must evaluate the practicability of the following avoidance and minimization methods:
 - a. Horizontal directional drilling or other trench less construction methods for pipeline installation.
 - b. Use of timber mats in wetland areas for pipeline construction/equipment access.
 - c. Use of temporary bridges to span streams and wetlands for pipeline construction access.
 - d. Construction material/equipment staging locations outside of wetland boundaries.
 - e. Alternative pipeline alignments, and alignment shifts to avoid impacts to waters of the United States, including jurisdictional wetlands.
 - f. Minimal widths of construction and permanent right-of-ways, and pipeline easements through waters of the United States, including jurisdictional wetlands.
 - g. For permanent roads, use of bridges to span streams and wetlands.
 - h. For lot fill/mass grading activities, alternative site plan(s) and building locations/configurations and/or use of retaining walls:
8. A determination from the Federal Energy Regulatory Commission (FERC) whether the activity may affect properties listed, or eligible for listing in the National Register of Historic Places; and
9. A determination from FERC whether the activity may affect a species listed as federally threatened or endangered or critical habitat of such species.

Please send the requested information in writing within thirty (30) days of the date of this letter to the respective District Project Managers (PMs) for the portion of work within that Districts regulatory boundaries, with copies to Brad Sherwood of this office as well. If this information cannot be provided within 30 days, provide in writing the date when the information will be provided. This office may provide you with additional comments once a more thorough review of the application has been completed by the four Districts.

Sincerely,

The point of contacts for each Corps District are:

New York District - Brad Sherwood

New England District - Kevin Kotelly

Buffalo District - Margaret Crawford
Baltimore District - Michael Dombroskie

As soon as you provide the above requested information, we will continue the processing of your application. If questions arise concerning this matter, please contact Brad Sherwood at (518) 266-6355.

Sincerely,
Amy L. Gitchell, Chief
Upstate New York Section

cc: S. Ryba, CENAN-OP-R
D. Kozlowski, CELRB- TD-R
M. Crawford, CELRB-Auburn (LRB-2014-00528) W. Chandler, CENAB-OP-RPA
M. Dombroskie, CENAB-OP-RPA (NAB-2015-00252-P12)
J. McCarthy, CENAE-R
K. Kotelly, CENAE-R (NAE-2014-00644)
J. Haggerty, CENAD, Regulatory FERC Coordinator E. Tomasi, FERC
J. Mansky, AECOM
S. Tomasik - NYSDEC, Albany PADEP (via email)
MADEP (via email)
NHDES (via email)
CTDEEP (via email)

**US Army Corps of Engineers
New England District**

January 2015

Stream Crossing

Best Management Practices (BMPs)

Design and construction guidance may be found in the U.S. Forest Service stream simulation manual, "Stream Simulation: An Ecological Approach to Providing Passage for Aquatic Organisms at Road-Stream Crossings," at www.nae.usace.army.mil/missions/regulatory.aspx >> "Stream and River Continuity." Section 5.3.3 Headcutting Potential and 6.2 Design of the Stream-Simulation Channel Bed are particularly relevant. Sections 7.5.2.3 Construction Methods and 8.2.11 Stream-Simulation Bed Material Placement both show important steps in the project construction. Chapter 6.1 is relevant for proper alignment and construction to prevent bank erosion or streambed scour.

Permanent Crossings in Tidal Streams

These are relevant for new and replacement crossings and culvert extensions.

1. Match the velocity, depth, cross-sectional area, and substrate of the existing stream outside the crossing, if it exists, and size crossings such that they do not restrict tidal flow over the full natural tide range seaward of the crossing. The Corps will typically require a low lying property analysis to ensure flooding is not a concern.
2. Construct crossings in dry conditions (GC 17(f) is particularly relevant).

Permanent Crossings in Non-Tidal Streams

These are relevant for new and replacement crossings and culvert extensions.

1. Span streams or size culverts or pipe arches such that they are wider than bankfull width (BFW). Spans are strongly preferred as they avoid or minimize disruption to the streambed, and avoid entire streambed reconstruction and maintenance inside the culvert or pipe arch (see 4, 5 & 7 below), which may be difficult in smaller structures. Footings and abutments for spans and scour protection should be landward of 1.2 times

BFW. The width of culverts and arches at bankfull elevation should be ≥ 1.2 times BFW.

2. Embed culverts or pipe arches below the grade of the streambed. This is not required when ledge/bedrock prevents embedment, in which case spans are required. The following depths are recommended to prevent streambed washout, and ensure compliance and long-term success:

- a. ≥ 2 feet for box culverts and pipe arches[2], or
- b. ≥ 2 feet and at least 25% for round pipe culverts[2].

3. Match the culvert gradient (slope) with the stream channel profile.

4. Construct crossings with a natural bottom substrate within the structure matching the characteristics of the substrate in the natural stream channel and the banks (mobility, slope, stability, confinement, grain and rock size) at the time of construction and over time as the structure has had the opportunity to pass substantial high flow events.

5. Construct crossings with appropriate bed forms and streambed characteristics so that water depths and velocities are comparable to those found in the natural channel at a variety of flows at the time of construction and over time. In order to provide appropriate water depths and velocities at a variety of flows and especially low flows, it is usually necessary to reconstruct the streambed (sometimes including a low flow channel), or replicate or preserve the natural channel within the structure. Otherwise, the width of the structure needed to accommodate higher flows will create conditions that are too shallow at low flows. The grain and rock size, and arrangement of streambed materials within the structure should be in accordance with (4) above. Flows could go subsurface within the structure if only large material is used without smaller material filling the voids.

6. Openness > 0.82 feet (0.25 meters) Openness is the cross-sectional area of a structure opening divided by its crossing length when measured in consistent units (e.g. feet). For a box culvert, openness = (height x width)/ length.

{figure omitted}

For crossing structures with multiple cells or barrels, openness is calculated separately for each cell or barrel. At least one cell or barrel must meet the appropriate openness standard. The embedded portion of a culvert is not included in the calculation of cross-sectional area for determining openness.³

Openness > 0.82 feet is recommended to make the structure more likely to pass small, riverine wildlife such as turtles, mink, muskrat and otter that may tend to avoid structures that appear too constricted (see note at the end of this document). This openness standard is too small to accommodate large wildlife such as deer, bear, and moose. Structures that meet this openness standard are much more likely than traditional culverts to pass flood flows and woody debris that would otherwise obstruct water passage. It is likely that most structures that meet all the other general standards will also meet this openness standard. However, for some very long structures it may be impractical or impossible to meet this standard.

7. Banks on each side of the stream inside the crossing matching the horizontal profile of the existing stream and banks outside the crossing are recommended. This will allow terrestrial passage for wildlife and prevent flow from being focused to one side and scouring the bed, especially against the structure's sidewall which may undermine the footings in the case of spans. To prevent failure, all constructed banks should have a height to width ratio of no greater than 1:1.5 (vertical:horizontal) unless the stream is naturally incised. Tie these banks into the up and downstream banks and configure them to be stable during expected high flows.

Temporary Crossings in Non-Tidal Streams

Temporary crossings shall consist of spans, culverts, construction mats or fords designed and constructed as follows:

1. All temporary crossings:

- a. Impacts to the streambed or banks require restoration to their original condition (see manual referenced on page 1 of this document for stream simulation restoration methods). Use geotextile fabric

or other appropriate bedding for stream beds and approaches where practicable to ensure restoration to the original grade. The requirements in GCs 17, 18 and 19 are particularly relevant.

b. Avoid excavating the stream or embedding crossings.

2. Culverts:

a. The water height should be no higher than the top of the culvert's inlet and the culvert is large enough to pass debris.

b. Install energy dissipating devices downstream if necessary to prevent scour.

c. The TOY restrictions in GC 18 and the restrictions in GC 17(f) are particularly relevant.

3. Stream fords:

a. Equipment may ford streams when it is not feasible to construct a span or culvert (e.g., streams having no or low banks, emergency situations); the natural stream bed and banks consist of ledge, rock or sand that prevents disturbance and turbidity; and there is a stable, gradual approach.

b. The TOY restrictions in GC 18 do not apply to stream fords unless the work causes turbidity or sediment resuspension in streams.

4. Spans:

a. Anchor spans where practicable so they do not wash out during high water.

b. A typical span method is provided at www.nae.usace.army.mil/missions/regulatory.aspx >> Stream and River Continuity >> Skidder Bridge Fact Sheet.

c. The TOY restrictions in GC 18 do not apply to spans unless the work involves discharges of dredged or fill material and causes turbidity or sediment resuspension in streams.

5. Construction mats:

a. Build construction mat stream crossings in accordance with the Construction Mat BMPs, specifically the Wetland/Stream Channel Crossing section. See www.nae.usace.army.mil/missions/regulatory.aspx >> New England General Permits >> Permit Resources.

b. The TOY restrictions in GC 18 do not apply to construction mat stream crossings built in accordance with the Construction Mat BMPs.

Footnotes:

1 For the purposes of this GP, spans are bridges, three-sided box culverts, open-bottom culverts or arches that span the stream with footings landward of BFW. The use of bridge piers or similar supports does not prevent a structure from being considered as a span.

2 For 2(a) and 2(b), deeper embedment depths may be needed if there are elements of the constructed stream bed that are greater than 15 inches in diameter.

3 An Openness Ratio Spreadsheet shows how to calculate the open area for embedded pipe culverts to meet the 0.82 standard for openness. See www.nae.usace.army.mil/missions/regulatory.aspx >> Stream and River Continuity.

Stream Crossing BMPs

January 2015

{full Stream Crossing BMPs with figure can be downloaded at: }

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14187737>

20160224-5019

Submission Description: (doc-less) Out-of-Time Motion to Intervene of Deborah A. Sweeney under CP16-21-000.

Submission Date: 2/23/2016 8:46:54 PM

Filed Date: 2/24/2016 8:30:00 AM

Dockets

CP16-21-000 Application for a Certificate of Public Convenience and Necessity (NED Project)

Filing Party/Contacts:

Filing Party _____ Signer (Representative) _____ Other Contact (Principal) _____
Individual deborahsweeney@comcast.net

Basis for Intervening:

My name is Deborah Sweeney. I live at 22 Elizabeth Drive, Dracut, Massachusetts. I am filing this motion to intervene because I am an abutter within 150 feet of the proposed NED pipeline project and I am greatly concerned about so many issues.

Kinder Morgan has a history of accidents with its pipelines. If there were an explosion, my family and neighbors are within the incineration zone. All the information that I can find indicates there is no monitoring and very little maintenance done on these pipes. According to the DOT Pipeline and Hazardous Materials Commission, there were well over 10,000 pipeline incidents in the last 20 years. This is outrageous! I've lost my peace of mind. How can my son and I sleep at night or even be comfortable in our home knowing that this hazard is so close?

I am also extremely concerned about leaks and toxic emissions and contamination from the pipes, compressor station and other buildings at the site. There are known health affects from these toxins and carcinogens. Why do we allow these companies to ruin our lives and compromise our health?

As a single parent, my home is my only source for a secure future retirement. This project will greatly reduce the value of my property. I cannot afford to take this kind of loss. Why are companies allowed to do this to the average American citizen?

For these reasons, and many more, I respectfully request that my motion to intervene be accepted.

Thank you very much,

Deborah Sweeney

20160224-5046

Submission Description: (doc-less) Out-of-Time Motion to Intervene of Mark E. Wolterbeek under CP16-21-000.

Submission Date: 2/24/2016 11:27:33 AM Filed Date: 2/24/2016 11:27:33 AM

Dockets

CP16-21-000 Application for a Certificate of Public Convenience and Necessity (NED Project)

Filing Party/Contacts:

Filing Party _____ Signer (Representative) _____ Other Contact (Principal) _____
Individual amitylex@gmail.com

Basis for Intervening:

I am an affected landowner in Docket No. CP16-21. I opposed this project as it will cause irreversible damage to my property, which is a rural farm with haying fields and agricultural produce. I am filing an "Out of Time Motion To Intervene" due to misunderstanding the distinction between an "affected landowner" and other interested parties. It had been my understanding at all Affected Landowners were AUTOMATICALLY GRANTED INTERVENOR STATUS and that I did not need to file a Motion. I have since found out that I must file the within Motion to Intervene. Acceptance by F.E.R.C of this Motion not prejudice any party since it is early in the proceedings and will not be disruptive or pose hardship to the Applicant.

Therefore, please accept, docket and file the within "Doc-Less Motion to Intervene" as it is filed in good faith and is only a de minimis duration late in filing and said delay was due to accident, mistake or misfortune.

**Tennessee Gas Pipeline
Company, L.L.C.**
a Kinder Morgan company

**CRITICAL ENERGY INFRASTRUCTURE
INFORMATION (CEII) HAS BEEN REMOVED
FROM THIS DOCUMENT (18 C.F.R. § 388.113(c))**

February 24, 2016

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Room 1A
Washington, DC 20426

Re: Tennessee Gas Pipeline Company, L.L.C.
Northeast Energy Direct Project; Docket No. CP16-21-000
Response to February 4, 2016 Data Request

Dear Ms. Bose:

On November 20, 2015, Tennessee Gas Pipeline Company, L.L.C. (“Tennessee”) filed with the Federal Energy Regulatory Commission an application for a certificate of public convenience and necessity (“Application”) for the proposed Northeast Energy Direct Project (“Project”) in the above-referenced docket.

On February 4, 2016, the Commission issued a Data Request to Tennessee in the above-referenced docket. Enclosed with this filing is Tennessee’s response to the Data Request. Tennessee requests that the attachments to Request Number 3, hydraulic flow models, be accorded a designation of Critical Energy Infrastructure Information pursuant to Section 388.113(c) of the Commission’s regulations, 18 C.F.R. § 388.113(c) (2015), and has marked these files with the legend “**Contains Critical Energy Infrastructure Information - Do Not Release**”.

In accordance with the Commission’s filing requirements, Tennessee is submitting this filing with the Commission’s Secretary through the eFiling system. Copies of this filing are being served on all parties on the official service list for the above-referenced docket. Any questions concerning this filing should be addressed to Ms. Jacquelyne Rocan at (713) 420-4544 or to Ms. Shannon Miller at (713) 420-4038.

Respectfully submitted,

TENNESSEE GAS PIPELINE COMPANY, L.L.C.

J. Curtis Moffatt

Deputy General Counsel and Vice President Gas Group Legal

Enclosures

cc: Terry Turpin (Commission Staff); Rich McGuire (Commission Staff); Eric Tomasi (Commission Staff);
Olubukola Pope (Commission Staff)
Mr. Wayne Kicklighter (Cardno)
Official Service List

Tennessee Gas Pipeline Company, L.L.C.
Northeast Energy Direct Project (“Project”), Docket No. CP16-21-000
February 4, 2016 Data Request

Engineering

The Commission is interested in examining the potential for energy efficiency in connection with its consideration of major pipeline infrastructure projects. In February 2008, the Interstate Natural Gas Association of

America (INGAA) issued a white paper titled Waste Energy Recovery Opportunities for Interstate Natural Gas Pipelines, February 2008 (INGAA white paper). The INGAA white paper identifies initial threshold criteria for determining whether waste heat generation is feasible. Specifically, compressor stations must have a total of 15,000 horsepower provided by gas turbine compressor units and these units must operate for a total of 5,250 hours per year (60% load factor). Further, the INGAA white paper recommends that interstate gas pipeline companies post information regarding potential waste-heat recovery on their websites.

Tennessee proposes the new Supply Path Head Station, Market Path Head Station, Market Path Mid Station 1, Market Path Mid Station 2, Market Path Mid Station 3, and Market Path Mid Station 4.

1. Explain whether or to what extent Tennessee explored installing waste heat cogeneration facilities at the aforementioned compressor stations. Provide the results of such studies, and provide any industry studies that explore this issue. If it was determined that heat recovery was not practical or simply not part of the business plan at this time, discuss whether such technology can be installed at a later date.

Response:

In Section 10.5.3.4 of Resource Report 10 (pp. 10-112 through 10-113, included with the Environmental Report submitted with the November 20, 2015 certificate application, Tennessee discussed the feasibility of using waste heat electric generation for proposed turbines at the new compressor stations. That discussion is provided below:

Tennessee also assessed the feasibility of using waste heat electric generation (cogeneration) for the proposed turbines at the new compressor stations. Using the guideline presented in the study “Waste Energy Recovery Opportunities for Natural Gas Pipelines”, conducted by the Interstate Natural Gas Association of America (“INGAA”), currently-available waste heat recovery may be economically viable for turbine-powered compressor stations with total station capacity of at least 15,000 hp, operating at more than 5,250 hours per year (i.e., an annual load factor of 60 percent or greater) (Hedman 2008). Each of the nine new compressor stations are not expected to operate at a consistent load factor of more than 60 percent, so the waste heat recovery would not be economically viable. With regard to the feasibility of waste heat recovery, the load factor of the new compressors will be driven by shipper requirements which in turn are driven by regional residential, commercial, industrial and power generation requirements which fluctuate and can be greatly affected by weather.

Additional factors impacting feasibility of waste heat recovery include the impact to landowners and environmental resources from the expanded footprint required for the substantial facilities for heat recovery and power generation. In addition, land is generally expensive and relatively constrained in the northeast. Many of the compressor station sites are constrained from a space perspective such that finding space for installation of large waste heat recovery systems and the associated large condensing fin-fan coolers is impractical without purchasing additional land and affecting additional landowners.

Noise is also a potential issue at these compressor stations. The additive noise from the waste heat recovery equipment may result in a compressor station exceeding the Commission’s noise requirements, without the addition of costly noise abatement facilities.

It is Tennessee’s understanding from discussions with waste heat generators that the low voltage electric distribution lines that Tennessee is proposing to tie into for station needs with the proposed gas compressors would also be suitable for selling excess power from waste heat recover into the grid, so Tennessee would not anticipate additional impact for power lines. If Tennessee were to install waste heat recovery equipment at the compressor stations, despite the limitations discussed above, compressor station consumption needs are anticipated to be met at most of the stations (see Table 10.5-12). However, for all cases Tennessee would still need to install a connection to a low voltage power line for times when the compression is not running, the waste heat recovery unit is not running or is in start up mode, or for those compressor stations where compressor station consumption demand exceeds the capability of the waste heat generation. While, in theory, for the compressor stations where generation exceeds consumption, the excess power could be sold back into the electric power grid, it does not appear that waste

heat recovery is considered a renewable resource in the region where these compressor stations will be located. Since it is not a renewable resource, the electric power grid operators are not required to offer net metering for any excess electricity that Tennessee might generate in excess of its compressor station needs, resulting in further detriment to the economic viability of waste heat recovery.

Table 10.5-12

Projected Waste Heat Power Versus Compressor Station Requirements

	Projected Average Power Generation	Projected Average Power Consumption	Projected Excess Power (KWH/mo)
Supply Head	2,542,515	1,296,000	1,246,515
Supply Mid	1,842,324	1,296,000	546,324
Supply Tail	1,799,984	1,296,000	503,984
Market Head	262,983	1,296,000	-1,033,018
Market Mid 1	2,190,907	1,296,000	894,907
Market Mid 2	1,686,244	1,296,000	390,244
Market Mid 3	1,666,520	1,296,000	370,520
Market Mid 4	890,985	1,296,000	-405,015

Based on the information discussed above, Tennessee is not proposing to include waste heat recovery equipment systems at any of the proposed compressor stations.

Tennessee notes that while it is not proposing to install waste heat recovery as part of the Project, Tennessee would consider offers from third parties to buy waste heat from Tennessee after the NED Project is placed in service, and would evaluate the economics of any such offers, as well as landowner and environmental impacts of such offers, on a case-by-case basis.

Respondent: Mike Stokdyk
 Title: Staff Engineer, System Design
 Phone: (713) 420-2415

2. Will Tennessee conduct periodic reviews to assess the energy efficiency of its pipeline operations and determine whether improvements can be made in that area? If not, why not?

Response:

As a part of Tennessee’s ongoing maintenance activities for its pipeline system, Tennessee periodically monitors the performance of its compression units to ensure clean, efficient, and reliable operation. In addition, in an effort to reduce system fuel consumption, Tennessee monitors system flows and pressures in real time. If unusual pressure drops are noticed, an investigation is initiated to verify that block valves are fully open and that crossover valves are in the correct position. If the unusual pressure drops are not a result of improper valve positioning, a pipeline efficiency test is initiated. If the calculated pipeline efficiency is less than expected, the line may be mechanically pigged and/or chemically cleaned to reduce the pressure drop and thus reduce the fuel consumption in that part of the system.

Respondent: Mike Stokdyk
 Title: Staff Engineer, System Design
 Phone: (713) 420-2415

3. Additionally, provide the pipeline computer models supporting each flow diagram provided in Exhibit G to Tennessee’s application. Tennessee should file the engineering models electronically or in electronic format (CD, DVD, flash memory, etc.) with the Commission.

Response:

Electronic copies of the hydraulic flow models that were utilized in the development of the Project are attached to this response. Tennessee respectfully requests that this information be accorded a designation of Critical Energy Infrastructure Information, pursuant to Section 388.113(c) of the Commission’s regulations, 18 C.F.R. § 388.113(c) (2015), and has marked the information with the legend “Critical Energy Infrastructure Information - Do Not Release”.

Tennessee utilized Gregg Engineering’s WinFlow pipeline simulation software version. dated May 15, 2014, and believes the submitted models are compatible with the software version used by the Commission. Tennessee will work with the Commission and Gregg Engineering to resolve any issues that the Commission may have reading the attached files.

Respondent: Mike Stokdyk
Title: Staff Engineer, System Design
Phone: (713) 420-2415

Accounting

1. In Exhibit Y, Tennessee proposes to record \$1,919,611.41 as a debit to Account 410.2, Provision for Deferred Income Taxes, Other Income and Deductions, to adjust the deferred income tax balance in Account 282, Accumulated Deferred Income Taxes, Other Property, to reflect the abandonment of gas utility plant.

- a. Please provide additional details on how the \$1,919,611.41 of deferred taxes result from the abandonment of gas utility plant, and how the deferred taxes will turn around in future periods.
- b. The instructions in Account 282 provide that this account shall be credited and Account 410.1, Provision for Deferred Taxes, Utility Operating Income, or Account 410.2, Provision for Deferred Income Taxes, Other Income and Deductions, shall be debited with tax effects related to property where taxable income is lower than pretax accounting income, due to differences between the periods in which revenue and expense transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income.

Please provide the basis for which Account 410.2 is used in adjusting the deferred tax balance in Account 282 to reflect the abandonment of gas utility plant.

Response:

a. Additional details on how the \$1,919,611.41 of deferred taxes result from the abandonment of gas utility plan, and how the deferred taxes will turn around in future periods are provided below:

Tax Basis remaining of assets abandoned	\$5,018,592
Recognize Tax Loss when assets abandoned	(\$5,018,592)
Effective Tax Rate	38.25%
Current Tax Expense Adjustment for loss	(\$1,919,611)

The deferred taxes were originally created by the difference in the book depreciation method and the MACRS accelerated depreciation method used for tax purposes, as well as any other basis differences between book and tax. The abandonment of these assets is how the original deferred taxes will be turning around.

b. Since the proposed entries relate to the abandonment of gas utility plant, Account 410.1 Provision for Deferred Taxes, Utility Operating Income should be used instead of Account 410.2. In addition, Account 409.1 Income Taxes, Utility Operating Income should be used instead of Account 409.2. A revised Exhibit Y reflecting these two changes is provided as Attachment 1.

Respondent: Jose Martinez
Title: Manager - Tax
Phone: (713) 420-4418

Respondent: Vicki Phillips
 Title: Director - Accounting
 Phone: (719) 520-4517

Accounting

2. In Exhibit Y, Tennessee proposes to record \$1,919,611.41 as a credit to Account 409.2, Income Taxes, Other Income and Deductions, to adjust the current income tax accrued in Account 236, Taxes Accrued, to reflect the abandonment of gas utility plant.
- a. The instructions in Account 409.2 provide that this account shall include the amount of local, state and Federal income taxes, which relate to Other Income and Deductions.
- Please provide the basis for which Account 409.2 is used in adjusting the accrued taxes in Account 236 to reflect the abandonment of gas utility plant.

Response:

Please see response to Accounting Request No.1.

Respondent: Jose Martinez
 Title: Manager - Tax
 Phone: (719)420-4418

Docket No. CP16-21-000
 Exhibit Y
 Page 1 of 1

TENNESSEE GAS PIPELINE COMPANY, L.L.C.
 SUMMARY OF JOURNAL ENTRIES TO RECORD ABANDONMENT BY REMOVAL

Beverly-Salem Colonial Delivery Point, Essex County, MA
 Haverhill Lateral, Essex and Middlesex Counties, MA
 Haverhill Lateral, Rockingham County, NH

Preliminary Accounting Entries For Property Changes Based On 10/31/2015 Plant Balances

FERC ACCOUNT	PARTICULARS	AMOUNT
108	ACCUMULATED PROVISION FOR DEPRECIATION	10,114,045.47
101	GAS PLANT IN SERVICE	(10,114,045.47)
	To record property abandoned at original cost	
108	ACCUMULATED PROVISION FOR DEPRECIATION	0.00
131	CASH	0.00
	To record cost of removal for abandonment	
	Note: Cost of Removal to be Reimbursed	
108	ACCUMULATED PROVISION FOR DEPRECIATION	
131	CASH	0.00
	To record salvage for pipe removed	
410.1	PROVISION FOR DEFERRED INCOME TAXES, OTHER INCOME & DEDUCTIONS	1,919,611.41
282.0	ACCUMULATED DEFERRED INCOME TAXES, OTHER PROPERTY	(1,919,611.41)
	To adjust Deferred Income Tax Accounts to reflect the abandonment of Gas Utility Plant.	
236	CURRENT TAX ACCRUED	1,919,611.41

409.1 CURRENT FEDERAL INCOME TAX EXPENSE (1,919,611.41)
UTILITY OPERATING INCOME
To adjust Current Income Tax Accounts to reflect
the abandonment of Gas Utility Plant.

{signed affidavits of Michael Stokdyk and Vicki A. Phillips omitted}

20160224-5163

{ 24 pages, skip to end of 20160224-5163 }

BEFORE THE UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Tennessee Gas Pipeline Company, L.L.C. (TGP)		
Subsidiary of Kinder Morgan (KM)		Docket No. CP16-21-000
Northeast Energy Direct Project (NED)		PF14-22-000

OEP/DG2E/Gas Branch 3
Tennessee Gas Pipeline Company, LLC
Northeast Energy Direct Project
Docket Nos. CP16-21-000, PF14-22-000

In re: Carolyn and Eric Ness, Mega Worcester, Michael and Kelly Paulsen, Holly and Gordon Lovelace, and Woolman Hill Inc., Intervenor's Motion Filed With the Commission on January 12, 2016.

INTERVENORS' MOTION FOR SUMMARY DISPOSITION UNDER 18 CFR 385.217

Intervenors Holly and Gordon Lovelace, Carolyn and Eric Ness, Kelly and Michael Paulsen, Woolman Hill Inc., Meg Worcester AKA Margaret W. Friedrich, and the Margaret W. Friedrich Trust, pursuant to 18 CFR 385.217 move for Summary Disposition.

The Motion is supported by Intervenors' Memorandum in Support of their Motion, Intervenors' Material Facts as to Which There is No Issue to be Tried, and Exhibits 1 through 25 accompanying this Motion, which include Affidavits from Intervenors (Exhibits 23 A to E) and Expert Reports (Exhibits 12 and 18).

WHEREFORE, Intervenors respectfully request the Federal Energy Regulatory Commission to grant Intervenors' Motion and terminate this matter forthwith.

Dated: February 24, 2015

Respectfully Submitted

By Attorney for Intervenors

Cristóbal Bonifaz, Esq. (BBA #548405)

LAW OFFICE OF CRISTÓBAL BONIFAZ

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BEFORE THE UNITED STATES OF AMERICA

FEDERAL ENERGY REGULATORY COMMISSION

Tennessee Gas Pipeline Company, L.L.C. (TGP)		
Subsidiary of Kinder Morgan (KM)		Docket No. CP16-21-000
Northeast Energy Direct Project (NED)		PF14-22-000

OEP/DG2E/Gas Branch 3
Tennessee Gas Pipeline Company, LLC
Northeast Energy Direct Project
Docket Nos. CP16-21-000, PF14-22-000

In re: Carolyn and Eric Ness, Mega Worcester, Michael and Kelly Paulsen, Holly and Gordon Lovelace, and Woolman Hill Inc., Intervenor Refer to their Motion for Intervention Filed With the Commission and placed on the Docket of this case by FERC on January 12, 2016.

**INTERVENORS’ MEMORANDUM OF LAW IN SUPPORT OF THEIR
MOTION FOR SUMMARY DISPOSITION UNDER 18 CFR 385.217**

Dated: Conway, Massachusetts
February 24, 2016

Respectfully Submitted

By Attorney for Intervenor

Cristóbal Bonifaz, Esq. (BBA #548405)
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**MEMORANDUM IN SUPPORT OF INTERVENORS’
MOTION FOR SUMMARY DISPOSITION**

I. THE CLAIM IN THIS MOTION

The Fifth Amendment of the United States Constitution grants the United States government the power to take private property for “public use,” by paying adequate compensation to property owners, and by extension, the right to grant such power to private entities. The sole issue in this motion is the constitutionality of Section 15 U.S.C. § 717a of the Natural Gas Act 42 U.S.C. § 711 et seq., which grants the United States power to allow private entities to take Intervenor’s real property by eminent domain, with adequate compensation, for the construction of pipelines to carry natural gas not for “public use” but for exportation to foreign countries.

Intervenors move for summary judgment on this issue, supported by the attached Intervenor’s Statement of Undisputed Facts, and all Exhibits accompanying this Memorandum and Motion.

II. SUMMARY DISPOSITION STANDARD

Intervenors are hereby applying the Federal Rule of Civil Procedure 56(a) standard for disposition which provides that summary judgment should be granted, “... if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ.P. 56(a), see also *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248, 106 S. Ct. 2505, 91 L. Ed. 2d 202. In deciding a motion for summary judgment, a court must construe all facts and inferences in the light most favorable to the nonmoving party. See *Bear v. Banks* 548 U.S. 521, 529, 126 S. Ct. 2572, 2578, 165 L. Ed. 2d 697, 705. The moving party bears the burden of establishing that no genuine issue of material fact remains. See *Celotex Corp. v. Catrett*, 477 U.S. 317, 322-23, 106 S. Ct. 2548, 91 L. Ed. 2d 265 (1986). “[W]ith respect to an issue on which the nonmoving party bears the burden of proof . . . the burden on the moving party may be discharged by ‘showing’--that is, pointing out to the district court--that there is an absence of evidence to support the nonmoving party’s case.” *Celotex*, 477 U.S. at 325.

Once the moving party has met that threshold burden, the nonmoving party “must do more than simply show that there is some metaphysical doubt as to material facts.” *Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio Corp.*, 475 U.S. 574, 586, 106 S. Ct. 1348, 89 L. Ed. 2d 538 (1986). The opposing party must present actual evidence that creates a genuine issue as to a material fact for trial. *Anderson*, 477 U.S. at 248; see also Fed. R. Civ. P. 56(c) (setting forth types of evidence on which nonmoving party must rely to support its

assertion that genuine issues of material fact exist).

Rule 56(c) mandates entry of summary judgment against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case and on which that party will bear the burden of proof at trial. In such a situation, there can be "no genuine issue as to any material fact" since a complete failure of proof concerning an essential element of the nonmoving party's case necessarily renders all other facts immaterial. The moving party is "entitled to a judgment as a matter of law" because the nonmoving party has failed to make a sufficient showing on an essential element of her case with respect to which she has the burden of proof. *Celotex*, 477 U.S. at 322-23). "[The] standard [for granting summary judgment] mirrors the standard for a directed verdict under Federal Rule of Civil Procedure 50(a) . . ." *Anderson v. Liberty Lobby, Inc.*, at 250. *Celotex* at 323.

III. INTERVENORS' STATEMENT OF UNDISPUTED MATERIAL FACTS

Intervenors are filing concurrently with the filing of this Memorandum and Motion a Statement of Undisputed Material Facts, supported by relevant affidavits and exhibits. Its factual contentions are as follows:

1. Kinder Morgan AKA Tennessee Gas Pipeline Company L.L.C. (hereinafter jointly "KM") communicated to Intervenors in this litigation between October of 2014 and July of 2015 that it planned to install a gas pipeline which may impact Intervenors. (Material Fact-1, Exhibits-1, 2, 3, 4, 5, hereinafter "MF-#, Ex.-#").
2. Kinder Morgan also stated in its communications to Intervenors that:

The Project is subject to regulation by the Federal Energy Regulatory Commission ("FERC") under Section 7(c) of the Natural Gas Act. On September 15, 2014 Tennessee requested authorization to use the FERCs pre-filing process ("Process") for the Project, and the FERC approved Tennessee's request on October 2, 2014 in FERC Docket No. PF 14-22-000. (MF-2, Exs.-1, 3, 5)
3. In 2005 Congress amended the Natural Gas Act and extended jurisdiction of the Federal Energy Regulatory Commission ("FERC") to the exportation of natural gas with the following language:

Necessity of regulation in public interest. As disclosed in reports of the Federal Trade Commission made pursuant to S. Res. 83 (Seventieth Congress, first session) and other reports made pursuant to the authority of Congress, it is hereby declared that the business of transporting and selling natural gas for ultimate distribution to the public is affected with a public interest, and that Federal regulation in matters relating to the transportation of natural gas and the sale thereof in interstate and foreign commerce is necessary in the public interest. 15 U.S.C. § 717a. (Emphasis here only).
4. The Congressional Record of S. Res. 83 (Seventieth Congress, first session 1928) does not list or disclose any reports which can in any way justify that exportation of natural gas is in the public interest. (MF-4, Exs. 6A through 6V).
5. On July 9, 2013 sixteen senators sent a letter to the US Secretary of Energy urging the Secretary to expedite approval of Liquefied Natural for export. (MF-5, Ex.-7).
6. On February 11, 2015 sixteen senators sent a letter to the US Secretary of Energy expressing opposition of approvals of Liquefied Natural for export. (MF-6, Ex.-8).
7. On July 2, 2015 FERC mailed a document to counsel in this litigation concerning the KM pipeline in which it stated in its first paragraph that FERC will use this Environmental Impact Statement ("EIS") in its decision-making process to determine whether the "Project is in the public convenience and necessity." (MF-7, Ex.-9 at page 1 of FERC's June 30, 2015 Notice).
8. On December 30, 2014 counsel for Intervenors' requested counsel for KM to explain why FERC has jurisdiction over the KM pipeline when a great portion of the gas is for exportation to foreign countries. (MF-8, Ex.-10A).
9. KM never responded to the letter mentioned in Material Fact #8 (MF-9, Ex.-10B).

10. Intervenors Carolyn and Eric Ness received a communication from KM in July of 2015 notifying them of hearings scheduled for August of 2015 by the Massachusetts Energy Facility Siting Counsel for consideration of a number of pipelines proposed by KM. (MF-10, Ex.-11).
11. The Massachusetts Energy Facility Siting Counsel was requested by KM to approve a 30- to 36-inch pipeline to transport natural gas through a number of counties in Western Massachusetts, terminating in Dracut, Massachusetts, as well as a 30-inch pipeline to transport natural gas from Dracut to a maritime terminal. (MF-11, Ex.-11).
12. The gas projected to be transported by Kinder Morgan AKA Tennessee Gas Pipeline (“KM”) is primarily for export to foreign countries. (MF-12, Ex.-12, Expert Report of David Keith at pgs. 1 and 11).
13. Up until July 24, 2015 KM projected the carrying capacity of its Northeast Energy Direct pipeline at 2.2 billion cubic feet (“Bcf/d”) of gas per day. A subsequent filing with FERC revised the application to 1.3 billion cubic feet of gas per day. (MF-13, Ex.-12, Expert Report of David Keith at page 6 and endnote x; and MF-37, Ex.-25).
14. Despite reducing planned carrying capacity to 1.3 billion cubic feet of gas per day, KM “...reserves the right to amend the Project scope and construction schedule as needed to most effectively meet the demand needs of the market commitments supporting the Project[.]” It could change back to 2.2 Bcf/d. (MF-14, Ex.-12, Expert Report of David Keith at page 6 and endnote x).
15. Allowing for energy loss in conversion to electricity, 2.2 billion cubic feet of natural gas per day could generate twenty-two times the electricity the Vermont Yankee nuclear reactor used to produce. 1.3 Bcf/d could replace that reactor thirteen times. (MF-15, Ex.-12, Expert Report of David Keith at page 5).
16. The cost of natural gas to Massachusetts consumers will increase if natural gas is allowed to be exported to foreign countries. (MF-Ex.-12, Expert Report of David Keith at page 10 and endnote xvi; (MF-16, Ex.-18, Report by Industry Expert Paul Cicio at page 4)
17. KM has applied to the Massachusetts Energy Facilities Siting Counsel for permits to build a 30-inch pipeline through Franklin County Massachusetts. (MF-17, Ex.-12, Expert Report of David Keith at page 10; MF-11, Ex.-11).
18. KM has applied, at the same time, to the Massachusetts Energy Facilities Siting Counsel for permits to build a 30-inch pipeline from Dracut, Massachusetts, connecting with the Maritimes & Northeast pipeline. The owners of that pipeline are applying to reverse its direction to take gas from Dracut to Canada, where liquefied natural gas (“LNG”) terminals are applying to liquefy and export the gas from that pipeline. (MF-18, Ex.-12, Expert Report of David Keith at page 12; MF-11, Ex.-11).
19. KM has announced that it is having four “LNG-conversion-ready” tankers built. (MF-19, Ex.-12, Expert Report of David Keith at page 9).
20. KM has only been able to contract with suppliers of gas to New England consumers for 0.5 billion cubic feet of natural gas per day. (MF-20, Ex.-12, Expert Report of David Keith at page 6).
21. KM has no significant market—including electricity generation—in New England beyond the 0.5 billion cubic feet per day of its precedent agreements. (MF-21, Ex.-12, Expert Report of David Keith at page 9).
22. KM can more cheaply bring the contracted amount of fuel to New England by “looping” the existing Line 200. (MF-22, Ex.-12, Expert Report of David Keith at page 9).
23. The US Energy Information Agency [EIA] reported last December that existing gas lines supplying 60 percent of New England’s natural gas have been operating at “between 21% and 84% below 2008 levels, with the largest percentage decline occurring on the Tennessee Gas Pipeline.” (MF-23, Ex.-12, Expert Report of David Keith at page 10).

24. When KM's own extended open season for contracts demonstrates that demand in New England is for less than 40 percent of the pipeline's reduced carrying capacity, the company's decision to go ahead with the more expensive project implies the remaining 60 percent is intended for export. (MF-24, Ex.-12, Expert Report of David Keith at pages 9-11).
25. Berkshire Gas has accused Intervenors and others opposing the construction of the KM pipeline of eco-terrorism. (MF-25, Ex.-13).
26. The Board of Health of Deerfield, Massachusetts conducted an adjudicatory hearing on September 9, 2014 to establish the qualifications of KM to construct the projected KM pipeline. KM refused to attend the hearings. (MF-26, Ex.-14).
27. The Board of Health of Deerfield found on October 23, 2015 that the proposed KM pipeline presents an unreasonable risk to the health and lives of the residents of Deerfield based on findings of the aforementioned adjudicatory hearings. (MF-27, Ex.-15, "Facts" at pages 2 to 6).
28. KM sent a letter to the Board of Health of Deerfield stating that the Board of Health's Order, issued on October 23, 2015 (MF-27, Ex.-15) after the adjudicatory hearing which KM refused to attend (MF-27, Ex.-14), is a "nullity." (MF-28, Ex.-16).
29. In passing the Natural Gas Act, Congress did not define "public interest." (MF-29, Ex.-17 at page 11).
30. Industry Expert Paul N. Cicio states in a report that exportation of natural gas will result in higher prices of natural gas for US consumers. (MF-30, Ex.-18).
31. Paul N. Cicio, who is President of Industrial Energy Consumers of America, testified in a hearing before Congress on January 29, 2015 that exporting natural gas presents risks contrary to the public interest. (MF-31, Ex.-19 at page 20).
32. The Industrial Energy Consumers of America filed a Motion to intervene in another Federal Energy Regulatory Commission matter, requesting that FERC deny permit for another gas transport pipeline, on the grounds that it is inconsistent with the public interest to grant a corporation a license to export natural gas to other nations. (MF-32, Ex.-20 at pages, 2, 3 and 16).
33. Defendant's Agency the US Energy Information Agency (EIA) asserted in October of 2014 "Increased LNG exports lead to increased natural gas prices." (MF-33, Exhibit 21 at page 12).
34. The question before the Supreme Court, as outlined by the City of New London, was whether the Takings Clause of the Fifth Amendment forbids an economically distressed city from employing its eminent domain power to condemn and pay just compensation for private property with the aim of reversing decades of economic decline, creating thousands of jobs, while significantly increasing property taxes and other sources of revenue for the city and realizing immediate structural and environmental benefits for the city and its residents. (MF-34, Ex.-22 at page 1).
35. Professor Bruce L. Benson has reviewed the history of the takings clause and has stated in an opinion that James Madison, who wrote the Fifth Amendment, chose the term "public use" rather than "public interest," "public benefit" or some other term, in an effort to establish a more objective requirement. (MF-35, Ex.-23 at page 10).
36. Intervenors have suffered a diminution of the property values, compounded by emotional distress, at the announcement by KM that it plans to obtain approval from FERC to install a natural gas pipeline through their properties, or in the case of Intervenors Lovelace, the installation of a compressor station in the vicinity of their property. (MF-36, Affidavits Exs.-24 A through E).
37. The Environmental Protection Agency filed comments with FERC, on October 16, 2015, regarding the KM pipeline without mentioning the issue of exportation of natural gas. (MF-37, Ex.-25).

IV. ARGUMENT

There are two fundamental hurdles Intervenor's must overcome in order for this Agency to consider granting the Summary Disposition Intervenor's are requesting:

- A. Do Intervenor's have standing to bring this action?
- B. Is the actual purpose of the proposed pipeline, and accompanying compressor stations, to export natural gas to foreign countries?

A. Intervenor's Have Article III Standing to File this Action.

With respect to the issue of standing, all Intervenor's have filed affidavits attesting to the fact that the announcement of the proposed installation of the pipeline and compressor station (MFs-1, 2, 7) has resulted in diminution of their real property values (MF-36, Affidavits Exs. 24A, 24B, 24C, 24D, 24E) and has caused them significant emotional distress (MF-36, Affidavits Exs. 24A, 24B, 24C, 24D), or as Intervenor's Lovelace have clearly stated in their Affidavit referring to ¶ 16 of the First Amended Complaint (FAC):

The knowledge that the United States, through the Federal Energy Regulatory Commission, would allow the taking of their home and despite the fact that the gas to be pumped by the compression station is primarily for exportation to foreign countries has caused and continues to cause Holly and Gordon Lovelace emotional distress and anguish. (FAC at ¶ 16).

Further evidence of the devaluation of their properties is the fact that Board of Health of Deerfield, the town in which Intervenor's Ness, Worcester, and Woolman Hill Inc. reside, ruled after an adjudicatory hearing that the proposed pipeline under evaluation by FERC presented an unreasonable risk to the health and lives of the residents of the town. (MFs. 26, 27).

The matter of the Tennessee pipeline came before the Deerfield, Massachusetts Board of Health ("BOH") at the request of citizens of Deerfield, who asked the BOH to hold adjudicatory hearings to determine whether the fracked gas pipeline KM and Tennessee propose to build through Deerfield's boundaries presents unreasonable risk to the health and lives of the citizens of Deerfield. (MF-26, Ex.-14).

Between September 9, 2014 and October 23, 2014, the BOH held the requested adjudicatory hearings to establish facts and to evaluate the dangers to the health and well-being of the residents of Deerfield. *Id.*

KM and Tennessee were invited to participate and introduce evidence at the adjudicatory hearings in person and in writing. *Id.*

KM and Tennessee refused to participate in any way at the adjudicatory hearings, thereby showing nothing but contempt for the BOH and the law in Massachusetts granting boards of health in Massachusetts the right to ban from their respective towns activities that may endanger the health and well-being of the residents of the town. M.G.L. Ch. 111 §§s. 31 and 143. *Id.*

The Massachusetts Supreme Court has ruled that federal preemption does not apply to such rulings or regulations issued by Boards of Health or Town Commissioners of Health. *Arthur D. Little v. Commissioner of Health of Cambridge* 395 Mass. 535; 481 N.E.2d 441; 1985 Mass. LEXIS 1720 (1985).

After extensive adjudicatory hearings before the BOH of Deerfield between September 9, 2014 and October 23, 2014, the BOH banned the building and operation of the projected Deerfield pipeline within the boundaries of Deerfield. (MF-Ex.-27).

The Deerfield BOH established a series of facts, not contested or objected to by KM or Tennessee, at the adjudicatory hearing. The uncontested facts upon which the BOH based its decision to ban the pipeline follow. (MFs. - 26 and 27).

A Kinder Morgan subsidiary was convicted in California of six felony counts regarding the deaths of Javier Ramos, Israel Hernandez, Tae Chin, Victor Rodriguez and Miguel Reyes. *Id.*

The Supreme Court of the United States has rejected the argument that political speech of corporations or other associations should be treated differently under the First Amendment simply because such associations are not "natural persons." *Citizens United v. Federal Election Commission* Supreme Court of the United

States 558 U.S. 310 at 343; 130 S. Ct. 876 at 900; 175 L. Ed. 2d 753 at 784 (2010)(citations omitted).

The order of the Supreme Court establishing that corporations cannot be treated differently from “natural persons,” albeit in the context of the First Amendment, gives clear indication to the BOH that a corporation cannot be treated differently from “natural persons” in the context of felonies committed.

Felons have limited rights in Massachusetts, i.e., cannot participate in elections (as they cannot vote while incarcerated), cannot be members of the Gaming Commission, etc.

The Deerfield BOH found that a corporation convicted of felonies resulting in the tragic deaths of five people presents an unreasonable risk to the health and lives of residents of Deerfield if such felon were allowed to build a massive, high-pressure fracked-gas pipeline through Deerfield. (MFs.-26 and 27).

The Deerfield BOH found that Kinder Morgan was cited by the Hazardous Materials Safety Administration for violating its regulations five times in 2011. *Id.*

The Deerfield BOH found that in Texas, alone, from 2003 to 2014 Kinder Morgan experienced 36 “significant incidents” resulting in fatalities or hospitalization, fires, explosions or spills. *Id.*

The Deerfield BOH found that Kinder Morgan has a record of bribery, pollution, fraud, scams, thefts, deaths, felonies, environmental disasters, labor violations, unsafe working conditions, and influence-buying. *Id.*

The Deerfield BOH found that Kinder Morgan’s operations in Portland, Oregon have been host to pollution, law-breaking, and even bribery. *Id.*

The Deerfield BOH found that the Federal Bureau of Investigation determined that between 1997 and 2001 “Kinder Morgan systematically scammed some of its customers, including the Tennessee Valley Authority (‘TVA’), a publicly owned provider of electricity in the mid-South.” *Id.*

The Deerfield BOH found that the same federal investigation found that, at its Grand River Terminal in Kentucky, Kinder Morgan officials took coal from a customer’s stockpiles and resold nearly 259,000 tons. *Id.*

The Deerfield BOH found that, in another case, the US Environmental Protection Agency fined Kinder Morgan \$613,000 for violations of the Clean Air Act after “regulators discovered that the company had been illegally mixing an industrial solvent described as a ‘cyclohexane mixture’ into unleaded gasoline and diesel.” *Id.*

The Deerfield BOH found that in 2010 the federal government fined Kinder Morgan \$1 million for repeatedly violating the Clean Air Act. The US Department of Justice found that “among other crimes” Kinder Morgan managers lied on permit applications stating that the company would control its pollution, when all the while they knew the control equipment was not being operated or even maintained properly. *Id.*

The Deerfield BOH found that currently Kinder Morgan is under investigation by the EPA for violating the federal Renewable Fuels Standard. Officials believe that Kinder Morgan purchased conventional fossil fuels while filing falsified documents certifying that the fuels came from renewable sources. *Id.*

The Deerfield BOH found that Kinder Morgan’s pipelines have endangered lives in many communities across the United States and Canada, as enumerated below. *Id.*

The Deerfield BOH found that in 2007 a Kinder Morgan pipeline ruptured in Burnaby, British Columbia, forcing 50 families to evacuate their homes as oil rained down on a residential neighborhood. *Id.*

The Deerfield BOH found that in January of 2012 a Kinder Morgan storage facility in British Columbia spilled roughly 29,000 gallons of crude oil into the community of Abbotsford. *Id.*

The Deerfield BOH found that in April of 2004 a long stretch of a Kinder Morgan corroded pipeline ruptured, spilling 123,000 gallons of diesel fuel into a sensitive saltwater wetland on San Francisco Bay. Kinder Morgan pled guilty on four counts, relating to that spill as well as an unrelated spill in Los Angeles Harbor. *Id.*

The Deerfield BOH found that in November of 2004 an oil pipeline of a Kinder Morgan subsidiary burst in the Mojave Desert, sending a jet of fuel 80 feet into the air. The break closed the nearby interstate highway

and contaminated more than 10,000 tons of soil in the habitat of the federally endangered California Desert Tortoise. Id.

The Deerfield BOH found that in 2005 Kinder Morgan had spilled 70,000 gallons of fuel into Oakland's inner harbor and then 300 gallons into the Donner Lake watershed in Sierra Nevada. In addition, in 2007 the City of San Diego sued Kinder Morgan for falsifying records of the clean up of a fuel leak that contaminated the aquifer. Id.

The Deerfield BOH found that in May of 2011 the US Pipeline and Hazardous Materials Safety Administration announced a proposed \$425,000 fine against Kinder Morgan for safety violations following a federal investigation into Kinder Morgan's having spilled 8,600 gallons of hazardous liquids in New Jersey. Id.

The Deerfield BOH found that in December of 2011 a two-year-old Kinder Morgan natural gas pipeline leaked in Ohio, spewing 127,000 cubic feet of natural gas and forcing residents to evacuate their homes. Id.

The Deerfield BOH found that allowing Kinder Morgan, a corporation with a known record of endangering lives of residents across North America, to build and operate a massive fracked-gas-transportation-pipeline through the town would present unreasonable risk to the health and lives of residents of Deerfield. Id. (Emphasis here only).

The Deerfield BOH found that pipeline transportation of fuels is a dangerous operation in the United States and worldwide, as illustrated by the instances enumerated below. Id.

The Deerfield BOH found that from 2000 to 2009 there were 460 accidents on record related to pipeline discharges of fuels, whether gas or liquids, in the United States. Id.

The Deerfield BOH found that pipeline-related incidents have brought pipeline safety to national--and presidential--attention. Id.

The Deerfield BOH found that from 1994 through 2013, the United States had 745 serious incidents with gas distribution, causing 728 fatalities, 1059 injuries, and \$110 million in property damage. Id.

The Deerfield BOH found that National Public Radio reported in January of 2014 more than 6,000 leaks of natural gas had occurred in the District of Columbia alone. Id.

The Deerfield BOH found that in Massachusetts in the last ten years it has cost consumers more than \$1.5 billion for fuel leaked from pipelines. Id.

The Deerfield BOH found that there is a danger to the health and lives of residents of Deerfield if the BOH were to permit construction and operation of a natural gas pipeline within the town of Deerfield, particularly when the company constructing and operating the pipeline is Kinder Morgan. Id. (Emphasis here only).

The Deerfield BOH found that Kinder Morgan's official, Mark Hamrich, reported at a public meeting held at Greenfield Community College on July 14, 2014 that Kinder Morgan does not know the composition of the fracked gas planned to be transported through the proposed pipeline. Id.

The Deerfield BOH found that fracking is a process designed to extract gas from shale buried in the soil. Fracking fluid is a toxic brew consisting of multiple chemicals, which may include materials such as petroleum distillates, ethylene glycol, methanol, polyacrylamide and many others. Id.

The Deerfield BOH found that Kinder Morgan has not denied that some of these fracking chemicals might be present in the fracked gas to be transported through the pipeline. Id.

The Deerfield BOH found that the statement of Mark Hamrich of Kinder Morgan at an open meeting disingenuous as the actual composition of the gas in the pipeline can be established at any time by simple gas and/or liquid chromatography analysis. Id.

The Deerfield BOH found that the unknown composition of the gas in the pipeline will indeed present a danger to the health and lives of residents of Deerfield if the BOH were to permit construction and operation of a natural gas pipeline within the town of Deerfield, particularly when the company constructing and operating the pipeline, Kinder Morgan, does not know the composition of the gas to be transported through the pipeline. Id. (Emphasis here only).

The Deerfield BOH issued an Order, dated October 23, 2014, banning construction and operation of the proposed pipeline through Deerfield based on the factual, uncontroverted evidence presented at the public adjudicatory hearings held between September 9, 2014 and October 23, 2014. Id.

Kinder Morgan's and Tennessee's response to the Deerfield BOH Order, based on the board's findings through its extensive adjudicatory hearings (where neither Kinder Morgan nor Tennessee were willing to participate, nor did they object to the facts introduced), was a letter sent on November 17, 2014 by Kinder Morgan and Tennessee's counsel, stating that "...the Order is a nullity." (MF-28).

The aforementioned letter also states, "Tennessee expressly reserves all legal rights and remedies, including, without limitation, the right to dispute the factual allegations and legal claims in the Order." Id.

Neither KM nor Tennessee seems to be aware that by not participating, as repeatedly requested to do so, at the BOH hearings held between September 9, 2014 and October 23, 2014, they waived their right to object to the factual findings of the BOH.

Kinder Morgan stated at a public relations meeting held at Greenfield Community College on July 14, 2014 that the thickness of the walls of the proposed 36-inch to 42-inch pipeline will be only 60% of the thickness of other pipelines that pass through more populated areas.

Wall thickness of gas pipes is one of the major costs of pipelines for manufacture, installation, and operation. The thinner projected pipeline represents savings in the hundreds of millions of dollars in the projected five-billion-dollar project.

KM/Tennessee rationalizes implementation of the thinner-walled pipelines by using a cost-benefit analysis which values total expected lives lost in an explosion in rural areas much lower than total expected lives lost in a more populated area based on the projected lower number of deaths.

Intervenors' lives and other lives possibly lost by an explosion are thus merely a cost of doing business for KM/Tennessee.

Massachusetts recognizes that "An owner of real estate . . . having adequate knowledge of his property may express an opinion as to its value." *Southwick v. Massachusetts Turnpike Authy.*, 339 Mass. 666, 668, 162 N.E.2d 271 (1959). Indeed, Massachusetts cases speak to the presumption that an owner is sufficiently familiar with his property so as to qualify him to opine as to its value. See *Patch v. Boston*, 146 Mass. 52, 57, 14 N.E. 770 (1888); *Meyer v. Adams Exp. Co.*, 240 Mass. 94, 95, 132 N.E. 672 (1921); *Menici v. Orton Crane & Shovel Co.*, 285 Mass. 499, 503-504, 189 N.E. 839 (1934), and cases cited. The presumption is not absolute. "The rule which permits an individual owner to testify to the value of real . . . property does not rest upon his holding the legal title, but is based upon his familiarity with the characteristics of the property, his knowledge or acquaintance with its uses and his experience in dealing with it." *Blais-Porter, Inc. v. Simboli*, 402 Mass. 269, 272, 521 N.E.2d 1013 (1988), quoting from *Winthrop Prods. Corp. v. Elroth Co.*, 331 Mass. 83, 85, 117 N.E.2d 157 (1954). The same rule applies to corporate officers testifying as to corporate property. *Blais-Porter, Inc. v. Simboli*, supra at 273. Whether the witness has the necessary knowledge and familiarity about his property to enable him to express his opinion about its market value is a preliminary question of fact for the trial judge, and we will not disturb the trial judge's determination on the issue unless it is erroneous as matter of law. *Southwick v. Massachusetts Turnpike Authy.*, supra at 668-669. See *Blais-Porter, Inc. v. Simboli*, supra. *CBI Partners Limited Partnership vs. Town of Chatman*, 41 Mass. App. Ct. 923 at 925; 671 N.E.2d 523 at 525-526; 1996 Mass. App. LEXIS 834, (1996)

To satisfy the "irreducible constitutional minimum of standing," a plaintiff must demonstrate three elements. First, the plaintiff must have suffered an "injury in fact" -- an invasion of a legally protected interest which is (a) concrete and particularized, see *id.*, at 756; *Warth v. Seldin*, 422 U.S. 490, 508, 45 L. Ed. 2d 343, 95 S. Ct. 2197 (1975); *Sierra Club v. Morton*, 405 U.S. 727, 740-741, n. 16, 31 L. Ed. 2d 636, 92 S. Ct. 1361 (1972); and (b) "actual or imminent, not 'conjectural' or 'hypothetical'" *Los Angeles v. Lyons*, 461 U.S. 95, 102, 75 L. Ed. 2d 675, 103 S. Ct. 1660 (1983)). Second, there must be a causal connection between the injury and the conduct complained of -- the injury has to be "fairly . . . trace[able] to the challenged action of the defendant, and not . . . the result [of] the independent action of some third party not before the court."

Simon v. Eastern Ky. Welfare Rights Organization, 426 U.S. 26, 41-42 (1976). Third, it must be “likely,” as opposed to merely “speculative,” that the injury will be “redressed by a favorable decision.” *Id.*, at 38, 43. Lujan v. Defenders of Wildlife, 504 U.S. 555, 560-61, 112 S. Ct. 2130, 119 L. Ed. 2d 351 (1992).

Furthermore, Intervenor’s properties are unmarketable since they have a duty to disclose to any potential buyer, under M.G.L. Ch. 93A, as well as under regulations of the Attorney General 940 Code Mass. Regs. § 3.16 (2) (1994) (adopted pursuant to the authority contained in M.G.L. c. 93A), which provides, in relevant part, that a violation of M.G.L. c. 93A occurs if “any person . . . fails to disclose to a buyer or prospective buyer any fact, the disclosure of which may have influenced the buyer or prospective buyer not to enter into the transaction.” The provision seeks to extend liability under M.G.L. 93A to cases of nondisclosure of material fact. See *Sheehy v. Lipton Indus., Inc.*, 24 Mass. App. Ct. 188, 195, 507 N.E. 2d 781 (1987).

Here all five Intervenor’s have filed Affidavits stating that their properties have lost significant value (MF-36, Affidavits Exs. 24A, 24B, 24C, 24D, 24E) and that they have suffered emotional distress (MF-36, Affidavits Exs. 24A, 24B, 24C, 24D) as a result of the announcement by Kinder Morgan of the proposed pipeline.

Intervenor’s therefore have Article III standing to bring this action since Defendant through its agency, the Federal Energy Regulatory Commission, is moving forward in considering approval of the pipeline impervious to the impact on the property values and emotional lives of Intervenor’s. (MFs-1, 2, 7).

Intervenor’s here have suffered “injury in fact” as (1) their real estate properties have suffered significant devaluation and they personally have suffered emotional distress as a result of FERC’s consideration and evaluation of the KM proposed pipeline; (2) there is a direct, actual connection between FERC’s actions and Intervenor’s injuries; and (3) Intervenor’s injuries will be “redressed by a favorable decision.”

B. The Natural Gas to Be Transported by the KM Pipeline is Mostly for Export to Foreign Countries.

That a great portion of the gas will be used for export to foreign countries is an uncontested fact in this litigation. (MFs. 8, 9, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24).

V. THE NATURAL GAS ACT AND THE FEDERAL ENERGY REGULATORY COMMISSION

The Natural Gas Act was enacted by Congress in 1938 and was subsequently amended in 1954 and 1992. June 21, 1938, ch 556, § 1, 52 Stat. 821; March 27, 1954, ch 115, 68 Stat. 36; Oct. 24, 1992, P.L. 102-486, Title IV, § 404(a) (1), 106 Stat. 2879.

In 1977 Congress created the Federal Energy Regulatory Commission (“FERC”) and granted the newly created agency responsibility for formulation and implementation of a national energy program, whereas previously that responsibility had been fragmented among various departments and agencies of the Federal Government. 42 U.S.C. § 711 et seq.

The newly created federal agency assumed, as of that date, full responsibility for creation of regulations and implementation of the Natural Gas Act, previously assigned to the Federal Power Commission and terminated as of the date of enactment of 42 U.S.C. § 711 et seq., 15 U.S.C. § 717. Transfer of Functions.

From the date of its inception in 1977 through 2005 the Federal Energy Regulatory Commission lacked the power to regulate natural gas for import and export, and Courts clearly recognized this lack of power:

An **exporter** of natural gas that, like Entex, is not otherwise engaged in interstate gas transactions is not a “natural-gas company” within the meaning of the Act, because the Act defines a “natural-gas company” as a “person engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of such gas for resale,” Natural Gas Act § 2(6), 15 U.S.C. § 717a(6) (1976), and defines “interstate commerce” as “commerce between any point in a State and any point outside thereof, or between points within the same State but through any place outside thereof, **but only insofar as such commerce takes place within the United States,**” *Id.* § 2(7), 15 U.S.C. § 717a(7) (Emphasis added).

See *Border Pipe Line Co. v. Federal Power Commission*, 84 U.S.App.D.C. 142, 171 F.2d 149 (1948); *Compañía de Gas de Nuevo Laredo v. Energy Regulatory Commission* 606 F. 2d 1029 (1979) (Emphasis here only).

In 2005, with the advent of fracking in the United States, Congress amended the Natural Gas Act and extended jurisdiction of the Federal Energy Regulatory Commission to the exportation of natural gas with the following language:

Necessity of regulation in public interest. As disclosed in reports of the Federal Trade Commission made pursuant to S. Res. 83 (Seventieth Congress, first session) and other reports made pursuant to the authority of Congress, it is hereby declared that the business of transporting and selling natural gas for ultimate distribution to the public is affected with a public interest, and that Federal regulation in matters relating to the transportation of natural gas and the sale thereof in interstate and **foreign commerce** is necessary in the public interest. 15 U.S.C. § 717a. (Emphasis here only).

Congress erred in justifying inclusion of jurisdiction of gas for export based on public interest referring to “...S. Res. 83 (Seventieth Congress, first session) and other reports made pursuant to the authority of Congress.” Id.

The Congressional Record of S. Res. 83 (Seventieth Congress, first session) 1928 contains nothing that in any way justifies the action of Congress taken, allegedly, based on this record. (MF-4, Exs.-6A through 6V).

The Natural Gas Act was enacted in 1938, and the awarding of gas for export jurisdiction to FERC took place in 2005. Congress’s assertion of public interest in its amendment to the Natural Gas Act of 2005 was not only baseless but highly premature, as evident from the two attached letters to the Department of Energy of the United States (“DOE”) by two different groups of senators, one group arguing that gas exportation is in the public interest, the other asserting that it is not in the public interest. (MFs-5 and 6).

Important public policy issues related to exportation of gas have not yet been dealt with by either group of senators.

Exportation of United States gas to foreign countries depletes a national resource for the use by future generations without bringing any benefit whatsoever to the public interest.

Exportation of United States gas to be burned into carbon dioxide and water in foreign countries adds significantly to climate change, an issue of great concern to the people of the United States and their government.

It is a self-evident fact that exporting natural gas depletes a national resource from usage by future generations.

The issue of climate change, the result of such export, touches on a topic which has generated a great deal of concern to the government of the United States and other governments around the world. The purpose of reducing carbon dioxide emissions is vacated when at the same time a country exports fossil fuels. If and when the United States becomes an exporter of energy reaped by fracking, any agreement between the United States and countries such as China for emission reduction within the United States is rendered meaningless since those exported fossil fuels will be converted to carbon dioxide in other countries. Carbon dioxide emitted by exported fossil fuels is not taken into account in the United States-China agreement to reduce carbon dioxide emissions within each country.

Public interest is not, however, the deciding factor as to whether FERC can regulate transportation of natural gas across the United States for export, nor as to whether DOE can approve transportation of natural gas across the United States for export through pipelines regulated by FERC.

The critical issue is that the 2005 amendment to the Natural Gas Act permitting jurisdiction by FERC to regulate transport of gas for export is unconstitutional because the Natural Gas Act provides for eminent domain taking of property to satisfy goals set by FERC.

h) Right of eminent domain for construction of pipelines, etc.

When any holder of a certificate of public convenience and necessity cannot acquire by contract, or is

unable to agree with the owner of property to the compensation to be paid for, the necessary right-of-way to construct, operate, and maintain a pipe line or pipe lines for the transportation of natural gas, and the necessary land or other property, in addition to right-of-way, for the location of compressor stations, pressure apparatus, or other stations or equipment necessary to the proper operation of such pipe line or pipe lines, it may acquire the same by the exercise of **the right of eminent domain** in the district court of the United States for the district in which such property may be located, or in the State courts. The practice and procedure in any action or proceeding for that purpose in the district court of the United States shall conform as nearly as may be with the practice and procedure in similar action or proceeding in the courts of the State where the property is situated: Provided, That the United States district courts shall only have jurisdiction of cases when the amount claimed by the owner of the property to be condemned exceeds \$3,000. 15 U.S.C. § 717f. (Emphasis here only).

To the extent that FERC includes exportation of gas in its regulatory domain, it is violating the Fifth Amendment of the United States Constitution which clearly states that:

“[N]or shall private property be taken **for public use**, without just compensation.” U.S. Const., Amdt. 5. That Clause is made applicable to the States by the Fourteenth Amendment. See *Chicago, B. & Q. R. Co. v. Chicago*, 166 U.S. 226, 41 L. Ed. 979, 17 S. Ct. 581 (1897). (Emphasis here only).

FERC’s consideration for approval of pipelines carrying gas for export is in conflict with Fifth Amendment law as interpreted by the Supreme Court of the United States.

On the one hand, it has long been accepted that the sovereign may not take the property of A for the sole purpose of transferring it to another private party B, even though A is paid just compensation. On the other hand, it is equally clear that a State may transfer property from one private party to another if future “**use by the public**” is the purpose of the taking; the condemnation of land for a railroad with common-carrier duties is a familiar example. *Susette Kelo et al., v. City of New London* Supreme Court of the United States 545 U.S. 469, 477; 125 S. Ct. 2655, 2661; 162 L. Ed. 2d 439, 444 (2005.) (Emphasis here only).

In *Kelo Id.*, in an opinion by Justice Stevens, J., joined by Justices Kennedy, Souter, Ginsburg, and Breyer, JJ., it was held that the city’s proposed disposition of property under the development plan qualified as a “public use” under the Fifth Amendment, so that the city properly could use the power of eminent domain to acquire the unwilling sellers’ property.

We emphasize that nothing in our opinion precludes any State from placing further restrictions on its exercise of the takings power. Indeed, many States already impose “public use” requirements that are stricter than the federal baseline. Some of these requirements have been established as a matter of state constitutional law, while others are expressed in state eminent domain statutes that carefully limit the grounds upon which takings may be exercised. As the submissions of the parties and their amici make clear, the necessity and wisdom of using eminent domain to promote economic development are certainly matters of legitimate public debate. **This Court’s authority, however, extends only to determining whether the City’s proposed condemnations are for a “public use” within the meaning of the *Fifth Amendment to the Federal Constitution*.** *Kelo Id.* 545 U.S.469 at 489; 125 S. Ct. 2655 at 2668; 162 L. Ed. 2d 439 at 457-458 (2005.) (Emphasis here only).

Were the Supreme Court to eventually rule that a foreign trade benefit justifies Fifth Amendment takings, the prophetic words of Judge O’Connor in her dissent, joined by the Chief Justice and Justices Scalia and Thomas, in *Kelo Id.*, would come to pass:

...nearly any lawful use of real private property can be said to generate some incidental benefit to the public. Thus, if predicted (or even guaranteed) positive side effects are enough to render transfer from one private party to another constitutional, then the words “**for public use**” do not realistically exclude any takings, and thus do not exert any constraint on the eminent domain power. *Kelo Id.* 545 U.S.469 at 501; 125 S. Ct. 2655 at 2675; 162 L. Ed. 2d 439 465 (2005.) (Emphasis here only).

Once trade benefit is accepted as “**public use**,” Congress could allow the taking of virtually any private

property that could more profitably be marketed abroad which taking might improve the economy of the United States. Congress could, for example, permit one of its agencies to confiscate all automobiles in the United States older than three years. This congressional agency could then confer this power on a corporation, which would pay wholesale value for the automobiles (just compensation) and sell them at a profit in foreign markets. This too easily imagined nation would no longer be the United States of America.

Kelo Id. is not the case here. The strip mall to be built on Mrs. Kelo's property was to be used by the public, and that is exactly what the majority of the justices concluded. Furthermore, contrary to Congress's vague referral to an obscure 1928 interstate trade report, the City of New London clearly put forward the argument that the taking of Mrs. Kelo's property was for public use. (MF-34).

FERC is about to approve the installation of a gas pipeline, subject matter of this action, destroying the value of Intervenors' properties, while this pipeline cannot be considered under any definition of the term to be for "**public use**" since it is only going to transport less than thirty percent of the gas for use within the United States, with the balance going for export to foreign countries for the sole purpose of enrichment of the corporations planning the gas transportation.

Defendant may argue that because thirty percent of the natural gas to be transported by the pipeline is for "**public use**" (as it will be used in New England) the entire pipeline transporting the balance of the gas for export qualifies as "**public use**" within the meaning of the Fifth Amendment.

Such an interpretation of the Fifth Amendment "**public use**" clause will create a slippery slope, destroying the meaning of the "**public use**" term. How far would the Defendant go if it uses this argument? Is it thirty percent? Is it twenty percent? Is it one percent? Is it one thousandth of one percent?

The United States Department of Energy is considering granting permits for construction of Liquefied Natural Gas Plants ("LNGP") to export natural gas approved for transportation through pipelines approved by FERC. (MF-19).

Exportation of natural gas is a very profitable venture for private parties and, per Kelo Id., such enrichment of a private party is not justification for Fifth Amendment takings.

In the last analysis, what FERC and DOE are overlooking is that "**public interest**" is not equivalent to "**public use**" within the meaning of the Fifth Amendment.

The framers of the United States Constitution did not say that governments had the right to take private property if such takings are in the public interest. What they said was that government had the right to take private property for "**public use.**" (MF.-35).

Taking of private property because it is in the public interest is a fallacious excuse for eminent domain takings since in a democratic society anything a government does is by definition in the "public interest."

Adoption of the "public interest" term as a justification for eminent domain takings will simply turn the Fifth Amendment provision permitting eminent domain takings into useless paper.

Congress, the Executive branch, and the Courts can approve gas or oil transportation pipelines for **exportation** of oil and/or gas, or the building of LNG facilities using transported gas or **oil for export**, only when pipelines proposed to carrying oil and gas for exportation **do not take private land by eminent domain, nor threaten to take private land by eminent domain.** This is the restriction imposed by the Fifth Amendment, whether the proposed pipeline is the Kinder Morgan pipeline, pipelines scheduled to transport tar-sands oil for export, or any other similar pipelines.

VI. KINDER MORGAN AND THE FRACKING GAS INDUSTRY

Kinder Morgan's subsidiary, the Tennessee Gas Pipeline Company, L.L.C. ("Tennessee"), filed on September 15, 2014 a request with the Federal Energy Regulatory Commission seeking eventual approval to build a pipeline to carry 2.2. billion cubic feet of natural gas per day from the Marcellus Shale through New England. (MFs-7, 37).

Prior to September 15, 2014 and starting sometime in 2014, Kinder Morgan conducted a series of public

meetings in Franklin County, Massachusetts, describing the nature and extent of the project, including the projected pipeline capacity and the volume of gas expected to be transported through the pipeline.

At no time has FERC conveyed to Kinder Morgan, or any of its subsidiaries or affiliated companies that since a portion of the gas expected to be transported through the pipeline is for export to foreign countries rather than for usage within the United States. FERC has been and will continue to be in violation of the United States Constitution if it continues to take any action regarding the project.

On or about July 2, 2015, FERC mailed Intervenor's counsel a Notice of Intent to Prepare an Environmental Impact Statement ("EIS") for the Planned Request for the "Northeast Energy Direct Project...involving construction and operation of facilities by Tennessee Gas Pipeline Company, L.L.C. ("Tennessee")" (MF-Ex.-7). FERC states in its July 2, 2015 communication "The Commission will use this EIS in its decision-making process to determine whether the Project is in the public interest and necessity." (MF-7, Ex.-9 at page 1 of FERC's June 30, 2015 Notice).

FERC continues on in its July 2, 2015 communication:

If you are a landowner receiving this notice a Tennessee Gas Representative may contact you about the acquisition of an easement to construct, operate, and maintain the planned facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the Project, the approval conveys with it the right of eminent domain. Therefore if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accord with state law. (Refer to MF-7, Ex.-9 at page 1 of FERC's June 30, 2015 Notice).

The majority of gas to be transported by the proposed Tennessee pipeline is for export to foreign countries. (MFs. 8, 9, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24). Defendant's agency, FERC, is aware or should be aware that a great portion of the natural gas to be transported by the proposed Tennessee pipeline is for export to foreign countries.

Neither Kinder Morgan nor Tennessee nor FERC have ever denied in any forum that the great portion of the natural fracked gas to be transported in the Tennessee pipeline is, in fact, for export.

FERC is aware or should be aware that Tennessee has not been able to contract more than thirty percent of the gas projected to be transported by the proposed pipeline for sale within the United States. (MF-20, Ex.-12 at page 6).

On December 30, 2014, counsel for the Intervenor's raised the issue of jurisdiction of FERC over a pipeline to be used for exportation of gas with Kinder Morgan's counsel. (MF-8, Ex.-10A)

Neither Kinder Morgan nor Tennessee ever responded to counsel's letter dated December 30, 2014 (MF-8, Ex.-10A), thus admitting by their silence that FERC has no jurisdiction over the proposed pipeline given the fact that most of the gas to be transported is for export to foreign countries. (MF-9, Ex.-10B).

The Department of Energy of the United States claims jurisdiction over the exportation of natural gas.

At no time has DOE taken into account, in its permitting processes for exportation of natural gas, that gas for foreign export, including KM's gas, is transported through pipelines approved by FERC under authority allegedly granted them by the 2005 amendments to the Natural Gas Act ("NGA") and that approval by FERC of such transportation of natural gas for exportation is in violation of the Constitution of the United States.

The United States Department of Energy is aware or should be aware that a great portion of the natural gas to be transported by the proposed Tennessee pipeline is for export to foreign countries.

The United States Department of Energy is aware or should be aware that Tennessee has only been able to contract for sale within the United States less than thirty percent of the gas projected to be transported through the proposed pipeline. (MF-20. Ex.-12 at page 9).

The lack of communication to anyone by DOE of these facts, while at the same time continuing to grant

permits to transport natural gas for foreign export through FERC-approved export gas pipelines, represents a continuing violation of Fifth Amendment rights of individuals, such as Intervenor, who stand to have their land taken for use in transportation of natural gas intended for exportation to foreign countries, solely for the enrichment of Kinder Morgan and Tennessee.

In July of 2015, Intervenor Eric and Carolyn Ness received a letter from KM, addressed through Intervenor's counsel. KM's submission through this letter was a Notice for Public Comment Hearings by the Massachusetts Energy Facilities Siting Board regarding the gas pipeline and associated facilities in Berkshire, Essex, Franklin, Hampden, Hampshire, Middlesex, and Worcester Counties proposed by the Tennessee Gas Pipeline Company. (MF-10, Ex.-11).

Tennessee admits in its application to the Energy Facilities Siting Board that the diameter of the Main Line Pipeline coming from Pennsylvania into Massachusetts is 30 or 36 inches. *Id.* Tennessee also admits that the diameter of the Maritime Delivery Line is 30 inches. *Id.* Thus Tennessee is admitting that a minimum amount of gas scheduled for export through the Maritimes Delivery Line is, in fact, seventy per cent of the gas to be transported by the Main Pipeline entering Massachusetts. This irrefutable conclusion comes about from the fact that the volumes to be transported through the Main Delivery Line and the Maritimes Lines are proportional to the square of the diameters of the pipelines. (See also MFs. 17 and 18).

VII. THE ALLEGATION BY FERC THAT THE PIPELINE PROJECT IS IN THE “PUBLIC CONVENIENCE AND NECESSITY” IS IRRELEVANT TO THE FIFTH AMENDMENT CLAIM SUBJECT MATTER OF THIS COMPLAINT AND IT IS ALSO NOT TRUE

FERC justifies, in its July 6, 2015 letter that the pipeline project subject matter of this action is “**in the public convenience and necessity.**” (MF-7, Ex.-9 at page 1 of FERC's June 30, 2015 letter). FERC is now arbitrarily modifying the language of 15 U.S.C. § 717a from “**public interest,**” as justified by a 1928 interstate trade report, to “**public convenience and necessity,**” thus in its mind trying to simulate, desperately, the Fifth Amendment language of “**public use.**” What the Fifth Amendment states is that:

“[N]or shall private property be taken **for public use**, without just compensation.” U.S. Const., Amdt.

5. That Clause is made applicable to the States by the Fourteenth Amendment. See *Chicago, B. & Q. R. Co. v. Chicago*, 166 U.S. 226, 41 L. Ed. 979, 17 S. Ct. 581 (1897). (Emphasis here only).

The 2005 amendment to the Natural Gas Act, subject matter of this action, allegedly grants FERC jurisdiction over exported gas based on “**public interest**” allegedly justified by a 1928 interstate trade report which does equate to “**public use.**”

The effort of FERC to recast the basis of its jurisdiction, allegedly based on an interstate trade report, to “**public convenience and necessity**” is a futile effort to place a square peg into a round hole.

FERC cannot rewrite the statute. This attempted rewriting of 15 U.S.C. § 717a as justifying takings of land based on “**public convenience and necessity**” deserves an E grade for effort on the part of the agency, and nothing more, since the statute reads “**public interest,**” justified by a 1928 interstate trade report, and the Fifth Amendment reads “**public use.**”

FERC'S attempt to rewrite the statute suffers from an identical flaw as exemplified by the term “**public interest**” justified by a 1928 interstate trade report language of 15 U.S.C. § 717a since neither “**public interest justified by a 1928 interstate trade report**” nor “**public convenience and necessity**” can be equated with “**public use.**”

The General Accounting Office (GAO) admitted in 2014 that “In passing the NGA, Congress did not define public interest.” (MF-29, Ex.-17).

FERC has to reconcile its decision for continuing evaluation of this project with three separate and distinct explanations as to why FERC claims justification for KM/Tennessee to take Intervenor's property by eminent domain:

- a. Congress, in enacting 15 U.S.C. § 717a, justified the taking of private property by eminent domain

based on an obscure 1928 interstate trade report. (MF-4, Exs. 6A through 6V).

- b. FERC justifies the taking of private property by eminent domain based on a rabbit pulled out of a hat which it calls “public convenience and necessity.” (MF-7, Ex.-9 at page 1 of FERC’s June 30, 2015 Notice).
- c. The General Accounting Office (“GAO”) comes clean and admits that Congress failed to define the public interest in taking private property by a multibillion-dollar company to enrich itself by exportation of gas to foreign countries. (MF-29, Ex.-17 at page 11).

The fact that GAO in 2014 found that the Natural Gas Act does not define public interest should give FERC pause. FERC’s statement that Intervenor’s properties can be taken by KM/Tennessee because it is “**public convenience and necessity**,” which it does not, and which in any case is not “**public use**” and so does not pass the threshold requirements of the Fifth Amendment.

Moreover, the projected pipeline is not even in the “**public convenience and necessity**” since it is going to result in a sharp increase in natural gas costs, nor is it needed to supply natural gas to New England. (MFs. 16, 30, 31, 32, 33).

Intervenor’s expert David Keith has testified that the natural gas expected to be transported through the pipeline is not needed in New England. (MFs. 13, 14, 15).

Industrial expert Paul Cicio, CEO of Industrial Energy Consumers of America, has opined that consumer prices of natural gas will most likely increase if natural gas is exported to foreign countries. (MF-30).

The testimony of Mr. Paul Cicio is particularly swaying as CEO of the Industrial Energy Consumers of America (“IECA”), a nonpartisan association of leading manufacturing companies with \$1.0 trillion in annual sales, over 2,900 facilities nationwide, and more than 1.4 million employees worldwide. IECA is an organization created to promote the interests of manufacturing companies through advocacy and collaboration, for which the availability, use and cost of energy, power, or feedstock play a significant role in their ability to compete in domestic and world markets. IECA membership represents a diverse set of industries, including chemical, plastics, steel, iron ore, aluminum, paper, food processing, fertilizer, insulation, glass, industrial gases, pharmaceutical, building products, brewing, independent oil refining, and cement. (MF-30, Ex.-18).

Paul Cicio has presented similar testimony to Congress (MF-31) and in the intervention of the Industrial Energy Consumers of America in the matter of Pieridae application for export of liquefied natural gas. (MF-32).

Defendant’s own agency, the United States Energy Information Administration, has concluded unequivocally “**Increased LNG exports lead to increased natural gas prices.**” (MF-Ex.-33).

VIII. CONCLUSION

For all the reason stated in this Memorandum, Supported by Undisputed Material Facts 1 to 37 and accompanying Exhibits 1 to 25, FERC should grant Intervenor’s Motion for Summary Disposition in this matter.

Dated: Conway, Massachusetts

February 24, 2016

Respectfully Submitted

By Attorney for Intervenor

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BEFORE THE UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Tennessee Gas Pipeline Company, L.L.C. (TGP)		
Subsidiary of Kinder Morgan (KM)		Docket No. CP16-21-000
Northeast Energy Direct Project (NED)		PF14-22-000

OEP/DG2E/Gas Branch 3
Tennessee Gas Pipeline Company, LLC
Northeast Energy Direct Project
Docket Nos. CP16-21-000, PF14-22-000

In re: Carolyn and Eric Ness, Mega Worcester, Michael and Kelly Paulsen, Holly and Gordon Lovelace, and Woolman Hill Inc., Intervenor Refer to their Motion for Intervention Filed With the Commission and placed on the Docket of this case by FERC on January 12, 2016.

MATERIAL FACTS AS TO WHICH THERE ARE NO ISSUE TO BE TRIED

1. Kinder Morgan AKA Tennessee Gas Pipeline Company L.L.C. (hereinafter jointly “KM”) communicated to Plaintiffs in this litigation, between October of 2014 and July of 2015, that it planned to install a gas pipeline which may impact Plaintiffs. (Material Facts Exhibits -1, 2,3,4,5, hereinafter MF Ex.-#s).
2. Kinder Morgan also stated in its communications to Plaintiffs that:

The Project is subject to regulation by the Federal Energy Regulatory Commission (“FERC”) under Section 7(c) of the Natural Gas Act. On September 15, 2014. Tennessee requested authorization to use the FERCs pre• filing process (“Process”) for the Project and the FERC approved Tennessee’s request on October 2, 2014 in FERC Docket No. PF 14-22-000. (MF-Exhibits 1, 3, 5)
3. In 2005 Congress amended the Natural Gas Act and extended jurisdiction of the Federal Energy Regulatory Commission (“FERC”) to the exportation of natural gas with the following language:

Necessity of regulation in public interest. As disclosed in reports of the Federal Trade Commission made pursuant to S. Res. 83 (Seventieth Congress, first session) and other reports made pursuant to the authority of Congress, it is hereby declared that the business of transporting and selling natural gas for ultimate distribution to the public is affected with a public interest, and that Federal regulation in matters relating to the transportation of natural gas and the sale thereof in interstate and **foreign commerce** is necessary in the public interest. 15 U.S.C. § 717(a). (Emphasis here only).
4. The Congressional Record of S. Res. 83 (Seventieth Congress, first session 1928) does not list, or disclose, any reports which can in any way justify that exportation of natural gas is in the public interest. (MF-Exhibits-6A through 6U).
5. On July 9, 2013 sixteen senators send a letter to the US Secretary of Energy urging the Secretary to expedite approval of Liquefied Natural for export. (MF-Exhibit.-7).
6. On February 11, 2015 sixteen senators send a letter to the US Secretary of Energy expressing opposition of approvals of Liquefied Natural for export. (MF-Exhibit.-8).
7. On July 2, 2015, FERC mailed a document to counsel in this litigation concerning the KM pipeline in which it stated on its first paragraph that FERC will use this EIS in its decision-making- process to determine whether the “Project is in the public convenience and necessity.” (MF-Exhibit-9 at page-1 of

FERC's June 30, 2015 Notice).

8. On December 30, 2014 counsel for Plaintiffs requested counsel for KM to explain why FERC has jurisdiction over the KM pipeline when a great portion of the gas is for exportation to foreign countries. (MF-Exhibit.-10A).
9. KM never responded to the letter mentioned in Material Fact #7. (MF-Exhibit-10B).
10. Plaintiffs Carolyn and Eric Ness received a communication from KM on July of 2015 notifying them of scheduled hearings scheduled for August of 2015 by the Massachusetts Energy Facility Siting Council for consideration for approval of a number of pipelines proposed by KM. (MF-Exhibit-11).
11. The Massachusetts Energy Facility Siting Council was requested by KM to approve a 30 to 36 inch pipeline to transport natural gas through a number of counties in Western Massachusetts terminating in Dracut Massachusetts, as well as a 30 inch pipeline to transport natural gas from Dracut to a maritime terminal. (MF-Exhibit-11).
12. The gas projected to be transported by the Kinder Morgan AKA Tennessee Gas Pipeline (“KM”) is primarily for export to foreign countries. (MF-Exhibit-12, Expert Report of David Keith at pgs. 1 and 11).
13. Up until July 24, 2015, KM described plans for its Northeast Energy Direct pipeline to be able to transport 2.2 billion cubic feet of gas per day. A filing with FERC revised the application to 1.3 billion cubic feet of gas per day. (MF-Exhibit-12, Expert Report of David Keith at pg. 6 and endnote X.)
14. Despite reducing planned carrying capacity to 1.3 billion cubic feet of gas per day, KM “...reserves the right to amend the Project scope and construction schedule as needed to most effectively meet the demand needs of the market commitments supporting the Project[.]” It could change back to 2.2 Bcf/d. (MF-Exhibit-12, Expert Report of David Keith at pg. 6 and endnote X).
15. Allowing for energy loss in conversion to electricity, 2.2 billion cubic feet of natural gas per day could generate twenty-two times the electricity the Vermont Yankee nuclear reactor used to produce. 1.3 Bcf/d could replace that reactor thirteen times. (MF-Exhibit-12, Expert Report of David Keith at pg.5).
16. The cost of natural gas to Massachusetts consumers will increase if natural gas is allowed to be exported to foreign countries. (MF-Exhibit-12, Expert Report of David Keith at pg.10 and endnote xvi; MF-Exhibit-18, Report by Industry Expert Paul Cicio at page-4)
17. KM has applied to the Massachusetts Energy Facilities Siting Council for permits to build a 30 inch pipeline through Franklin County Massachusetts. (MF-Exhibit-12, Expert Report of David Keith at pg.10; MF-Exhibit-11).
18. KM has applied, at the same time, to the Massachusetts Energy Facilities Siting Council for permits to build a 30 inch pipeline from Dracut Massachusetts to connect with the Maritimes & Northeast pipeline. The owners of that pipeline are applying to reverse its direction to take gas from Dracut to Canada where LNG terminals are applying to use gas from that pipeline to liquefy and export. (MF-Exhibit-12, Expert Report of David Keith at pg.12; MF-Exhibit-11).
19. KM has announced that it is having four “LNG-conversion-ready” tankers built. (MF-Exhibit-12, Expert Report of David Keith at page 9).
20. KM has only been able to contract with suppliers of gas to New England consumers for 0.5 billion cubic feet of natural gas per day. (MF-Exhibit-12, Expert Report of David Keith at page 6).
21. KM has no significant market—including electricity generation—in New England beyond the 0.5 billion cubic feet per day of its precedent agreements. (MF-Exhibit- 12, Expert Report of David Keith at page 9).
22. KM can more cheaply bring the contracted amount of fuel to New England by “looping” the existing Line 200. (MF-Exhibit-12, Expert Report of David Keith at page pg.9).
23. The US Energy Information Agency [EIA] reported last December that the existing gas lines supplying 60 percent of New England’s gas have been operating “between 21% and 84% below 2008 levels, with

the largest percentage decline occurring on the Tennessee Gas Pipeline. (MF-Exhibit-12, Expert Report of David Keith at page 10).

24. KM's decision to go ahead with the more expensive project, when its own extended open season for contracts demonstrates demand in New England for less than 40 percent of the pipeline's reduced carrying capacity, implies that the remaining 60 percent is intended for export. (MF-Exhibit-12, Expert Report of David Keith at pages 9-11).
25. Berkshire Gas has accused Plaintiffs and others, opposing the construction of the KM pipeline of eco-terrorism. (MF-Ex.-13).
26. The Board of Health of Deerfield Massachusetts conducted an adjudicatory hearing on September 9, 2014 to establish the qualifications of KM to construct the projected KM pipeline. KM refused to attend the hearings. (MF-Exhibit-14).
27. The Board of Health of Deerfield found on October 23, 2015 that the proposed KM pipeline presents an unreasonable risk to the health and lives of the residents of Deerfield based on findings of the aforementioned adjudicatory hearings. (MF-Ex.- 15, "Facts" at pages 2 to 6).
28. KM sent a letter to the Board of Health of Deerfield stating that the Board of Health's Order, issued on October 23, 2015 (MF-Exhibit-15), after the adjudicatory hearing to which KM refused to attend (MF-Exhibit-14), that the ruling of the Board of Health of Deerfield is a "nullity." (MF-Exhibit-16).
29. In passing the Natural Gas Act, Congress did not define "public interest". (MF-Ex.-17 at page 11).
30. Industry Expert states in a report that exportation of natural gas will result in higher prices of natural gas for US consumers. (MF-Exhibit-18).
31. Paul Cicio, President of Industrial Energy Consumers of America, testified in Congress on January 29, 2015 that exporting natural gas presents risks contrary to the public interest. (MF-Exhibit-19 at page 20).
32. The Industrial Energy Consumers of America filed a Motion to intervene in another Federal Energy Regulatory Commission requesting that FERC deny permit to another gas transport pipeline on the grounds that it is inconsistent with the public interest to grant a corporation a license to export natural gas to other nations. (MF-Exhibit-20 at pages, 2, 3 and 16).
33. Defendant's Agency the US Energy Information Agency (EIA) asserted in October of 2014 that "Increased LNG exports lead to increased natural gas prices." (MF- Exhibit 21 at page 12).
34. The question before the Supreme Court as outlined by the City of New London was whether the Takings Clause of the Fifth Amendment forbid an economically distressed city from employing its eminent domain power to condemn, and pay just compensation for private property in order to reverse decades of economic decline, create thousands of jobs and significantly increase property taxes and other sources of revenue for the city, and to realize immediate structural and environmental benefits for the city and its residents?. (MF-Exhibit-22 at page 1)."
35. Professor Bruce L. Benson has reviewed the history of the takings clause and has stated in an opinion that James Madison, who wrote the Fifth Amendment, chose the term "public use" rather than public interest, public benefit or some other term, in an effort to establish a more objective requirement. (MF-Exhibit-23 at page 10).
36. Plaintiffs have suffered a diminution of the property values, compounded by emotional distress, at the announcement by KM that it plans to obtain approval from FERC to install a natural gas pipeline through their properties, or in the case of Plaintiffs Lovelace, the installation of a compressor station in the vicinity of their property. (MF-Ex.-24 A through E).
37. The Environmental Protection Agency filed comments with FERC, on October 16, 2015, regarding the KM pipeline without mentioning the issue of exportation of natural gas. (MF-Exhibit-25).

Dated: Conway, Massachusetts
February 24, 2016

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*{EXHIBITS OMITTED, files 20160224-5163(31267132).pdf ... 20160224-5163(31267181).pdf}
{ complete submission consisted of 53 files, 56 MB. Download links to exhibits provided below }*

MF-EXHIBIT-1 : Letter KM to Lovelace, June 4, 2015

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14153975>

MF-EXHIBIT-2 : Compressor Station Largest in the Country

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14153976>

MF-EXHIBIT-3 : Letter Kinder Morgan to Eric and Carolyn Ness, December 14, 2015

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14153977>

MF-EXHIBIT-4 : Letter Kinder Morgan to Woolman Hill

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14153978>

MF-EXHIBIT-5 : Letter Kinder Morgan To Margret (sic) Worcester, December 12, 2015

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14153979>

MF-EXHIBIT-6A : Pages 1-10 Congressional Record S. Res. 83 (Seventieth Congress 1928)

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14153980>

MF-EXHIBIT-6B : Pages 11-19 Congressional Record S. Res. 83 (Seventieth Congress 1928)

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14153981>

MF-EXHIBIT-6C : Pages 20-29 Congressional Record S. Res. 83 (Seventieth Congress 1928)

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14153982>

MF-EXHIBIT-6D : Pages 30-40 Congressional Record S. Res. 83 (Seventieth Congress 1928)

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14153983>

MF-EXHIBIT-6E : Pages 41-50 Congressional Record S. Res. 83 (Seventieth Congress 1928)

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14153984>

MF-EXHIBIT-6F : Pages 51-63 Congressional Record S. Res. 83 (Seventieth Congress 1928)

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14153985>

MF-EXHIBIT-6G : Pages 64-75 Congressional Record S. Res. 83 (Seventieth Congress 1928)

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14153986>

MF-EXHIBIT-6H : Pages 76-85 Congressional Record S. Res. 83 (Seventieth Congress 1928)

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14153987>

MF-EXHIBIT-6I : Pages 86-96 Congressional Record S. Res. 83 (Seventieth Congress 1928)

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14153988>

MF-EXHIBIT-6J : Pages 97-110 Congressional Record S. Res. 83 (Seventieth Congress 1928)

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14153989>

MF-EXHIBIT-6K : Pages 111-125 Congressional Record S. Res. 83 (Seventieth Congress 1928)

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14153990>

MF-EXHIBIT-6L : Pages 126-140 Congressional Record S. Res. 83 (Seventieth Congress 1928)

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14153991>

MF-EXHIBIT-6M : Pages 141-152 Congressional Record S. Res. 83 (Seventieth Congress 1928)

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14153992>

MF-EXHIBIT-6N : Pages 153-163 Congressional Record S. Res. 83 (Seventieth Congress 1928)

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14153993>

MF-EXHIBIT-6O : Pages 164-176 Congressional Record S. Res. 83 (Seventieth Congress 1928)

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14153994>

MF-EXHIBIT-6P : Pages 177-191 Congressional Record S. Res. 83 (Seventieth Congress 1928)

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14153995>

MF-EXHIBIT-6Q : Pages 192-206 Congressional Record S. Res. 83 (Seventieth Congress 1928)

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14153996>

MF-EXHIBIT-6R : Pages 207-222 Congressional Record S. Res. 83 (Seventieth Congress 1928)

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14153997>

MF-EXHIBIT-6S : Pages 223-233 Congressional Record S. Res. 83 (Seventieth Congress 1928)

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14153998>

MF-EXHIBIT-6T : Pages 234-245 Congressional Record S. Res. 83 (Seventieth Congress 1928)

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14153999>

MF-EXHIBIT-6U : Pages 246-257 Congressional Record S. Res. 83 (Seventieth Congress 1928)

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14154000>

MF-EXHIBIT-7 : Letter from Sixteen Senators Urging the Department of Energy to Approve Natural Gas Exportation, July 9, 2013

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14154001>

MF-EXHIBIT-8 : Letter from Sixteen Senators to the Department of Energy Stating Disapproval of Natural Gas Exportation, February 11, 2015

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14154002>

MF-EXHIBIT-9 : Letter FERC to Town of Deerfield, Notice of Intent to Prepare EIS, July 2, 2015

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14154003>

MF-EXHIBIT-10A : Letter from Counsel to Kinder Morgan, December 30, 2015

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14154004>

MF-EXHIBIT-10B : affidavit of Counsel: Mailed MF-Exhibit-10A to counsel for KM on December 30, 2014, never received a response

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14154005>

MF-EXHIBIT-11 : Letter from Kinder Morgan to Ness Massachusetts Energy Siting Facilities, July 2, 2015

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14154006>

MF-EXHIBIT-12 : REPORT OF EXPERT DAVID GILBERT KEITH

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14154007>

MF-EXHIBIT-13 : Letter from Counsel to James Farrell Berkshire Gas, April 27, 2015

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14154008>

MF-EXHIBIT-14 : Certified Court Reporter Transcript of Deerfield's Board of Health Adjudicatory Hearings. September 9, 2014

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14154009>

MF-EXHIBIT-15 : Final Decision of Deerfield's Board of Health

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14154010>

MF-EXHIBIT-16 : Letter from Kinder Morgan's Counsel, Town of Deerfield, November 17, 2015

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14154011>

MF-EXHIBIT-17 : GENERAL ACCOUNTING OFFICE'S REPORT, NATURAL GAS, September 2014

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14154012>

MF-EXHIBIT-18 : Industry Expert Testimony on the Impact of Natural Gas Exports on Natural Gas Prices within the United States, June 8, 2015

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14154013>

MF-EXHIBIT-19 : IECA Testimony Congressional Hearings January 29, 2015

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14154014>

MF-EXHIBIT-20 : IECA's Motion to Intervene, Pieridae Litigation, February 9, 2015

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14154015>

MF-EXHIBIT-21 : US ENERGY INFORMATION ADMINISTRATION INCREASE IN EXPORTS OF NATURAL GAS RESULTS IN HIGHER NATURAL GAS PRICES WITHIN THE UNITED STATES

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14154016>

MF-EXHIBIT-22 : City of New London Respondent's Brief in The Supreme Court in Kelo v. City of New London

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14154017>

MF-EXHIBIT-23 : Professor Bruce L. Benson Article Published in the Independent Review Volume XII Winter 2008 Pgs. 423-432. Submitted With Permission for Reproduction from Professor Bruce L. Ben-

son

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14154018>

MF-EXHIBIT-24A : AFFIDAVIT OF CAROLYN AND ERIC NESS

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14154019>

MF-EXHIBIT-24B : AFFIDAVIT OF MEG WORCESTER

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14154020>

MF-EXHIBIT-24C : AFFIDAVIT KELLY AND MICHAEL PAULSEN

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14154021>

MF-EXHIBIT-24D : AFFIDAVIT OF HOLLY AND GORDON LOVELACE

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14154022>

MF-EXHIBIT-24E : AFFIDAVIT OF MARGARET COOLEY AND PATRICIA HIGGINS

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14154023>

MF-EXHIBIT-25 : LETTER EPA TO FERC, OCTOBER 16, 2015

<http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14154024>

{end of 20160224-5163}

20160225-0024

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

S.A. Matthews 40 Settlement Hill New Ipswich, NH 03071

20160225-0025

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Cynthia Dickerman 32 Alexander View Rd Northfield, MA 01360

20160225-0039

STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0001

February 3, 2016

Paul R. LePage
Governor

The Honorable Norman C. Bay
Chair
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Dear Chairman Bay,

I am writing to request that you expeditiously move forward in the consideration of Docket No. Docket No. CP16-21-000. As you are well aware, New England's severe natural gas capacity constraints have been unprecedented and the Northeast Energy Direct (NED) would provide critical additionality to the region.

We are geographically positioned to take advantage of natural gas resources located primarily in Pennsylvania if sufficient pipeline capacity can be constructed. With my colleagues in most of the New England States, my Administration has been moving forward with an energy infrastructure initiative to expand our access to natural gas through pipeline expansions. We cannot afford inaction or delay on New England pipeline proposals and it is crucial that these projects move forward as quickly as possible. I urge you to review the applications before you in a timely manner, paying sufficient attention to local concerns while fully understanding of the nature of public goods like infrastructure projects that provide enormous but dispersed benefits to society at large but often struggle to aggregate support in the face of “not-in-my-backyard” sentiment.

I have written to the Commission to urge prompt action to address New England’s electricity prices in the past. Specifically, I have requested that you move forward expeditiously in the review of Spectra Energy’s Algonquin Incremental Market (AIM) project and Spectra’s Atlantic Bridge project. The Commission is also considering Spectra’s Access Northeast project in its recently-opened pre-filing Docket. I appreciate the Commission’s prompt action and consideration of these projects.

Now that the NED project is before you, I similarly request that you move forward expeditiously in your review of that project to relieve New England’s natural gas capacity challenges. The NED project is particularly critical for Maine’s economic strategy because of its up to 1.3Bcf/d size, direct reach into the Marcellus Shale region, subscription from various New England gas utilities in need of supply, and potential to satisfy the particular demands of New England’s large, flexible, and efficient fleet of natural gas-fired generators. I look forward to the benefits of NED becoming a reality for Maine and New England.

Please consider the State of Maine’s support and approve these projects without unnecessary delay.

Thank you for your consideration.

Sincerely,

Paul R. LePage
Governor

20160225-5216

SAVE BURDEN LAKE
www.saveburdenlake.org
stop.nassau.ned@gmail.com

February 24, 2016

Federal Energy Regulatory Commission

Secretary Bose:

RE: CP 16-21

We are writing with respect to one of the Precedent Agreements that Tennessee Gas Pipeline included in its November 20, 2015 application for a certificate of need and convenience for the Northeast Direct Pipeline (FERC CP16-21). Specifically, we are referring to the first such precedent agreement listed in Exhibit I of the Application. It is referred to in the Summary of Precedent Agreements as Power Generator #1 on the Supply Path. We have examined the Agreement and have concluded that it does not obligate the “Shipper” to use any capacity on the proposed pipeline if it is built.

The Whereas clauses of the heavily redacted agreement disclose that the unnamed Shipper is “currently considering the constructing of a greenfield or brownfield natural gas fired power plant” or “acquisition of multiple existing natural gas fired power plants”. At Section 1, E, the agreement states that the TQ (quantity to be shipped) depends on the Shipper’s final investment decision on each of two options, essentially whether it builds or buys power plants. In context, it is clear that these two options are not alternatives and that the Shipper could decline both options – in which case it is not obligated to ship any natural gas. Section 4, C, ii states that the options are to be decided on or before August 1, 2016. The volume of gas to be

shipped – if any is shipped – for a newly constructed plant would be between 200,000 and 235,000 Dth/day. For acquired plants, the volume would be between 100,000 and 235,000 Dth/day.

If the Shipper were to elect the maximum amount, it is about 31% of all the precedent agreements for the Supply Path component of the NED. Regardless, if the shipments are to existing plants, it must be assumed that such plants already have a source of gas and that these shipments merely change one pipe for another. If it is with respect to a newly constructed plant, it begs credulity to suggest that a natural gas plant could be planned, approved, constructed and operating by November 1, 2018, as set forth in the Agreement. It is easier to believe that the entire agreement is contrived to bolster arguments about the demand, necessity and benefits of the proposed pipeline.

There are many serious issues to be addressed about the benefits of retiring existing plants, whether coal or nuclear, and committing to many decades of increased natural gas usage. Not the least among these are whether a new plant is actually cleaner than what it might replace, whether excessive reliance on a single source of fuel would subject consumers to price spikes and, most importantly, whether this “bridge to renewables” would in fact become a barrier by pricing renewables out of the market.

If FERC accepts this precedent agreement as showing demand for the pipeline, it must assess the environmental, climate and consumer impact of such a plant. Without more information, however, about the reality of the plans, this precedent agreement should be ignored. We have not yet examined any of the remaining precedent agreements, but if they are as noncommittal as this one, they cannot be regarded as any measure of demand.

It should also be noted that the above discussed precedent agreement is the only one which would use solely the Supply Path. All other agreements for use of the Supply Path component are for transshipment to and along the Market Path. Presumably, shippers taking product from the Market Path could acquire it from any of the various sources connecting to the Market Path at Wright, NY and do not need the Supply Path component. Likewise, the need for the Market Path has been seriously called into question.

The need for and impact of each of the two NED components should be examined separately and as a whole; i.e., if the Supply Path were seen as justified by market and environmental concerns, that does not imply that the Market Path is similarly justified and vice versa.

Terry M. Nord
On Behalf of Save Burden Lake
saveburdenlake1@gmail.com

20160226-0015

**Congress of the United States
House of Representatives
Washington, DC 20515-2102**

James P. McGovern
2nd District, Massachusetts

February 25, 2016

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
ggg First Street, NE
Room A1
Washington, D.C. 20426

Re: Fnmklin Regional Council of Governments Petition for a Formal Evidentiary Hearing with regard to the Northeast Energy Direct Project

Dear Secretary Bose:

I want to thank the Federal Energy Regulatory Commission (FERC) for engaging with my constituents

with regard to the environmental impact and factual disputes associated with the planned Northeast Energy Direct Project (NED).

After a highly active scoping period, which saw a high quantity of public comments, input, and concerns with regard to the pipeline; on January 15, 2016 Linda Dunlavy, Executive Director of the Franklin Regional Council of Governments (FRCOG), requested a public and formal evidentiary hearing pursuant to the Natural Gas Act.

I am writing to you in support of Ms. Dunlavy's request for a Formal Evidentiary Hearing to address, and to call into question, the disputed materials and evidence used to support the NED project.

Throughout the process so far, Kinder Morgan has prevented much of the relevant and necessary information from being released to the public in a timely manner. Its reports have been filled with pages stating that the necessary information would be released at a future date. These tactics have denied many commenters the ability to call into question the information that Kinder Morgan has used to justify the need for the NED.

In addition, several studies have been conducted which dispute Tennessee Gas's claims of necessity. Massachusetts Attorney General Maura Healy conducted a comprehensive study which demonstrated that Massachusetts is unlikely to face difficulty in providing affordable and accessible electricity in the next fifteen years. The report further concludes that any attempt to provide an increased amount of inexpensive energy should be met through clean renewable energy and energy efficiency improvements rather than any expansion as contemplated by the NED.

Attorney General Healy's study has shown that there are better means to address the energy needs of the Commonwealth. That, combined with the tactics used by Kinder Morgan to avoid providing complete information to the public, does not create a sense of confidence in the ongoing process. It is clear that a formal evidentiary hearing is in the Commonwealth's best interest.

FERC's process must be conducted in an open and transparent manner. I will continue to advocate on behalf of my constituents in the 2nd Congressional District in order to amplify their voices and ensure that their issues with the NED project are addressed in a thoughtful and comprehensive manner. I request that FERC give Ms. Dunlavy's request its full and fair consideration.

Sincerely,

James P. McGovern
Member of Congress

20160226-3007

{ 42 pages, skip to end of 20160226-3007 }

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

OFFICE OF ENERGY PROJECTS

In Reply Refer To:
OEP/DG2E/Gas Branch 3
Tennessee Gas Pipeline Company, LLC
Northeast Energy Direct Project
Docket Nos. CP16-21-000, PF14-22-000
§ 375.308(z)

February 26, 2015

Mr. J. Curtis Moffat
Deputy General Counsel and Vice President
Gas Group Legal
Tennessee Gas Pipeline Company, LLC
1001 Louisiana Street, Suite 1000

Houston, TX 77009

Re: Environmental Information Request

Mr. Moffat:

Provide the information described in the enclosure to assist in our analysis of the above-referenced certificate application. File your response in accordance with the provisions of the Commission's Rules of Practice and Procedure. In particular, 18 CFR 385.2010 (Rule 2010) requires that you serve a copy of the response to each person whose name appears on the official service list for this proceeding.

You should file a complete response within 20 days of the date of this letter. The response must be filed with the Secretary of the Commission at:

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington, DC 20426

In addition to the information specifically required in the regulations, staff needs the following information to begin preparation of the environmental impact statement (EIS) for the Northeast Energy Direct Project. If the information cannot be provided in the time frame indicated, explain which items will be delayed and why, and provide a projected filing date. Also, we expect to be requesting other clarifications or information in the future.

Once we have received your responses to this and any necessary future data requests, and reviewed them for completeness, we will be able to establish a schedule for completing the EIS.

When filing documents and maps, be sure to prepare separate volumes, as outlined on the Commission's website at <http://www.ferc.gov/resources/guides/filing-guide/file-ceii.asp>. Any Critical Energy Infrastructure Information should be filed as non-public and labeled "Contains Critical Energy Infrastructure Information-Do Not Release" (18 CFR 388.112). Cultural resources material containing location, character, or ownership information should be marked "Contains Privileged Information - Do Not Release" and should be filed separately from the remaining information, which should be marked "Public."

File all responses under oath (18 CFR 385.2005) by an authorized Tennessee Gas Pipeline Company, LLC representative and include the name, position, and telephone number of the respondent to each item.

If you have any questions, please contact me at (202) 502-8097. Thank you for your cooperation.

Eric J. Tomasi
Environmental Project Manager
Office of Energy Projects

cc: Public File, Docket Nos. CP16-21-000, PF14-22-000

All Parties

ENCLOSURE

**Northeast Energy Direct Project (Project)
Docket No. CP16-21-000
Environmental Information Request**

Resource Report 1 – Project Description

1. General – Provide all information listed in Resource Report (RR) 1 (or in the Responses to Comments on Draft Resource Reports matrix) that Tennessee Gas Pipeline Company, LLC (Tennessee Gas) has identified would be provided to the Federal Energy Regulatory Commission (FERC), or include a schedule for submittal), which includes, but is not necessarily limited to:
 - a. all updated text, tables, graphics and appendices to depict and characterize any changes to the Project routing, aboveground facilities, and construction and operational workspaces that Tennessee Gas

has adopted that are not comprehensively reflected in the November 20, 2015 certificate application (e.g., Amherst re-route, powerline collocation);

- b. updated landowner list that reflects the Amherst re-route and any other changes adopted by Tennessee Gas subsequent to its November 20, 2015 submittal including directly affected landowners and abutting landowners as well as those landowners that would no longer be affected due to changes in the route and facility locations;
- c. provide updated maps and parcel data that include parcel boundary, parcel ID, and landowner names and addresses for the draft March 2015 submittal, the November 2015 submittal, and any subsequent updates since November 2015;
- d. updated information on the existing conditions, Project routing, construction, or operation based on aerial photography and Light Detection and Ranging (LiDAR) surveys conducted after March 2015, including associated updates to the Project methods, impacts, or mitigation after the November 20, 2015 application. This information should include updated data, and associated text, tables, and maps. For all existing and pending aerial photography and LiDAR surveys, provide the following:
 - i. detailed survey methods and dates;
 - ii. aerial photographs;
 - iii. LiDAR data and maps;
 - iv. contour elevation intervals;
 - v. detailed interpretation methods, including assumptions;
 - vi. Quality Assurance/Quality Control methodologies; and
 - vii. site-by-site results;
- e. all agency consultation after October 1, 2015 (or otherwise not previously filed with the FERC);
- f. updated 2015 survey results and schedule for 2016 field surveys and survey report submittal;
- g. updated land use-land cover mapping;
- h. updated detailed construction schedule showing Project components by year (e.g., 2017, 2018) or confirm that it has not changed;
- i. updated discussions between Tennessee Gas and the other utility entities regarding collocation. State specifically what portions of their existing rights-of-way would be allowed for construction, operation, or both and define any potential physical constraints (e.g., guy wires). Where existing rights-of-way would not be shared, specifically indicate whether the Northeast Energy Direct (NED) Project would directly abut the existing corridor. Include a fully descriptive table, with explanations and details included that lists each area where a collocated Project segment would deviate from other collocated utilities. Based on the results of these discussions, both for other utilities unwilling to share their right-of-way as well as for physical obstacles, indicate whether the proposed Project centerline and associated workspaces would have to be modified including distance from the existing rights-of-way and length of the deviation. Provide all areas where Project construction along collocated rights-of-way would require clearing mature trees within the existing easement (including locations, acreage of tree clearing, and proximity to residences for each location). Provide updated tables that summarize these results (e.g., table 1.1-2);
- j. updated information on the proposed locations that trenchless crossing methods (including horizontal directional drill [HDD], Direct Pipe, and conventional bore) would be conducted to minimize impacts to sensitive resources, such as waterbodies, wetlands, critical habitat, and major infrastructure based on:
 - i. geotechnical investigations of currently proposed locations;
 - ii. additional field surveys and assessment;

- iii. additional crossings under evaluation but not currently formally proposed; and
 - iv. agency and stakeholder consultation;
 - k. cathodic protection facility information including identification number, and associated access roads (including length, width, orientation, land use, and acreage impacted);
 - l. updated alignment sheets depicting:
 - i. survey status;
 - ii. construction and operational right-of-way;
 - iii. additional temporary workspace including updated locations and configurations;
 - iv. access roads including locations, configuration, and identification of whether they would be used during construction and operation, and whether they would be maintained in their current condition or modified;
 - v. updated contractor yards showing any sensitive resources; and
 - vi. updated crossing method locations (e.g., HDD, Direct Pipe, conventional bore);
 - m. updated status of landowner access and associated survey status (including updated tables 1.2-6 and 1.2-7);
 - n. update of table 1.6-1 on agency permits and consultation status, including status of permit applications submitted since mid-November 2015;
 - o. updates to any of the state-specific Environmental Construction Plans (ECPs) and appendices associated with federal and state agency consultation and refinements in avoidance and minimization measures proposed by Tennessee Gas (denote all modifications to these plans since the November 20, 2015 submittal in the text of the plan). Provide an updated table that identifies how the individual ECPs differ from one another and from the FERC Plan and Procedures;
 - p. scour analysis detailing methods, data, and results;
 - q. any updated information on the identification and full description of non-jurisdictional facilities associated with the Project including potential service for water, sewer, telephone, internet/data, or other utilities at aboveground facilities. If there are any additional non-jurisdictional facilities that would be built as a result of the new gas volumes associated with this Project, include the following detailed information for each facility:
 - i. company/owner;
 - ii. type of facility;
 - iii. dimensions (pipe diameter, length, horsepower, etc. as appropriate for pipeline and land area for other facilities);
 - iv. maps showing locations;
 - v. federal permits required and their status;
 - vi. status of local and state permits required; and
 - vii. any environmental reviews required for federal, state, or local, permitting authorities; and
 - r. provide all major tabular summaries in a Word, Excel, or comparable format (e.g., more than 10 rows or 10 columns).
2. Provide a comprehensive inventory of the information that Tennessee Gas intends to file with the FERC in its anticipated April 2016 submittal.
 3. Confirm whether Tennessee Gas is proposing 29 meter stations as identified throughout the November 20, 2015 RRs or 27 meter stations as identified in some portions of its November 20, 2015 Application. As warranted, provide updated descriptions and tables that reflect the correct number, location, descriptions, configurations, and associated impacts and mitigation measures.

4. Provide an explanation why the interconnect between the NED mainline and the Maritimes & Northeast pipeline system is not directly from the NED Mainline Segment L, milepost (MP) 1.7 where the two pipelines would cross instead of constructing the Maritimes Delivery Line from the Market Path Tail Station immediately adjacent to the proposed NED mainline back to the Maritimes & Northeast pipeline (thus installing two 30-inch pipelines within the same right-of-way for 0.75 miles, which would require both wider construction and permanent rights-of-way).
5. Section 1.0 (page 1-2) – Clarify the meaning of the text on the Amherst re-route(s) as it relates to:
 - a. whether there are one or two Amherst re-routes;
 - b. if there is only one Amherst re-route, explicitly identify what specific portions of the November 20, 2015 submittal (text, tables, and maps) reflect it;
 - c. if there is an additional Amherst re-route as stated in the text, explicitly identify what portions of the November 20, 2015 submittal (text, tables, and maps) reflect no Amherst re-routes, one Amherst re-route, or two Amherst re-routes; and
 - d. if there is a delay in providing comprehensive text, tables and maps that incorporate the appropriate Amherst re-route(s), provide U.S. Geological Survey (USGS) 7.5 minute topographic maps, aerial alignment sheets, and National Wetlands Inventory (NWI) maps that correspond to the proposed Project described in the text and tables of the November 20, 2015 submittal.
6. Section 1.1.1 (page 1-11) – Provide any updates since the November 20, 2015 submittal on the possible uses of the Project’s end-users/customers for the gas capacity created in the mainline and each lateral. If possible, break down (by delivery point) the current known customer and/or use (e.g., electric generation, residential use/consumption, local distribution, industrial/manufacturing, manufacturing precursors).
7. Section 1.3.1.1 (page 1-83) – Provide additional detail on the special measures that would be employed to prevent post-restoration slips and landslides in steep terrain, and how Tennessee Gas would ensure their success.
8. Section 1.3.1.2 (page 1-96) – Regarding temporary erosion control measures occurring within 24 hours of each 0.5 inch of rainfall, identify how and where rainfall would be measured and monitored in relation to the Project work areas, and what would be the maximum distance between the proposed route and the closest rainfall monitoring station.
9. Section 1.3.1.3 (page 1-96) – Confirm landowners’ roles in determining how trees would be removed including if/how timber would be sold, provided for personal use (e.g., firewood), and/or disposed (e.g., chipped, onsite, offsite).
10. Section 1.3.1.4 (page 1-97) – Clarify whether Tennessee Gas is proposing that the minimum depth of cover be 36 inches in actively cultivated agricultural lands as stated in the text, or 48 inches in all agricultural lands as stated in the corresponding table (table 1.3-1). Confirm whether or not Tennessee Gas has different definitions and construction methods for ‘land in agriculture’ and ‘actively cultivated agricultural lands.’
11. Section 1.3.1.13 (page 1-100) – As requested in our May 15, 2015 and October 8, 2015 Environmental Information Requests (EIRs), describe the source or type of source of imported soils during restoration, and measures that would be implemented to address the spread of invasive plant species, soil type compatibility, and rock content.
12. Section 1.3.1.14 (page 1-101) – Provide methods for discharging hydrostatic test waters into waterbodies in the event it may be allowed by regulatory agencies and may be pursued by Tennessee Gas. Update the information on whether the hydrostatic discharges in each state would be covered under a General Permit of individual permits.
13. Section 1.3.2.2 (page 1-103) – For pipeline installation near residences:

- a. where residential access would be temporarily blocked, provide the typical and maximum duration that would be anticipated that local residents would not have access to/from their homes during active pipeline installation;
 - b. clarify whether trenches immediately adjacent to residences would be backfilled or covered daily, or left open for up to 10 days;
 - c. provide the source of imported topsoil for lawns (or identify the process for determining the source);
 - d. clarify whether Tennessee Gas would test all water wells and springs used as a drinking water supply (humans or livestock) within 200 feet of construction workspace;
 - e. clarify whether Tennessee Gas would conduct pre-construction water testing for all drinking water wells and springs within 200 feet of the construction workspace prior to construction even if the landowners have not offered survey access to Tennessee Gas prior to any FERC Certificate; and
 - f. clarify how Tennessee Gas would ensure that all conditions of landowner agreements have been met and the landowner has been appropriately compensated for damage to the satisfaction of the landowner.
14. Section 1.3.2.2 (page 1-104) – In regard to assessing potential damage of Project-related traffic on roads, confirm whether Tennessee Gas would video document all pre- and post-construction road conditions (public and private). Provide further detail on how Project-related responsibility would be determined for potential road damage to public and private roads, and how it would be corrected.
 15. Section 1.3.2.5.2 (page 1-106) – As requested in our May 15, 2015 and October 8, 2015 EIRs, discuss whether Tennessee Gas, in certain circumstances, may be able to pull back an HDD section in sub-sections, thereby increasing flexibility, minimizing the false right-of-way, and precluding the requirement of pulling one continuous section. If feasible, identify the specific crossings where this method would be employed.
 16. Section 1.3.2.5.2 (page 1-107) – Provide results of geotechnical investigations at all locations where HDD is proposed including detailed methods, data, and evaluation of feasibility of successful HDD or Direct Pipe crossing methods.
 17. Section 1.8 (table 1.8-1) – Confirm the actual libraries and/or other locations where the public can access hard copies of the November 2015 application, supplemental filings, and responses to data requests. Provide hours of public access, and ensure that you have at least one location per county. In addition provide details where and how affected landowners (those with Project components on their land, those that abut properties with Project components, and those landowners within 1/2 mile of the compressor stations) can access detailed maps of where the pipeline, or other project components would cross on or near their property,
 18. Section 1.8.1 (page 1-143) – Clarify the statement that survey permission is pending for aboveground facility sites, access roads, and contractor yards as to whether this statement applies to all of those areas, whether Tennessee Gas has requested access to each location, and whether Tennessee Gas has been denied access to each location. If survey access has not been requested, provide the schedule for requesting access, conducting surveys for accessible parcels, and providing those results to the FERC.
 19. Section 1.9 (page 1-153) – As requested in our October 8, 2015 EIR, consult with land managing agencies, state and local planning agencies, and other appropriate entities to identify past, present, and reasonably foreseeable future in the potential resource Region of Influence that could be affected by the NED Project. Provide the agency correspondence to support the consultation.
 20. Section 1.9 (page 1-153) – Revise the cumulative impact analysis to report the various projects and their project footprints on a spatial scale of hydrologic unit code (HUC) 10 watersheds instead of HUC 8 where the HUC delineation is used. Provide updated versions of figure 1.9-1, table 1.9-2, and attachment 1B that reflect HUC 10 watersheds.
 21. Provide an updated table listing any additional deviations that Tennessee Gas is requesting from the

FERC Upland Erosion Control, Revegetation, and Maintenance Plan (Plan) and Wetland and Waterbody Construction and Mitigation Procedures (Procedures) including the section number of the Plan or Procedures for the requested deviation, a description of the deviation itself, justification for the deviation, and a description of how the deviation would provide equal or greater mitigation. Additionally, provide an updated summary table stating how each state-specific ECP differs from one another and from the FERC Plan and Procedures.

Resource Report 2 – Water Use and Quality

1. General – Provide all information listed in RR2 (or in the Responses to Comments on Draft Resource Reports matrix; or the Responses to the October 2015 Scoping Comments matrix that Tennessee Gas has identified would be provided to the FERC (or include a schedule for submittal), which includes, but is not necessarily limited to:
 - a. status of consultation with the New York Department of Health to identify regulatory agency requirements regarding water resources;
 - b. status of consultations with each state regarding special impact avoidance, minimization, or mitigation measures recommended near Sole Source Aquifers (SSAs) and Wellhead Protection Areas (WHPAs);
 - c. status of class studies on proposed pipeline segments to assist in mainline valve (MLV) placement;
 - d. status of consultation with the Pennsylvania Department of Environmental Protection (PADEP) Northcentral Region Water Supply Program regarding public water supply (PWS) wells in the Project area;
 - e. status of identifying all known public and private water supply wells and springs;
 - f. status of consultation with the Town of Wilmington, Massachusetts to determine avoidance and minimization measures near the Massachusetts Department of Environmental Protection (MADEP) designated Zone I and II areas;
 - g. a Hydrostatic Test Plan that provides source and discharge locations, the rate and volume of water that would be required, and month(s) of withdrawal and discharge. Clarify the apparent discrepancy between RR2 and the state-specific ECPs regarding whether or not hydrostatic test water could be discharged into waterbodies. If water would be discharged into waterbodies, describe the methods and clarify whether or not discharge would occur within the same hydrologic basin as the source water. Identify any measures Tennessee Gas would take to minimize the discharge of any compounds in the pipe via the test water (e.g., soil, rust) as well as the spread of invasive species through dispersal of test water into waterbodies and wetlands;
 - h. status of agency consultations regarding timing restrictions of waterbody crossings;
 - i. status of consultations with the Pennsylvania Fish and Boat Commission (PAFBC), New York State Department of Environmental Conservation (NYSDEC) Bureau of Fisheries, Massachusetts Division of Fisheries and Wildlife (MADFW), New Hampshire Department of Environmental Services (NHDES), and the Connecticut Department of Energy and Environmental Protection (CTDEEP) regarding waterbodies containing fisheries resources;
 - j. status of agency consultations regarding the proposed use of a dry-crossing method at the Westfield River (a National Wild and Scenic River) along with the results of Tennessee Gas' crossing-method analysis and resulting proposed crossing method for this waterbody;
 - k. status of consultations with state agencies regarding hazardous spill sites and areas subject to on-going environmental remediation activities;
 - l. status of consultations with NHDES regarding waterbody crossings on impaired streams/waterbodies containing contaminated sediments;

- m. status of consultations with federal, state, and local agencies to identify areas where flooding is a concern that may not be mapped by the Federal Emergency Management Agency (FEMA);
 - n. status of consultation regarding special wetland impact avoidance, minimization, or mitigation measures recommended for erosion and sediment control;
 - o. status of consultations with federal and state regulatory agencies (e.g., PADEP, NYSDEC, MADEP, NHDES, CTDEEP, and U.S. Army Corps of Engineers [COE]) on whether Tennessee Gas is developing Project-specific wetland plans (per state) and the specific guidance that is proposed. Provide draft wetland mitigation plans including any compensatory mitigation plans, if available. If draft plans are not available, identify the schedule for when these plans will be provided and provide a discussion regarding the types of mitigation methods that may be appropriate to restore wetlands;
 - p. status of consultations with New Hampshire Department of Transportation, the Town of Salem, and appropriate regulatory agencies in regard to the wetland floodplain mitigation site associated with the I-93 project in Salem, New Hampshire;
 - q. updated status of landowner access for surveys, survey status, data, and conclusions regarding the occurrence and avoidance of waterbody and wetland habitat associated with proposed contractor yards and access roads;
 - r. status of consultations with applicable agencies on wetland construction measures and associated crossing techniques/conditions which would be required and incorporated for the state-specific ECPs;
 - s. status of consultation with Connecticut's Metropolitan District Commission (CTMDC) to determine the correct minimization and mitigation techniques best suitable for the CTMDC public drinking watershed and the permit application to be filed with the Connecticut Department of Public Health (CTDPH); and
 - t. updated status of 2015 wetland and waterbody field surveys, previously unfiled 2015 field data, and the anticipated schedule for conducting 2016 field surveys and providing 2016 field results.
2. General – Clarify whether the ‘photo-interpretation’ of waterbodies and wetlands conducted by Tennessee Gas is specific to review of only aerial photographs, only LiDAR imagery, or a combination of the two data types. If it varies across specific waterbodies and wetlands, identify which method(s) was used for each waterbody and wetland characterization that was based on photo-interpretation. Confirm whether or not aerial imagery was used to characterize specific habitat conditions besides general land use, wetland features, and waterbodies with no access. Provide the following information for waterbody and wetland interpretations:
- a. a discussion of the adequacy of aerial photographs and LiDAR for identifying perennial and ephemeral streams/drainages;
 - b. a discussion regarding the ability to locate and characterize waterbody or wetland resources (including vernal pools) that may be obscured by forest cover and therefore may not be readily identified by interpretation of aerial photographs or LiDAR; identify whether waterbody or wetland feature IDs will change based on aerial surveys conducted after March 2015. If the IDs are updated, provide both the original and new IDs throughout associated tables in attachment 2B (e.g., tables 2.3-1, 2.3-3, 2.3-5, 2.3-7, 2.3-9);
 - c. update the tables in attachment 2B (e.g., tables 2.3-1, 2.3-3, 2.3-5, 2.3-7, 2.3-9) and all future wetland delineation reports with identification of survey methods and survey dates, including aerial photography and/or LiDAR surveys conducted after March 2015;
 - d. update tables in attachment 2B (e.g., tables 2.2-4, 2.2-5, 2.2-6, 2.2-7, 2.2-8, 2.3-1, 2.3-3, 2.3-5, 2.3-7, 2.3-9, 2.3-11) to identify wetlands or other waterbodies that would be subject to the permit requirements of Section 404 of the Clean Water Act due to discharge of dredge and fill material during project construction;

- e. update the state wetland classification column in the appropriate attachment 2B tables (e.g., 2.3-1, 2.3-3, 2.3-5, 2.3-7, 2.3-9) to include the relevant state classification (e.g., “Prime Wetlands” in New Hampshire) and the most recent source and date of this information for each state; and
 - f. update tables in attachment 2B (e.g., 2.3-1, 2.3-3, 2.3-5, 2.3-7, 2.3-9) to represent types of impact (e.g., permanent loss of waters, temporary impacts, or permanent/temporary impacts resulting from conversion of one wetland types [e.g., forested to emergent wetlands]).
3. As previously requested in our May 15, 2015 EIR, provide the following information:
 - a. a detailed description of the aquifers in each state including the names of each aquifer crossed by the Project;
 - b. a discussion of potential surface water impacts resulting from the operation of the Project (e.g., increased runoff resulting from increased impervious surface);
 - c. clarification of whether or not Massachusetts, New Hampshire and Connecticut have a Wellhead Protection Program and identify WHPAs accordingly; and
 - d. clarification as to why some waterbodies have “unknown” listed under type of waterbody and clarify what the term “unknown” indicates in tables 2.2-4, 2.2-5, 2.2-6, 2.2-7, and 2.2-8 (attachment 2B).
 4. As previously requested in our October 8, 2015 EIR, provide the site-specific plans for crossing major waterbodies, any other HDD waterbody crossings, other sensitive waterbody crossings (e.g., coldwater, contaminated sediments), and wetlands, including proposed mitigation alternatives and site-specific construction techniques. Provide discussion regarding restoration measures and monitoring of pre- and post-construction conditions for each type of waterbody crossing method.
 5. General - For open-cut crossings of major waterbodies, wetlands, or those that support sensitive aquatic species, provide quantitative modeling results of the turbidity and sedimentation associated with construction. Results should provide a text description as well as a graphical depiction of the duration, extent, and magnitude of turbidity levels. Assess the potential impacts to resident biota. Also, include a discussion on the physical and chemical characteristics of the sediments, the estimated area affected by the transport and redistribution of the sediments, and the effect of the suspension and resettlement on water quality, and aquatic and benthic organisms.
 6. General – Confirm whether or not all wetlands are consistently represented by each unique wetland identification code in the text, wetland tables in attachment 2B, wetland delineation reports, wetland data sheets, and associated alignment sheets. Correct all discrepancies and provide all updated text, tables, reports, and alignment sheets (e.g., not all listed wetlands are depicted on the alignment sheets, and some wetlands depicted on the alignment sheets are not listed on the wetland tables and associated wetland delineation reports are missing [e.g., NWI-1313/1314]).
 7. Section 2.0 (page 2-1) – In regard to the requested modification to FERC’s Wetland and Waterbody Construction and Mitigation Procedures:
 - a. clarify how the requested modification to allow Tennessee Gas to “cross streams with discernible flow at the time of construction via fluming or dam and pump, regardless of fisheries or critical habitat designation” is a modification to the FERC Procedures as the FERC Procedures allow these dry crossing methods under these conditions (recognizing that the FERC Procedures may also allow other crossing methods under these conditions). In addition, clarify what Tennessee Gas means by proposing dry crossing “unless otherwise approved by applicable federal and/or state regulatory agencies.” Is Tennessee Gas proposing dry crossings methods to FERC while pursuing approvals from other agencies to use less protective crossing methods? If so, state each crossing location by alternative crossing method and the status of those approvals (e.g., consultation, agency);
 - b. provide the location and justification for each site where Tennessee Gas is proposing additional temporary workspace within 50 feet of waterbodies and wetlands, as these locations and adequate justifications are not provided in the locations referenced in RR1 or RR2;

- c. provide the locations and justification for each wetland where Tennessee Gas is proposing to expand the workspace beyond 75-feet wide, as these locations and adequate justifications are not apparent based on the references in RR1 or RR2;
 - d. clarify the requested modification associated with permanent slope breakers at wetland boundaries including whether permanent slope breakers would be installed at the base of slopes greater than 5 percent; how permanent overland flow characteristics would be measured, assessed, and otherwise addressed; and confirm that Tennessee Gas is proposing that a qualified Environmental Inspector would make the determination of the need for a permanent slope breaker, in coordination with the FERC Compliance Monitor; and
 - e. clarify why Tennessee Gas is proposing the use of hay/straw bales as temporary slope breakers at wetland boundaries, which is not consistent with Tennessee Gas' statement in Section IV.F.1.a of FERC's Plan (i.e., it states that "silt fence, staked hay, straw bales, and sandbags will not be used to construct temporary slope breakers in upland areas").
8. Section 2.1.1 (pages 2-2 through 2-15) – Figure 2.1-1a depicts the Project crossing an aquifer identified as "other rocks." Provide a description of this aquifer.
 9. Section 2.1 (pages 2-2 to 2-17) – Clarify whether Tennessee Gas would conduct testing of well flow, recovery, and head during pre-construction and post-construction well testing. Provide a detailed well testing plan that includes a description of all measurements that would be tested, specific testing procedures, landowner notification and reporting procedures, schedules for testing, and mitigation measures in the event that the water supply quantity or quality is affected.
 10. Section 2.1 (pages 2-2 to 2-17) – Provide a discussion on the potential impacts on water resources as a result of construction and operation of the Project in karst areas:
 - a. provide both Project-wide and site-specific construction and mitigation plans for karst areas that would cover currently identified resources as well as those karst resources that might be discovered during construction;
 - b. assess the potential need to expand the geographic extent of testing of wells, springs, and possibly groundwater beyond 200 feet in karst zones; and
 - c. discuss whether Tennessee Gas would offer an expanded zone (beyond 200 feet) of pre- and post-construction monitoring for water wells and springs located in karst areas.
 11. Section 2.1.1.1.1 (page 2-2) – Provide a discussion regarding locally zoned aquifers crossed by the Pennsylvania portion of the Project.
 12. Section 2.1.1.2.1 (pages 2-3 to 2-4) – In regards to SSAs, identify the agency(ies) in which consultation has been initiated on this topic. Provide the anticipated timeline for completion of the consultation.
 13. Section 2.1.1.2.1 (pages 2-3 through 2-6) – Clarify whether the Project would cross the New York Sandstone Aquifer as depicted in figure 2.1-1a. If the Project would cross the New York Sandstone Aquifer, provide a description of this aquifer in section 2.1.1.2.1.
 14. Section 2.1.5 (pages 2-17) – Clarify whether the Project is within 3 miles of the Methuen, Massachusetts and Lawrence, Massachusetts drinking water intakes on the Merrimack River.
 15. Section 2.1.5.1 (pages 2-19 to 2-24) – Provide a table of known drinking water springs located within 200 feet of the Project area.
 16. Section 2.1.5.1.2 (pages 2-19 to 2-20) – The text discusses several public water supplies located within 0.25 mile of the proposed Project in New York; table 2.1-2 identifies one public water supply well within 200 feet of the proposed Project. Provide the distance of each of the public water supplies within 0.25 mile to the proposed Project in New York.
 17. Section 2.1.5.1.3 (pages 2-20 to 2-23) – The text identifies the Zone I area for the Browns Crossing and Salem Street wellfield at MP 9.4 and 10.2; table 2.1-2 identifies the Zone I area at MP 8.67 and MP

- 10.16. Clarify the location of the Zone I area.
18. Section 2.1.6 (pages 2-25 to 2-27) – Provide a discussion of the potential impacts to French drains and the potential for home flooding, resulting from damage to French drains.
19. Section 2.1.6 (pages 2-25 to 2-27) – Provide a detailed discussion regarding potential impacts of blasting on aquifers, springs, wells, and drinking water supplies.
20. Section 2.1.6 (pages 2-25 to 2-27) – Provide a discussion of potential long-term groundwater impacts resulting from construction and operation of the Project. The discussion should describe how the Project (in operation) would permanently affect groundwater flow.
21. Section 2.2 (pages 2-27 to 2-70) – Provide a discussion regarding mitigation measures that may be required for state/municipal designated aquifers and watershed protection areas crossed by the Project (e.g., Rindge Aquifer Protection District, Town of Nassau New York Aquifer Protection Area, Brooks/Haggetts Pond Watershed Protection Overlay District).
22. Section 2.1.6 (pages 2-25 to 2-27) and Section 2.2.10 (pages 2-62 to 2-63) – Assess the potential impacts and describe how Tennessee Gas would mitigate a lateral movement of drilling fluid during trenchless crossings that could affect both groundwater (e.g., wells, seeps, and springs) and surface water resources. Provide a discussion regarding construction and mitigation measures that would be implemented in the event of an unsuccessful HDD.
23. Section 2.2 (pages 2-27 to 2-70) – Provide a Project-specific Dust Suppression Plan that includes the following:
- a. sources of water for dust suppression;
 - b. water volumes taken from each individual source;
 - c. permits or authorizations required for water withdrawals;
 - d. any chemicals to be added to dust suppression water;
 - e. number of water trucks per spread, and anticipated volume of water placed on the right-of-way for each truck per day; and
 - f. involvement of the environmental inspector directing dust suppression activities.
24. Section 2.2 (pages 2-27 to 2-70) – Provide a discussion regarding the Project’s proximity to quarry ponds. The discussion should address:
- a. potential impacts on quarry ponds from construction activities (e.g., blasting);
 - b. mitigation measures for construction and operation impacts on quarry ponds crossed by the Project; and
 - c. whether pre- and post-construction sampling of quarry ponds would be offered to quarry pond owners. If pre- and post- construction sampling would be offered, provide a list of water quality parameters that would be tested.
25. Section 2.2 (pages 2-27 to 2-70) – Provide evaluations (including details of ongoing discussions with regulatory agencies) regarding the potential for using HDDs or Direct Pipe at all waterbodies and sites where waterbody crossings would be greater than 30-feet-wide, as well as at all waterbodies listed as sensitive or high quality. Provide updated tables of proposed crossing methods for each waterbody based on updated agency consultation and evaluation (e.g., table 1.3-2, attachment 2B tables).
26. Section 2.2 (pages 2-27 to 2-70) – Provide a discussion regarding the potential for air emissions to impact water quality.
27. Section 2.2 (pages 2-27 to 2-70) – Provide a discussion of flash flooding hazards along the proposed Project. Provide the amount of rain required to generate flash flood conditions, the potential for scour at waterbody crossings, and proposed mitigation measures.
28. Section 2.2 (pages 2-52 to 2-61) – As requested by COE, provide justification for assigning a 3-foot-

crossing length to waterbodies where no field survey has been conducted; clarify or revise the protocol for assigning a width to more accurately represent actual crossing lengths.

29. Section 2.2 (pages 2-27 to 2-70) – Provide a table of reservoirs within 0.25 mile of the Project.
30. Section 2.2.1 (pages 2-27 to 2-39) – Provide a table of sensitive waterbodies including surface water protection areas crossed by the Project.
31. Section 2.2.2 (page 2-39) – Include the impacts of the construction and operation of aboveground facilities to surface water resources in tables 2.2-4 through 2.2-8.
32. Section 2.2.9 (pages 2-52 to 2-61) – Provide a discussion on designated flood zones crossed by the Project (e.g., Zone A, Zone AE)
33. Section 2.2.9 (pages 2-52 to 2-61) – Provide a discussion regarding the potential cumulative impacts resulting from multiple crossings of the Deerfield River within a relatively short distance (<5 miles between crossings).
34. Section 2.2.9.2 (pages 2-55 to 2-56) – Provide a discussion regarding agency consultation, and any additional impacts or proposed mitigation associated with waterbody crossing techniques for Class AA waters.
35. Section 2.2.9.3 (pages 2-57) – Provide clarification regarding how vernal pools and their conditions will be identified and characterized in areas not available for survey by Tennessee Gas.
36. Section 2.2.10 (pages 2-62 to 2-63) – Provide a discussion regarding potential impacts on water resources from potential perchlorate residue resulting from blasting activities.
37. Section 2.2.10 (pages 2-62 to 2-63) – Address public concerns regarding the potential for herbicides to become incorporated into stormwater runoff, groundwater, and surface waters. Provide a discussion on how impacts on water resources resulting from herbicide use would be minimized or avoided. Provide a detailed plan on how and when herbicides would be used and confirm that all herbicide use would be approved by U.S. Fish and Wildlife Service (USFWS), U.S. Environmental Protection Agency (EPA), and applicable state agencies.
38. Section 2.2.11 (pages 2-63 to 2-70) – Provide a discussion regarding blasting impacts on surface waters.
39. Section 2.2.11 (page 2-63) – Clarify whether or not Tennessee Gas is currently proposing to cross all waterbodies with discernible flow via dry crossing methods. For example, the identified crossing methods for Towanda Creek (147-foot wide), Wyalusing Creek (81-foot wide), and Starrucca Creek (59-foot-wide trout stream) are wet open-cut methods. Correct these crossing methods or provide detailed rationale for why a dry crossing of each of these waterbodies is not feasible.
40. Section 2.2.11 (pages 2-63 to 2-70) – Provide a discussion regarding mitigation measures for construction and operation impacts on waterbodies or waterbody segments slated for study for potential addition to the National Wild and Scenic Rivers System (e.g., the Nashua River). Provide a discussion on the Nashua River Wild and Scenic River Study Act.
41. Section 2.2.11 (pages 2-63 to 2-70) – Provide a discussion of mitigation measures for construction and operation impacts on reservoirs crossed by the Project.
42. Section 2.2.11 (pages 2-63 to 2-70) – Provide a discussion regarding mitigation measures and permits that may be required for crossing Outstanding Resource Waters.
43. Section 2.3.1 (pages 2-71 through 2-86) – Clarify the following discrepancies between tables 2.3-1 through 2.3-11 and table 8.1-2 in RR8. Provide updated tables where necessary:
 - a. tables 2.3-1, 2.3-2, and 2.3-11 report the total acreage of wetlands impacted by operation of the Project in Pennsylvania as approximately 4.4 acres, while table 8.1-2 reports the acreage of wetlands impacted by operation of the Project in Pennsylvania as 13.2 acres;
 - b. tables 2.3-3, 2.3-4, and 2.3-11 report the total acreage of wetlands impacted by construction and operation of the Project in New York as approximately 109.0 acres and 13.8 acres respectively, while

table 8.1-2 reports the acreage of wetlands impacted by construction and operation of the Project in New York as 122.1 acres and 48.0 acres respectively;

- c. tables 2.3-5, 2.3-6, and 2.3-11 report the total acreage of wetlands impacted by construction and operation of the Project in Massachusetts as approximately 138.2 acres and 23.8 acres respectively, while table 8.1-2 reports the acreage of wetlands impacted by construction and operation of the Project in Massachusetts as 142.4 acres and 61.2 acres respectively;
 - d. tables 2.3-7, 2.3-8, and 2.3-11 report the total acreage of wetlands impacted by construction and operation of the Project in New Hampshire as approximately 154.3 acres and 24.8 acres respectively, while table 8.1-2 reports the acreage of wetlands impacted by construction and operation of the Project in New Hampshire as 161.3 acres and 69.4 acres respectively;
 - e. tables 2.3-9, 2.3-10, and 2.3-11 report the total acreage of wetlands impacted by operation of the Project in Connecticut as approximately 5.9 acres, while table 8.1-2 reports the acreage of wetlands impacted by operation of the Project in Connecticut as 14.5 acres; and
 - f. table 2.3-11 reports the total acreage of wetlands impacted by construction and operation of the Project as approximately 486.1 acres and 72.7 acres respectively, while table 8.1-2 reports the acreage of wetlands impacted by construction and operation of the Project as 510.0 acres and 206.3 acres respectively.
44. Section 2.3.5.1 (page 2-88) – Provide discussion regarding the potential impacts of pipeline construction on wetland functions including, but not limited to, impact of hydraulic alteration during construction in forested wetlands, higher bulk density, lower depth of refusal, variations in soil moisture post-construction, and wetland drainage due to tree removal.
45. Section 2.3.5.2 (page 2-89) – Provide discussion regarding the impacts to wetland resources from construction and operation of aboveground facilities.
46. Section 2.3.6.4 (page 2-90) – Provide updated information (including details of ongoing discussions with regulatory agencies) regarding the feasibility of conducting additional HDD or Direct Pipe methods to cross forested wetlands with an impact of more than 0.5-acre per crossing, sites containing any high quality or specially designated forested wetland; or any other wetland sites where resource agencies have requested that HDD crossing methods be considered/used. Provide updated tables summarizing this information (e.g., table 1.3-2, attachment 2B tables). Clarify the statement indicating that HDDs for wetlands would not be determined until Tennessee Gas has full access to all sites.
47. Section 2.3.6.4 (page 2-90) – Provide a discussion regarding how bentonite waste would be handled during and after the drilling process, in and around waterbodies and wetlands. Discuss management plans and mitigation processes in the event of a spill.
48. Section 2.4.2.4.3 (page 2-152) – Discuss the potential effects to stratified drift aquifers and wetlands from withdrawal and discharge of hydrostatic test water. Provide discussion regarding issues with obtaining water from one watershed and discharging into another, including the potential release of contaminants into waterbodies or wetlands.
49. Attachment 2A – Provide mapping of the stratified drift aquifers discussed in section 2.1.
50. Attachment 2A (table 2.1-2) – Expand the table to include public and private water supply wells within 200 feet of aboveground facilities.
51. Attachment 2B (tables 2.2.4 to 2.2.8) – Provide footnotes to all applicable waterbody tables to define Water Quality Designations and Fishery Classification abbreviations/acronyms.
52. Attachment 2B (tables 2.2.4 to 2.2.8) – Clarify the difference between “ephemeral” and “no flow.”
53. Attachment 2B (table 2.1-2) – Provide the level of protection (e.g., Zone I, Zone II, etc.) for each water supply protection area. Identify all locally zoned aquifer protection areas.
54. Attachment 2B (tables 2.2.4 to 2.2.8) – Clarify why there are multiple/duplicate listings for specific wa-

terbodies that potentially indicate more than one crossing of the same waterbody within 1.0 mile of each other (e.g. Deerfield River crossings at MP 8.33 and MP 8.37; Millers River crossings are MP 16.08 and MP 16.10). Correct the tables as appropriate.

55. Attachment 2B (tables 2.2-5 and 2.2-8) – Clarify whether the presence or absence of the (T) and (TS) fishery classifications for New York waterbodies indicates the presence or absence, respectively, of cold-water fisheries in those waters. Provide fisheries classifications for the waterbody crossings in Connecticut.
56. Attachment 2H – Confirm whether or not the operational wetland acreages provided in these tables include the areas of operational right of-way overlapping with an existing Tennessee Gas right-of-way. If they do not, update the tables to incorporate those acreages.
57. Attachment 2H – Provide the federal and state criteria used for vernal pool classification and clarify how Tennessee Gas determined whether the habitat satisfied the majority of criteria, specifically whether they satisfied the majority of just the federal criteria or just the state criteria or both the federal and the state criteria. Clarify why vernal pool surveys were not conducted in Pennsylvania or New York, and provide the schedule to conduct these surveys.
58. Spill Prevention and Response Plans (SPRP) – Clarify the following information in the state-specific SPRPs:
 - a. section 2.1 of each SPRP states: “spill prevention briefings with the construction crew will be scheduled and conducted by the Contractor to ensure adequate understanding of spill prevention measures.” Clarify how frequently briefings on spill prevention measures with the construction crew will occur; and
 - b. section 3.0 of each SPRP states: “if a spill enters a body of water, the Contractor will immediately take samples upstream and downstream from point of entry and refrigerate samples. If advised, additional analysis will be completed and/or additional samples will be gathered.” Clarify:
 - i. the types of samples to be collected (e.g., water, streambank vegetation) in the event a spill enters a body of water;
 - ii. what analyses would be conducted; and
 - iii. which federal/state entity would advise whether additional analysis is required.
59. State-Specific Horizontal Directional Drilling Contingency Plans (section 4.5) – Provide additional details, justification, and consultations with applicable federal and state agencies related to the Tennessee Gas’ intention to not attempt to recover inadvertent releases in flowing waterbodies.
60. Responses to October Scoping Comments matrix (attachment A) – Explain why the potential risk of an inadvertent release of drilling muds justifies not using an HDD. Why is the potential risk at the Westfield River and Scott Pond greater than other proposed HDD crossings?
61. Responses to October Scoping Comments matrix – Address concerns from the Millers River Watershed Council regarding potential Project impacts from brownfield sites and similar hazardous waste sites to water resources. The discussion should include:
 - a. blasting impacts to the facility subsurface liners;
 - b. stability of the dump’s contents;
 - c. potential for leachate into nearby water resources; and
 - d. mitigation measures Tennessee Gas would install/implement to ensure entrained/buried contaminants do not migrate offsite through water or airborne pathways.

Resource Report 3 – Fisheries, Wildlife, and Vegetation

1. General – Provide all information listed in RR3 (or in the Responses to Comments on Draft Resource Reports matrix; or the Responses to October Scoping Comments matrix) that Tennessee Gas has iden-

tified would be provided to the FERC (or include a schedule for submittal [unless already provided]), which includes, but is not necessarily limited to:

- a. the biological assessment (BA) for shortnosed sturgeon in the Hudson and Connecticut Rivers, as requested by the National Marine Fisheries Service (NMFS), and the results of the associated consultations;
- b. outstanding survey data, including:
 - i. the results of ongoing and future surveys and habitat assessments, including those for:
 1. rare plants and vegetative communities of special concern;
 2. proposed work within and adjacent to vernal pools, as required by state agencies and the COE. Clarify whether or not the eight vernal pools located on 'disturbed areas' of existing rights-of-way would be assessed;
 3. delineation and characterization of the moderate-gradient sandy-cobbly riverbank system natural community system that would be crossed in New Hampshire;
 4. federal and state threatened and endangered species;
 5. invasive plant species;
 6. bald eagle winter roosting sites;
 7. bald eagle nests; and
 8. natural landscape characterization at the proposed Appalachian Trail and the New England National Scenic Trail crossing;
 - ii. species-or taxonomic-specific survey protocols, including those for:
 1. grassland birds in New York;
 2. state-listed salamanders, mollusks, turtles, and bird species in Massachusetts;
 3. state-listed plants in Connecticut; and
 4. state-listed turtles in New Hampshire.

Provide the status of survey protocols that have not been approved by the appropriate agency(s), if applicable.
- c. a discussion of alternatives and/or conservation measures that are being considered to avoid or minimize impacts associated with the construction and use of all access roads proposed to pass through significant or sensitive wildlife habitats. Update table 8.1-6 with a unique qualifier (e.g., an asterisk) to identify these roads;
- d. the results of ongoing consultations with the Massachusetts Department of Conservation and Recreation (MADCR) and other interested parties regarding potential Project impacts on the Northfield State Forest and any associated mitigation efforts;
- e. the results of ongoing consultations with the New Hampshire Fish and Game Department (NHFG) and other interested parties regarding potential Project impacts on New Hampshire deer wintering areas (DWAs) and any associated mitigation efforts;
- f. a list of common or representative plant species within the Project area;
- g. acreages of vegetative community types that would be crossed by the Project;
- h. an evaluation of potential impacts on the black gum swamp natural community that would be crossed in Massachusetts;
- i. a plan (or plans if measures would vary geographically) for the stabilization and revegetation of construction work areas and riparian buffers including seed mixes, fertilizers, and application methods (if applicable);
- j. a discussion of the measures that Tennessee Gas would implement to avoid, minimize, or mitigate

impacts on eagle nests;

- k. a discussion of measures that Tennessee Gas would take to avoid and minimize impacts on rare, sensitive, and federally and state-listed plants within the construction footprint; and
 - l. an evaluation of the potential construction and operation impacts (direct, indirect, and cumulative) on migratory bird species, including those of special concern, and their habitats along with the expected duration of habitat impact (short-term, long-term, or permanent).
2. General – Describe how Tennessee Gas will survey/characterize specific fish, wildlife, and vegetation resources on parcels of land for which Tennessee Gas is not permitted survey permission by the landowner(s).
 3. General – Discuss potential adverse cumulative impacts on fish, wildlife, and vegetation resources associated with the construction and operation of the proposed NED pipeline in areas that would be collocated with existing right-of-way corridors, including the Constitution pipeline. This discussion should include, but not necessarily be limited to, the following:
 - a. Impacts on vegetation associated with installing a pipeline adjacent to an existing right-of-way that is in its restoration phase (e.g., planting, monitoring, and invasive species management);
 - b. Behavioral barriers for aquatic species created by the potential temperature increases related to a doubling in the loss of canopy, and how this might affect the suite of species common to these waters.

In addition, discuss the vegetation management practices that are (or could be) used within the right-of-way corridors with which the Project would be collocated. Specifically, state whether or not herbicides are (or could be) used to control vegetation within these existing corridors. In areas where herbicides are (or could be) used, provide a discussion of potential cumulative impacts associated with the additional use of herbicides in the proposed adjacent Project right-of-way.

4. General – Expand the discussion of fisheries resources, as appropriate, to address the regulatory roles of the COE and applicable state agencies.
5. General – For portions of the Project that are proposed to be collocated with existing utility corridors, identify any areas in which the proposed right-of-way would not overlap or abut the existing corridor potentially creating a segmented ‘island’ of habitat.
6. General – Discuss potential Project impacts on Massachusetts BioMap2 Species of Conservation Concern that do not meet the criteria for listing under the Massachusetts Endangered Species Act (MESA).
7. General – Provide a discussion of the potential Project impacts on old-growth (i.e., virgin) forests that includes locations of old-growth forests that would be crossed, the acreage of crossing at each location, proposed avoidance and/or minimization measures that would be implemented to reduce impacts to these forests by Tennessee Gas, and copies of any related correspondence with applicable federal, state, and local agencies and/or land management organizations.
8. General – Discuss any implications of the Massachusetts Shade Tree Law (Massachusetts General Laws, Chapter 87, Section 1 through 6) relative to Project construction and operations.
9. General – Provide descriptions of how each federally and state-listed species would be affected by the proposed Project. Also, identify the measures Tennessee Gas would implement to avoid, minimize, and mitigate impacts on federally and state-listed threatened and endangered species.
10. Section 3.1.2.1 (page 3-11) – Provide copies of all correspondence and telephone communications with the NMFS regarding essential fish habitat (EFH) in the vicinity of the proposed Project. Describe potentially affected EFH, the impacts on EFH resulting from Project construction and operation, and any measures Tennessee Gas would implement to avoid, minimize, and mitigate impacts on EFH. Lastly, provide an EFH assessment.
11. Section 3.1.2.1 (page 3-11) – Discuss potential Project-related impacts on the North Atlantic Salmon

Restoration Program in the Connecticut River basin, including impacts on existing and future habitat improvement, monitoring, and assessment efforts as well as the Salmon in the Classroom project.

12. Section 3.1.3 (page 3-16) – As previously requested in our October 8, 2015 EIR, provide a discussion about the potential effects of HDD crossing methods on riparian habitat at waterbody crossings. Potential effects include, but are not necessarily limited to, loss of habitat, increased erosion and sedimentation, and changes to water quality.
13. Section 3.1.3 (page 3-16) – Expand the discussion of potential sedimentation and turbidity impacts to address the following:
 - a. the relative amount of sedimentation and/or turbidity that could result from each of the proposed waterbody crossing methods (including the different types of dry open-cut crossing methods);
 - b. the levels at which effects could occur to fish and invertebrate species; and
 - c. how Tennessee Gas has or will account for these potential impacts when determining the specific type of crossing method to be used.
14. Section 3.1.3 (page 3-16) – Provide a discussion of potential construction impacts on fishery resources associated with blasting that includes:
 - a. a description of the expected timing of blasting relative to pipeline installation within and adjacent to the waterbody;
 - b. a discussion of the effects of streambed blasting on fish and wildlife species, including sensitive fisheries and state-listed threatened or endangered wildlife species; and
 - c. a description of the applicable requirements and permit conditions for in-water blasting operations. Explain how Tennessee Gas would abide by these conditions.
15. Section 3.1.3 (page 3-17) – Tennessee Gas states that they would limit vegetation maintenance of the permanent right-of-way to within a 25-foot riparian strip adjacent to the waterbody, as measured from the waterbody’s mean high water mark. Clarify whether this measurement would be made laterally or topographically.
16. Section 3.1.4 (page 3-18) – Provide any updated information (including details of ongoing discussions with regulatory agencies) regarding the potential for using HDD or Direct Pipe methods to avoid or minimize impacts on sensitive biological resources, including not only threatened and endangered species (e.g., the federally listed bog turtle and northeastern bulrush, and various state-listed species) and sensitive wildlife habitat, but also human resources (e.g., cultural resources, recreational/scenic areas, contaminated sites). Provide updated tables summarizing this information relative to HDD crossing locations (e.g., table 1.3-2).
17. Section 3.1.4 (page 3-18) – With regard to proposed hydrostatic testing activities, provide the following:
 - a. an explanation of how Tennessee Gas would determine and monitor adequate flow rates to provide for all waterbody uses, provide for downstream withdrawals of water by existing users, and protect aquatic life (including the federally listed dwarf wedgemussel) when drawing water from waterbodies for hydrostatic testing; and
 - b. clarification on an apparent discrepancy between RR2 and the state-specific ECPs regarding whether or not hydrostatic test water could be discharged into waterbodies. If water would be discharged into waterbodies, describe the methods and clarify whether or not discharge would occur within the same hydrologic basin as the source water. Identify any measures Tennessee Gas would take to protect aquatic life and minimize the spread of invasive species through dispersal of test water.
18. Section 3.1.4 (page 3-19) – Tennessee Gas states that they would photograph all waterbody crossings before and after construction. Provide more details regarding this documentation, including:
 - a. pre- and post-construction characteristics of the crossings that would be evaluated using this method (e.g., vegetative structure, botanical composition, percent cover);

- b. pre- and post-construction seasonal timing, frequency, and duration of the effort; and
 - c. how and when Tennessee Gas would file these results with the FERC.
19. Section 3.1.4 (page 3-20) – Clarify whether or not Tennessee Gas would implement the NHFG’s recommendations intended to minimize potential impacts on streams containing populations of wild brook trout in New Hampshire.
 20. Section 3.2 (page 3-20) – Define the criteria used to classify an area as ‘sensitive wildlife habitat.’
 21. Section 3.2.1 (page 3-20) - Describe the commercial, recreational, and/or aesthetic value of terrestrial wildlife species (e.g., hunting, trapping, bird-watching) that would typically occur in the various habitat types affected by the proposed Project.
 22. Section 3.2.1 (page 3-20) – Describe any known game corridors, herding or feeding areas, or game farms within or near the Project area. Outline measures Tennessee Gas would implement to avoid, minimize, or mitigate impacts on game species during construction and operation of the Project.
 23. Section 3.2.1.8 (page 3-25) – Provide a discussion of aquatic habitat in waterbodies less than 10-feet wide that specifically addresses COE requests that the evaluation of potential impacts on waterbodies include all streams regardless of width or flow regime.
 24. Section 3.2.2.2 (page 3-37) – Clarify whether or not any tracts of land within the Rensselaer Plateau that would be crossed by the Project are registered with the U.S. Department of Agriculture (USDA) Forest Legacy Program. If Forestry Legacy Program land would be crossed within the Rensselaer Plateau (or elsewhere in the Project area), identify the acreage that would be impacted by location and provide a discussion of the measures Tennessee Gas would take to minimize or mitigate for adverse environmental impacts on these areas.
 25. Section 3.2.2.2 (page 3-37) – Provide a discussion of avoidance and minimization measures associated with ‘important biodiversity sites’ in the vicinity of Nassau, New York as identified by Hunt 2015 (<http://townofnassau.org/content/Boards/View/6:field=documents;/content/Documents/File/1909.pdf>).
 26. Section 3.2.2.2 (page 3-38) – Clarify whether or not the Rensselaer Plateau Alliance has requested consultations with Tennessee Gas regarding potential Project impacts on the Rensselaer Plateau. Provide documentation of this consultation if it has occurred.
 27. Section 3.2.2.3 (page 3-44) – A portion of the proposed pipeline right-of-way near Segment H, MP 12.7 is located adjacent to, and abutting, the Bitzer Area of the Montague Plains Wildlife Management Area (WMA). The Bitzer Area is a scrub-oak vegetative community that is actively treated with prescribed fire for both conservation and research purposes. In its response to the October 8, 2015 EIR, Tennessee Gas states that, “pipeline operation will not impact or be impacted by the use of prescribed fires for habitat management.” Provide a discussion along with supporting documentation (if applicable) to support this statement. In addition, discuss potential impacts that prescribed burning in the vicinity of the Project could have on Project construction, as well as any impacts the Project construction could have on prescribed burning practices as previously requested in our October 8, 2015 EIR.
 28. Section 3.2.2.3 (page 3-48) – Clarify whether or not potential Project impacts on the 14 non-listed Bio-Map2 Species of Special Concern and the Critical Natural Landscapes were incorporated into Tennessee Gas’ environmental analysis (e.g., wetland mapping, forest interior mapping, vernal pool impact assessments). For any species not otherwise addressed, provide a discussion of potential impacts and mitigation to minimize potential impacts on these species.
 29. Section 3.2.2.4 (page 3-49) – The September 2015 Rindge Pipeline Taskforce Report suggests Tennessee Gas purchase land targeted for conservation in New Hampshire as a means of mitigation for Project impacts. Discuss the feasibility of implementing this suggestion.
 30. Section 3.2.2.4.6 (page 3-51) – Clarify whether or not Tennessee Gas has or will use publicly available online vernal pool location data provided by the Harris Center for Conservation Education as part of its impact assessment on vernal pools in New Hampshire.

31. Section 3.2.2.4.6 (pages 3-51 and 3-52) – Provide updated data from the Granit GIS site as the 2015 data are available on the website. Based on the most recent data, provide:
 - a. the miles of Tier 1, 2, and 3 habitats crossed by the proposed Project centerline, aboveground facilities, and access roads; and
 - b. a discussion of potential Project construction and operations impacts on these areas along with any impact minimization or avoidance measures that would be implemented.
32. Section 3.2.2.4.7 (page 3-53) – Provide the following information for New Hampshire DWAs within the proposed Project area:
 - a. the portion, if any, of the 5.4 linear miles of DWAs that would be crossed by the Project that would be collocated with existing utility corridors;
 - b. whether or not Tennessee Gas would conduct surveys for DWAs in towns within the Project limits that do not have DWA mapping. If surveys would be conducted, identify the protocols and reporting measures that would be used;
 - c. whether or not non-GIS data collected after 2011 during the NHFG’s annual DWA surveys (i.e., datasheets) can be obtained and used for this assessment; and
 - d. any updated information on DWAs within the Project area based on the ongoing cooperative study between the University of New Hampshire and the NHFG that is being conducted to update DWA maps; create a comprehensive DWA database, and develop a model to identify potential DWAs, should the data become available.
33. Section 3.2.2.6 (pages 3-54 and 3-55) – Provide a rationale for only considering contiguous forests greater than 100 acres in the analysis of interior forest impacts (including impacts on important bird areas). Identify any areas where existing contiguous forest patches measuring over 100 acres would be reduced to an area less than 100 acres due to Project activities
34. Section 3.2.2.7 (page 3-57) –Clarify whether or not mitigation measures would be used to minimize the impacts of 24-hour operational lighting in environmentally sensitive areas. If so, identify what measures would be used at each type of Project facility. Identify all sites classified as environmentally sensitive, and provide a justification for this classification.
35. Section 3.2.2.7 (page 3-57) – Provide a discussion of the potential impacts on wildlife during Project operations due to the loss of native vegetation and plant diversity.
36. Section 3.2.2.7 (page 3-57) – Provide a more detailed discussion of potential construction and operation impacts on pollinators to address the major health stressors identified in the National Strategy to Promote the Health of Honey Bees and Other Pollinators. This should include, but not necessarily be limited to, a discussion of habitat loss, air pollution, and lack of nutritional resources. The discussion should also include an assessment of species-specific potential impacts on honey bees and monarch butterflies along with any mitigation measures Tennessee Gas would take to avoid or minimize impacts on pollinators.
37. Section 3.2.2.7 (page 3-57) – Discuss the duration, frequency, and magnitude of noise levels during construction and operation as they relate to potential effects to wildlife, including bats and migratory birds. This should include, but not be limited to, a discussion of potential noise impacts within environmentally sensitive areas (e.g., the fall raptor migration path along the Pack Monadnock Range).
38. Section 3.2.2.7 (page 3-57) – Discuss the potential for wildlife and/or livestock to be injured by falling into an open trench during construction. Based on the Tennessee Gas statement in its Response to our October 8, 2015 EIR that the time a trench would be open at a location would be minimized in part to protect wildlife, identify the typical and maximum duration a trench would be expected to be open associated with upland and wetland construction through wildlife habitat. In addition, clarify whether or not Tennessee Gas would do any or all of the following:

- a. install trench ramps at regular intervals to provide a wildlife exit;
 - b. maintain regular breaks in the trench, spoil piles, and pipe stringing to allow wildlife to migrate through the construction corridor; and
 - c. install temporary drift fencing to minimize the likelihood of small mammals, reptiles, or amphibians from falling into the trench (e.g., the listed timber rattlesnake).
39. Section 3.2.2.7 (page 3-57) –As previously requested in our October 8, 2015 EIR, discuss and provide citations from recent literature on the expected timeframes for the revegetation of Project areas that would be allowed to revert naturally to their original, forested condition. Include timeframes for all vegetative community types that would be impacted.
40. Section 3.2.2.8 (page 3-59) – State whether or not Tennessee Gas would conduct tree surveys prior to tree removal to assess presence of nesting sensitive and/or rare species.
41. Section 3.2.2.8 (page 3-59) – Provide a discussion of deer wintering areas (DWA) that would be within the Project area for all affected states (i.e., not just New Hampshire). The discussion should include, but not necessarily be limited to, the following:
- a. methods Tennessee Gas will use to identify DWAs;
 - b. any known locations of DWAs, along with the source(s) of these data;
 - c. site-specific descriptions of potential impacts on DWAs; and
 - d. any measures Tennessee Gas would implement to minimize, avoid, and/or mitigate impacts on these sites.
42. Section 3.2.2.9 (page 3-59) – Clarify how surveys by qualified botanists and biologists would reduce impacts on interior forest dependent wildlife and migratory birds during construction. Provide a timeline of when the surveys would be conducted relative to the construction phase and when the results of these surveys would be available. Discuss measures Tennessee Gas could employ during the construction phase to minimize or mitigate impacts on wildlife based on the survey results.
43. Section 3.3.2 (page 3-73) – Provide the shortest distances between the Project’s construction footprint and the old-growth white pines in Susquehanna County, Pennsylvania; and the mixed pine-red oak woodland and the swamp white oak floodplain forest in Hillsborough County, New Hampshire.
44. Section 3.3.2.1 (page 3-74) – Clarify whether or not any Pennsylvania Wild Plant Sanctuaries would be crossed by the proposed Project. If applicable, provide any additional avoidance or minimization measures Tennessee Gas would implement in these areas.
45. Section 3.3.2.3 (page 3-78) – Update the discussion based on available data for natural communities of special concern in Massachusetts NHESP’s Priority Habitats of Rare Species GIS data layer.
46. Section 3.3.2.3 (page 3-78) – Identify any land enrolled in the Massachusetts Forest Stewardship Program that would be crossed by the Project. Discuss potential Project-related impacts on these lands, and identify any additional avoidance or minimization measures Tennessee Gas would employ in these areas.
47. Section 3.3.2.4 (page 3-83) – Clarify whether or not the New Hampshire Natural Heritage Bureau (NHNHB) requested Tennessee Gas to implement impact minimization or avoidance measures at the proposed crossing of the Red Maple – Sensitive Fern Swamp in Hillsborough County, New Hampshire. Provide copies of all related agency correspondence.
48. Section 3.3.3 (page 3-86) – Provide a comprehensive list of herbicides that could potentially be used. Clarify whether or not the chemical metsulfuron-methyl would be used.
49. Section 3.3.3 (page 3-86) –In areas where herbicides are not (or would not) be used within collocated rights-of-way, identify the locations of any areas that are currently being used for research or habitat management efforts (such as the study that is being conducted by the University of Vermont and the Audubon Society along the Vermont Electric Power Company’s right-of-way).

50. Section 3.3.3 (page 3-86) – Provide a discussion of the potential for the introduction and/or spread of invasive plant species associated with operational mowing activities.
51. Section 3.3.3 (page 3-86) – Discuss any potential impacts on vegetation associated with methane emissions from compressor stations.
52. Section 3.3.3 (page 3-86) – Clarify whether or not vegetation clearing would be required between HDD entry and exit pits for any proposed HDD crossings. If it would be required, describe the extent and duration, and provide justification for any clearing and maintenance.
53. Section 3.3.3 (page 3-86) –As previously requested in our October 8, 2015 EIR, for all invasive species with potential to occur within the Project area:
 - a. identify all quarantine areas that would be crossed by the Project, if applicable;
 - b. discuss potential impacts of the Project on invasive species populations and distribution;
 - c. clarify whether or not woody vegetation that has been cleared from workspace (slash, wood chips, stumps, etc.) would be treated the same as firewood with regards to transport restrictions outlined in federal and state guidelines; and
 - d. further clarify whether or not the invasive insect training program that would be provided by Tennessee Gas to its contractor would be developed in coordination with, and approved by, applicable federal and/or state agencies.
54. Section 3.3.3 (page 3-86) – Provide a more in-depth discussion of the potential spread and control of invasive species. In addition to invasive vegetation, information should include measures to protect against invasive aquatic species, such as zebra mussel, aquatic plants, fish, and invertebrates, which can be transported on construction equipment.
55. Section 3.3.3 (page 3-86) – Provide a discussion of the Project-related potential for health impacts on trees growing along and near the edge of the proposed right-of-way, including, but not necessarily limited to, root damage, windthrow, sunscald, and insect-related death due to surrounding trees being removed.
56. Section 3.3.3 (page 3-86) – In its Responses to Scoping Comments – June 30 through October 1, 2015, Tennessee Gas states that it would, “evaluate selectively leaving some trees on a case-by-case basis.” Provide a discussion that includes the following:
 - a. a description of the methods and criteria that would be used for these evaluations, taking into consideration the trees’ ecological, aesthetic, health, economic, and cultural values in the area;
 - b. a description of the specific types of situations in which Tennessee Gas would and would not conduct such evaluations; and
 - c. clarification as to whether or not affected landowners would be included in all parts of the evaluation process. If the landowners would not be included in all parts of the evaluation, describe the extent to which landowners would participate in the process.
57. Section 3.3.4.3 (page 3-90) – Tennessee Gas states that it will, “...develop a plan for stabilization of construction areas with and/or without seed mixtures.” However, in its Responses to October 2015 Scoping Comments matrix, Tennessee Gas states that, “all TWS and ATWS areas will be....reseeded and/or replanted during restoration activities.” Clarify this apparent discrepancy.
58. Section 3.3.4.3 (page 3-90) – Discuss the feasibility of using Integrated Vegetation Management (IVM) methods to maintain vegetation within the proposed right-of-way during Project operations.
59. Section 3.4 (page 3-90) – Describe contingency plans that would be activated in the event that Tennessee Gas unexpectedly encounters a federally or state-listed species during construction activities. The discussion should include, but not necessarily be limited, to the following:
 - a. how workers would be trained to identify and respond to potential encounters;

- b. parameters for proper handling of the listed species; and
 - c. agency notification and reporting measures.
60. Section 3.4.1.2 (page 3-94) – Discuss measures Tennessee Gas would take should surveyors observe any of the Lepidoptera species or associated natural communities (leatherleaf-bog rosemary and leatherleaf-sedge wetland).
61. Section 3.4.1.3 (page 3-96) – Henslow’s sparrow (*Ammodramus henslowii*), which is a state-listed threatened species in New York, is not included in Table 3.4-4. However, historic surveys indicate this species may be present in grassland areas along the proposed right-of-way in Albany County. Clarify whether or not this species will be considered in Tennessee Gas’s analysis of impacts on state-listed threatened and endangered species. If applicable, provide a discussion of potential Project-related impacts on this species that includes a timeline for species-specific surveys. In addition, provide copies of related agency correspondence.
62. Section 3.4.1.4 (page 3-97) – The marbled salamander (*Ambystoma opacum*) is classified as a Species of Greatest Conservation Need in the Massachusetts State Wildlife Action Plan (MAWAP). Clarify whether or not this species will be considered in Tennessee Gas’s analysis of impacts on state-listed threatened and endangered species. If applicable, provide a discussion of potential Project-related impacts on this species that includes a timeline for species-specific surveys. In addition, provide copies of related agency correspondence.
63. Section 3.4.2 (page 3-105) – Provide a discussion of potential Project-related construction and operation impacts on the herd of sensitive Newfoundland Ponies located, “...more than 0.25 mile from the Project.” The discussion should include, but not necessarily be limited to, impacts associated with noise, air quality, light, vegetation, and safety (i.e., the ability to evacuate, if needed).
64. Section 3.4.2.1 (page 3-106) – In a letter from the NHHNB (dated October 15, 2015), they note that a population of the federally listed small whorled pogonia (*Isotria medeoloides*) occurs within 1 mile of the centerline of the proposed Fitchburg Lateral. Identify any potential Project impacts to this species and whether surveys will be conducted for it (and the timeline for them). Provide correspondence with the New England USFWS regarding the species.
65. Section 3.4.2.1.7 (pages 3-110 and 3-111) – Clarify whether or not Tennessee Gas would adhere to all applicable recommendations and guidelines in the U.S. Fish and Wildlife Service’s 2007 National Federal Bald Eagle Management Guidelines.
66. Section 3.4.2.1 (pages 3-111 and 3-112) – Provide a Migratory Birds Impact Avoidance, Minimization, and Mitigation Plan. This plan should include, but not necessarily be limited to, the following:
- a. General descriptions of migratory birds and their habitats that could be affected by the proposed Project;
 - b. Specific measures Tennessee Gas would implement to avoid and minimize impacts on all potentially affected migratory birds and their habitats. Development of these measures should be conducted in coordination with the FWS and other applicable agencies, and should, at a minimum, consider the following:
 - i. all state-recommended timing restrictions applicable to migratory birds for each state crossed by the proposed Project. Verify that Tennessee Gas would adhere to these restrictions;
 - ii. the exclusive use of seed mixtures containing plant species native to affected migratory bird habitat during the restoration phase;
 - iii. reducing the width of the proposed construction right-of-way through Important Bird Areas (IBAs) and large contiguous forested tracts;
 - iv. overlapping construction workspace with existing rights-of-way through IBAs and large contiguous forested tracts; and

- c. Specific measures Tennessee Gas would implement to mitigate for unavoidable long-term and permanent impacts on potentially affected migratory birds and their habitats.
67. Section 3.4.2.1 (pages 3-111 and 3-112) – Address public concern about the Pack Monadnock Range raptor migration path and heat from compressor stations (e.g., the Tennessee Gas response to Comments on Draft Resource Reports states that, “...exhaust from combustion turbines at compressor stations...is approximately 800 degrees Fahrenheit and is emitted from a stack that is approximately 80 feet tall. It is expected that this heat will dissipate upwards and eventually come to equilibrium with the surrounding atmosphere.” Provide a discussion of the potential impacts this heat source could have on migratory birds. The discussion should include:
 - a. the average flight height(s) of raptors that frequent the path;
 - b. the expected height and width at which the heat would fully dissipate; and
 - c. impacts that could occur on birds if they avoid the heat plume, and the anticipated likelihood of this occurring.
 68. Section 3.4.2.1 (pages 3-111 and 3-112) – Discuss the potential for migratory bird injury and mortality due to collisions with proposed Project aboveground facilities (e.g., compressor station exhaust stacks) and disorientation/exhaustion caused by artificial lighting associated with the facilities. Provide specific measures that Tennessee Gas would implement to avoid, minimize, and mitigate for these potential impacts.
 69. Attachment 3A (figure 3.2-1) – Revise the Massachusetts BioMap2 Core Habitats and Critical Natural Landscapes to show areas of dataset overlap (e.g., use cross-hatching or a separate color in areas that are both Core Habitats and Critical Natural Landscapes).
 70. Attachment 3B (table 3.4-8) – Discuss Tennessee Gas’ adherence with the following NHHNB recommendations, if applicable:
 - a. Move the proposed May survey dates for *Allium canadense* to late May to mid-July to ensure that the plants will have fully emerged at the time of surveys;
 - b. Move the proposed October survey dates for *Solidago odora* to July to September to ensure that plants will not be senescing (or have already senesced) at the time of surveys;
 - c. Conduct additional surveys between June and July for *Thalictrum revolutum* as this is now a New Hampshire state-listed endangered species.
 71. Appendix H (page H-12) –In areas where the Project would be collocated with an existing right-of-way, clarify whether or not the existing right-of-way would be considered ‘adjacent undisturbed land’ and thus potentially used as a benchmark for revegetation success in the additional temporary workspace, temporary workspace, and/or along the new permanent right-of-way.
 72. Appendices J through N (Invasive Species Management Plans) – For the state-specific invasive species management plans, clarify:
 - a. the phase of construction during which invasive species signage would be installed;
 - b. whether or not all locations known to contain invasive species would be marked with signage;
 - c. the equipment inspection and cleaning protocols that would be used to prevent the spread of invasive vegetation, including the circumstances under which it would be required; the methods used (e.g., weed washing stations); and general frequency, timing, and location of these activities;
 - d. the methods that would be used to determine if fill material (e.g., soil, gravel, rock) contains invasive vegetation (including seeds);
 - e. whether or not Tennessee Gas would use fill identified to contain invasive species; and
 - f. the measures Tennessee Gas would take if a source of fill that does not contain invasive species is not available.

73. Appendix M (table 10.4-3) – Reed canarygrass is included in seed mixture D for permanent vegetation for New Hampshire. Reed canarygrass is also on the invasive species watch list in New Hampshire and is classified as a prohibited noxious weed in Massachusetts. Clarify whether or not this species would be used to reseed disturbed areas.

Resource Report 4 – Cultural Resources

1. Address comments, such as one by Joe McGuire (20151016-4050) and the Town of Mason, New Hampshire (20151015-5110) that are concerned about how construction would impact property boundaries that are fieldstone walls built around agricultural fields and referenced in property deeds. Provide any information from coordination efforts with the appropriate state historic preservation offices on the mitigation and treatment plans.
2. Discuss Native American and tribal participation in cultural resources investigations. In particular, provide details about investigations to record and evaluate ceremonial stone landscapes, including a schedule of proposed dates for future field work and submittal of reports to the FERC and SHPOs, and the identification of individuals-companies-tribes that would conduct the investigations.
3. Revise the Interim Progress Report Phase I Archaeological Reconnaissance Survey Northeast Energy Direct Project Bradford and Susquehanna Counties, Pennsylvania (Wilkins et al., 9 November 2015, attached to Appendix CC of RR4 in Tennessee Gas' application to the FERC) to indicate how much (in feet of overlap, miles of route, segments, and mileposts) previous surveys for the existing Tennessee Gas 300 Line and Northeast Upgrade projects overlapped portions of the proposed NED pipeline route in Pennsylvania. Revise table 5 to indicate which previous surveys overlapped with portions of the NED Project right-of-way (by feet of overlap, miles of route, segment, and milepost). Identify which of the 18 previously recorded archaeological sites within the direct area of potential effect (APE – within 200 feet of the proposed NED pipeline centerline) were relocated and evaluated by Tennessee Gas' consultant Louis Berger (Berger) during their surveys in Pennsylvania. Provide the results of those evaluations. Explain why not all previously recorded archaeological sites in the APE were relocated during the Berger surveys for the NED Project. Illustrate the location of all archaeological sites identified in the APE in Pennsylvania on USGS 7.5-minute topographic quadrangle maps. In addition, attach copies of official state site forms for all archaeological sites identified in the APE in Pennsylvania. Document that Tennessee Gas submitted a copy of the revised archaeological survey report to the Pennsylvania State Historic Preservation Office (SHPO), and file the SHPO's comments on that report with the FERC.
4. Provide a schedule for conducting additional field work and filing reports documenting cultural resources surveys covering about 26 miles of pipeline route, 2 compressor stations, 76 new and improved access roads, and 27 contractor yards in Pennsylvania; additional investigations at archaeological sites TS-3201-05, 3203-01, and 3203-03; and all the stone feature locations.
5. Revise the Interim Progress Report, Architectural Reconnaissance Survey, Northeast Energy Direct Project, Bradford and Susquehanna Counties, Pennsylvania (No Author, 9 November 2015, included in Appendix CC of RR4) to list all areas inspected for standing historic (more than 50 years old) structures, by width (in feet) of the survey, miles of route, segment, milepost, and acres inventoried. Indicate if any the seven previously recorded architectural sites within the APE were relocated and evaluated by Berger. Provide the results of those evaluations. Explain why all previously recorded architectural sites in the APE were not relocated during the Berger survey for the NED Project. Illustrate the location of all historic architectural sites in the APE in Pennsylvania on USGS 7.5-minute topographic quadrangle maps. Document that the revised architectural survey report was submitted to the Pennsylvania SHPO, and file the SHPO comments on the report with the FERC.
6. Provide an avoidance or treatment plan for the three historic architectural structures evaluated as eligible for the National Register of Historic Places (NRHP) in Pennsylvania, and a schedule for conducting additional investigations and filing a report that assesses the NRHP-eligibility of the 107 unevaluated

structures.

7. For pipeline segments in New York, clarify the overlap of previous cultural resources surveys conducted by URS for the Constitution Project. In addition, revise table 2 in the Interim Progress Report, Phase I Archaeological Reconnaissance Survey, Northeast Energy Direct Project, Broome, Chenango, Delaware, Schoharie, Albany, and Rensselaer Counties, New York (Lynch et al. 9 November 2015, attached in Appendix CC of RR4) to indicate which previous surveys overlap portions of the NED pipeline route. Provide a table with the amount of survey overlap (in feet) of the NED construction right-of-way for each previous survey, by segment, and milepost.
8. Revise the archaeological survey report for New York (Lynch et al. 9 November 2015), to clarify which of the 79 previously recorded archaeological sites in the APE for the NED Project listed on table 1 were relocated and evaluated by Berger. Provide the results of those evaluations. Explain why not all previously recorded archaeological sites in the APE were relocated during the Berger survey. Illustrate the location of all archaeological sites identified in the APE in New York on USGS 7.5-minute topographic quadrangle maps. In addition, attach copies of official state site forms for all archaeological sites in the APE. Document that Tennessee Gas submitted a copy of the revised archaeological survey report to the New York SHPO, and file the SHPO's comments on that report with the FERC.
9. Provide a schedule for conducting additional field work and filing reports documenting cultural resources surveys covering about 69 miles of pipeline route, 4 new compressor stations, 3 new meter stations, 109 new and improved access roads, and 82 contractor yards in New York; additional investigations at 20 newly recorded archaeological sites unevaluated by Berger; and all the stone feature locations.
10. Revise the New York historic architectural survey report (Bedford and Muir, 9 November 2015) to clarify the length and width of each segment covered by pedestrian inventory for the NED Project. Summarize miles and acres inventoried. Verify if Berger relocated and evaluated all 108 previously identified historic architectural sites. If not, provide a list of previously recorded historic architectural sites relocated and evaluated by Berger, and those sites that require future research. Explain why not all previously recorded architectural sites in the APE were relocated during the Berger survey. Provide a table that lists all 116 newly identified historic architectural sites recorded by Berger, including site number or name, pipeline segment, milepost, type and date of the building, and assessment of NRHP eligibility. Describe the two historic architectural sites in New York evaluated as eligible for the NRHP, including their location (segment and milepost) and features; and explain the characteristics that make them eligible under 36 CFR 60.4. Illustrate the location of all historic architectural sites in the APE on USGS 7.5-minute topographic quadrangle maps. Provide copies of site forms for all historic architectural sites identified in the APE in New York, including photographs of each historic structure. The interim report was missing sections II.B. (Historic Context), III. (Architectural Survey), IV. (Conclusions); and V. (References); include those sections in the revision. Document that the revised architectural survey report was submitted to the New York SHPO, and file the SHPO comments on the report with the FERC.
11. Provide a schedule for conducting additional field work and filing reports documenting the evaluation of the 106 newly identified historic architectural sites in New York not previously assessed. For the two historic architectural sites in New York evaluated as eligible for the NRHP, provide either a site-specific avoidance plan, or a site-specific treatment plan.
12. File with the FERC the comments of the Massachusetts SHPO on Tennessee Gas' definition of the APE for historic architectural resources.
13. Revise the Interim Progress Report Archaeological Reconnaissance Survey Northeast Energy Direct Project in Massachusetts (Fiedel, 9 November 2015) to identify which of the 55 previously recorded archaeological sites within the direct APE listed on table 3 were relocated and evaluated by Berger. Provide the results of those evaluations. Explain why not all previously recorded archaeological sites in the APE were relocated during the Berger survey. Revise table 5 to indicate the distance (in feet) from the pipeline to each of the historic buildings identified through map research, and indicate which of these

sites were relocated and recorded by Berger. Revise table B-1 to list the mileposts and distance (in feet) for the crossing of each tract where access was denied, and total the miles not yet surveyed at the end. Document that the Discovery Plan attached as Appendix C was reviewed and approved by the SHPO and interested Indian tribes. Illustrate the location of all archaeological sites identified in the APE on USGS 7.5-minute topographic quadrangle maps. In addition, attach copies of official state site forms for all archaeological sites in the APE in Massachusetts. Document that Tennessee Gas submitted a copy of the revised archaeological survey report to the Massachusetts SHPO, and file the SHPO's comments on that report with the FERC.

14. Provide a schedule for conducting additional field work and filing reports documenting cultural resources surveys covering about 81 miles of pipeline route, 3 new compressor stations, 8 new meter stations, 11 existing meter stations to be modified, 2 new regulators, 82 new and improved access roads, and 52 proposed contractor yards in Massachusetts, and for conducting evaluations of the 5 newly recorded historic archaeological sites identified by Berger, and all the stone feature locations.
15. Provide copies of site forms for the three historic structures identified by map research that were relocated by Berger (sites HND-HA-2 in Hinsdale and PLF-HA-3 and PLF-HA-6 in Plainfield) in Massachusetts, and assess if any of those sites are eligible for nomination to the NRHP.
16. Provide a schedule for when the "windshield" survey of historic architectural sites would be conducted in Massachusetts, and a report documenting results would be filed with the FERC and submitted to the SHPO. File the SHPO's comments on the report with the FERC.
17. In letters dated October 19, 2015, Tennessee Gas contacted various Historical Commissions, historical organizations, and local governments in Massachusetts and New Hampshire. File any responses not already in the public record for this proceeding with the FERC.
18. File with the FERC the comments of the New Hampshire SHPO on Tennessee Gas' definition of the APE.
19. Revise the Interim Progress Report, Phase IB Intensive Archaeological Investigations, Northeast Energy Direct Project, Cheshire, Hillsborough, and Rockingham Counties, New Hampshire (Lynch et al., 9 November 2015) to clarify which of the four previously recorded archaeological sites in the APE listed on table 14 were relocated and evaluated by Berger. Provide the results of those evaluations. Explain why not all previously recorded archaeological sites in the APE were relocated during the Berger survey. Illustrate the location of all archaeological sites identified in the APE on USGS 7.5-minute topographic quadrangle maps. In addition, attach copies of official state site forms for all archaeological sites in the APE in New Hampshire. Document that Tennessee Gas submitted a copy of the revised archaeological survey report to the New Hampshire SHPO, and file the SHPO's comments on that report with the FERC.
20. Provide a schedule for conducting additional field work and filing reports documenting cultural resources surveys covering about 68 miles of pipeline route, 1 new compressor station, 2 new meter stations, 66 new or improved access roads, and 31 contractor yards in New Hampshire, and for conducting evaluations of four newly recorded archaeological sites identified by Berger in the state, and all the stone feature locations.
21. Revise the Project Area Form, Northeast Energy Direct Project, Chester, Hillsborough, and Rockingham Counties, New Hampshire (Muir, et al. 9 November 2015) to clarify if any of the seven previously recorded historic architectural sites listed on table 2 were relocated and evaluated by Berger. Provide the results of those evaluations. Explain why not all previously recorded architectural sites in the APE were relocated during the Berger survey. Summarize in a table all areas subject to architectural inspection, including survey width (in feet), segment, mileposts, miles, and acres inventoried. Explain in narrative the survey methods. Provide a table that lists all of the new historic architectural sites recorded by Berger by site number and name, type, segment, milepost, distance to centerline (in feet), NRHP evaluation, and assessment of Project effects. Relate that table to the photographs of buildings at the end of this report.

Illustrate the location of all historic architectural sites in the APE in New Hampshire on USGS 7.5-minute topographic quadrangle maps. Document that Tennessee Gas submitted a copy of the revised architectural survey report to the New Hampshire SHPO, and file the SHPO's comments on that report with the FERC.

22. Provide a schedule for conducting additional field work and filing reports documenting architectural surveys of the areas recommended on table 3 of the Project Area Form Report for New Hampshire (Muir, et al. 9 November 2015).
23. Revise the Interim Progress Report, Phase I Archaeological Reconnaissance Survey, Northeast Energy Direct Project, Hartford County, Connecticut (Wilkins et al., 9 November 2015) to clarify if any of the previously recorded archaeological sites listed on table 3 were relocated and evaluated by Berger. Provide the results of those evaluations. Explain why not all previously recorded archaeological sites in the APE were relocated during the Berger survey. Illustrate the location of all archaeological sites identified in the APE in Connecticut on USGS 7.5-minute topographic quadrangle maps. In addition, attach copies of official state site forms for all archaeological sites in the APE in Connecticut. Document that Tennessee Gas submitted a copy of the revised architectural survey report to the Connecticut SHPO, and file the SHPO's comments on that report.
24. Provide a schedule for conducting field work and filing reports documenting cultural resources surveys covering about 9 miles of pipeline route, 3 modified meter stations, 13 new or to be improved access road, and 6 contractor yards in Connecticut, and evaluations of the stone feature locations.
25. File with the FERC the comments of the Connecticut SHPO on Tennessee Gas' definition of the APE.
26. Revise the Interim Progress Report, Architectural Resource Survey, Northeast Energy Direct Project, Hartford County, Connecticut (Bedford and Muir, 9 December 2015) to clarify if any of the previously recorded historic architectural sites in table 1 were identified in the APE and relocated and evaluated by Berger. Also clarify the pipeline segments, by milepost, inventoried for architectural sites. Illustrate the location of all historic architectural sites identified in the APE in Connecticut on USGS 7.5-minute topographic quadrangle maps. Attach copies of official state site forms for the historic architectural sites listed on table 2. Document that Tennessee Gas submitted a copy of the revised architectural survey report to the Connecticut SHPO, and file the SHPO's comments on that report with the FERC.
27. File a cultural resources survey summary table for the Project that lists each pipeline segment (proposed length in miles) by state, the areas along each pipeline segment covered by cultural resources inventories (miles, acres, mileposts, dates of survey), and sites recorded (NRHP evaluation and recommendation for future work). Also list the number of shovel probes excavated along each segment, by county and state, and specify the number of positive probes.
28. Document that the comments of the Delaware Nation, Mashpee Wampanoag, Oneida Nation of New York, Shawnee, Stockbridge-Munsee, Tonawanda Seneca, and Tuscarora Nation were incorporated into the state-specific plans for Unanticipated Discoveries of Cultural and Paleontological Resources and Human Remains (Discovery Plans) filed with the FERC. Those edits can be illustrated in highlights and/or Word Track Changes or Comments within the revised Discovery Plans.

Resource Report 5 – Socioeconomics

1. Section 5.1.3 (page 5-3) – Provide a table with an estimate of the average and peak workforce for each pipeline segment/spread and each aboveground facility. By quarter estimate the beginning and end of construction for each pipeline segment/spread and each aboveground facility.
2. Section 5.4 (page 5-11) – Provide a schedule of when Tennessee Gas will submit its detailed traffic and transportation plan or plans to the FERC. The plan should include access maintenance plans for residences and businesses, traffic and controls for entrance/egress into access roads, wareyards, compressor station locations, site specific construction plans for roadside or in-road construction traffic activities.

3. Section 5.7 (page 5-17) – File with the FERC the study commissioned by Tennessee Gas on property values entitled “A Study of Natural Gas Pipelines and Residential Property Values”, by Steven R. Foster with LPC Commercial Services.”
4. Section 5.7 (page 5-18) – Provide further discussion on the impact of compressor stations or other aboveground facilities on property values citing research or studies.
5. Address the following Scoping Comments:
 - a. Address public and agency concerns that local public services such as police and fire departments do not have the man power or necessary equipment to respond to pipeline or compressor station emergencies. Provide discussion on specific requirements of local emergency services in the case of a pipeline emergency. Discuss these requirements and the ability of various local communities to respond considering the information reported in table 5.3-1. Identify if Tennessee Gas plans to coordinate with local enforcement regarding security measures and the potential need for law enforcement to patrol near compressor stations or other aboveground facilities;
 - b. identify the measures that would be implemented to avoid and minimize impacts described in the 2015 Rindge Pipeline Task Force Report (dated October 14, 2015) including but not limited to the socioeconomic impacts to the town of Rindge, New Hampshire;
 - c. provide the state-specific economic impact studies that Tennessee Gas reports were conducted that have otherwise not been filed with FERC (e.g., New Hampshire); and
 - d. provide a discussion on the impacts of tree removal on heating and cooling costs.

Resource Report 6 – Geological Resources

1. As previously requested in our May 15, 2015 EIR, provide the following information:
 - a. a discussion of the potential for ground failure due to past or future mining activities within 0.25 mile of the Project specifically addressing subsidence, slumping, land sliding, or other ground failure;
 - b. a discussion of the methods and mitigation measures that would be used in areas of mine tailings and spoils; and
 - c. a discussion of monitoring, mitigation, and minimization measures that would be used concerning the development of karst features post-construction. Update the Karst Mitigation Plans, as appropriate.
2. As previously requested in our October 8, 2015 EIR, provide the following information:
 - a. a discussion of the potential for groundwater contamination by blasting in karst areas and include mitigation and minimization measures that would be used. Specify methods and procedures to protect groundwater resources in karst areas from blasting activities. Update the Karst Mitigation Plans as appropriate;
 - b. Provide a discussion of the potential impacts and mitigation measures that would be used to prevent impacts from blasting within or in proximity to granite bedrock aquifers and stratified drift aquifers; and
 - c. provide a geotechnical review of the high-resolution aerial photographs along the Project that are known or may contain hazards resulting from steep slopes, potential landslides, and potential karst topography. The review should be conducted by a geotechnical engineer or certified geologist to provide the extent of the areas where hazards exist (or may exist) to Project construction and operation by milepost. Identify mitigation measures to avoid and minimize potential impacts of the Project on these conditions as well as avoiding and minimizing the impacts of these conditions on Project construction and operation. Update the state-specific ECPs as appropriate.
3. Section 6.2 (page 6-31) - Provide a more detailed discussion on alternative methods to blasting. Include

the methods that would be expected to be used to remove bedrock encountered by rock type (e.g., shales could be removed via methods A and B while weathered limestones and sand sandstone would be removed via method C and D). In addition, provide a discussion on bedrock removal methods that would be used along the pipeline route in proximity to electrical transmission, cable, or pipeline corridors. Include a discussion of potential hazards to these types of facilities due to blasting and other rock removal methods and how Tennessee Gas would mitigate hazards to these facilities.

4. Section 6.4.3 (page 6-68) - Provide the closest distance of Project facilities to the Small Fractures on Mount Toby in Franklin County, Massachusetts, and the Newbury Liquefaction Features in northeast Massachusetts, and identify when these areas were last seismically active.
5. Table 6.4-3 (pages 6-71 through 6-73) - Update the table to identify if the faults are formally considered active or inactive and the timeframe of last fault movement.
6. Section 6.4.4 (pages 6-74 through 6-80) – Identify karst features within 0.25 mile of the proposed Project including caves, sink holes, and pits. Update the Karst Mitigation Plans to describe karst specific erosion and sediment control measures and mitigation measures for potential spills in karst areas. Discuss any measures above and beyond the currently proposed erosion control measures that would be implemented to protect groundwater resources areas of karst (e.g., additional rows of silt fence near known recharge features, additional fuel setback distances in areas with known or suspected karst features).
7. Section 6.4.6 (pages 6-91 through 6-92) - Identify areas where soil conditions exist for lateral spreading and identify areas at aboveground facilities where soil liquefaction could pose a significant risk to the pipeline. Include specific measures and design criteria that would be used to protect the pipeline and aboveground facilities where hazards from soil liquefaction may exist.
8. Update the state-specific ECPs with the following information regarding blasting and potential impacts on groundwater resources including:
 - a. address public concerns about the appropriate analyses that should be conducted in water wells and potable springs, both pre- and post-blasting for arsenic, minerals, metals, perchlorate, volatile organic compounds, radon, and uranium groundwater contamination due to blasting and/or construction;
 - b. as requested by the NHDES, update the state-specific ECP to satisfy NHDES Alteration of Terrain Application. This may include identifying drinking water wells located within 2,000 feet of the proposed blasting activities; and developing a groundwater quality sampling program to monitor for pre- and post-blasting nitrate and nitrite levels in drinking water supply wells and other wells representative of the drinking water supply wells in the area (as approved by NHDES prior to initiating blasting);
 - c. provide a discussion of whether or how Tennessee Gas would assess the potential for blasting medium to contaminate groundwater, and any additional mitigation measures implemented to protect water quality during blasting in the vicinity of drinking water wells and springs.
 - d. address public concerns that seismic shock would impact sensitive technologies such as those occurring at PC Connection’s data center in Merrimack, New Hampshire;
 - e. as requested by the Southwest Regional Planning Commission, identify how Tennessee Gas would notify residents of pending blasting activities in a manner that would ensure all residents are successfully notified prior to the initiation of blasting activities
9. Clarify the potential discrepancies in the Pennsylvania state-specific ECP regarding measures of successful vegetative restoration in non-agricultural areas, specifically whether it is “a minimum uniform, perennial 80 percent vegetative cover or other permanent non-vegetative cover with a density sufficient to resist accelerated erosion,” or if it will be “considered successful if upon visual survey the density and cover of non-invasive vegetation is similar in density and cover to adjacent undisturbed lands.”

Resource Report 7 – Soils

- General – As previously requested in our May 15, 2015 and October 8, 2015 EIRs, provide summary tables that identify the total acreages of soil limitations that would be impacted by construction and operation of the Project. Provide the total acreage of impact for each soil limitation for each Project component including, but not limited to, pipeline facilities (by Segment), compressor stations (by station), meter stations (by station), MLVs (group total), access roads (grouped total), additional temporary workspaces (grouped total), and contractor yards (group total). Provide both construction impacts and operational acreages for all Project facilities. The table should provide soil limitations acreages for each soil limitation including but not limited to, potential water erosion, potential wind erosion, stony rocky soils, shallow depth to bedrock, potential soil compaction, poor revegetation potential, poor drainage potential, prime farmlands (including farmlands of statewide importance), and hydric soils. An example table is provided below. It may be prudent to provide separate tables for each state or Project component (pipelines, compressor stations etc.) or add a column for state.

Example Summary Table State # 1.					
Facility	Wind Erosion Potential		Hydric Soils		etc....
	Permanent	Temporary	Permanent	Temporary	etc....
Pipeline loop 1	# acres	# acres	# acres	# acres	etc.
Pipeline loop 2	# acres	# acres	# acres	# acres	etc.
Pipeline Total	# acres	# acres	# acres	# acres	etc.
Access Roads	# acres	# acres	# acres	# acres	etc.
Contractor Yards	# acres	# acres	# acres	# acres	etc.
Etc.	etc.	etc.	etc.	etc.	etc.
Project Total	# acres	# acres	# acres	# acres	etc.

- Table 7.1-1 (starting on page 7B-1) – Confirm that acreages provided for the soil series that would be crossed by the project include additional temporary workspace.
- Table 7.2-12 (starting on page 7B-223) – Provide the onsite percentages for soils series at aboveground facility locations greater than 5 acres.
- Table 7.4-1b (starting on page 7B-283)) – Clarify or provide the following information:
 - which areas have been surveyed and a timeline for when information will be presented regarding areas that have not been surveyed; and
 - farmland classifications types for each Project facility by state. Address all facilities and all types of farmland classifications. Clearly indicate instances where no farmlands are associated with a Project facility (e.g., add “N/A”).
- As previously requested in our October 8, 2015 EIR, provide the following information:
 - soil limitation ratings for all soils in table 7.3-1 (pages 7b-229 though 7b-282) that would be affected by the Project, not just soils in agricultural and residential areas;
 - soil classifications for poor revegetation potential if the soils have a capability class of three or greater, have a low water capacity, or if slopes are greater than 8 percent in table 7.1-1 through 7.3-1;
 - a discussion of the specific construction techniques and mitigation measures that would be used when crossing vulnerable soils such as, but not limited to, fragipans;
 - frost depths along the proposed pipeline route with a discussion of ground heaving and frost heaving at aboveground facilities;
 - a discussion of the mitigation measures and pipeline design that would be used in the Schoharie Val-

- ley, as flooding in some areas may be relatively common;
- f. a discussion of the specific mitigation measures that would be used in areas of prime farmland soils not just measures for active agricultural lands in the state-specific ECPs; and
 - g. clarify table 7.4-1b to state if the Project would cross any managed forest land. Specify in the table which areas have been surveyed and which have not. For those that have not, provide a timeline for when the surveys are anticipated and when the results will be filed with the FERC.
6. Section 7.4.1 (page 7-8) – Describe hydric soils that would be impacted by construction of the Project and include hydric soils as a soil limitation in table 7.1-1 through 7.3-1.
 7. Attachment 7B Tables 7.1-2 – All of the soils listed in this table have a Wind Erodibility Group of “#NA” which is not listed in the table notes and appears to be an error. Clarify this apparent discrepancy.
 8. Responses to the October 2015 Scoping Comments matrix (attachment 2), – Revise the table titled “Earthquake Epicenter within 100 Miles of the Pipeline Facility” to include the following:
 - a. earthquakes with a magnitude of 3.0 or greater appear to be the only earthquakes presented. Provide a note that specifies what types of earthquakes are presented in the table;
 - b. dates of the sources provided in the table footnote;
 - c. add county information, in addition to the state and town information provided; and
 - d. full citations for the references used to populate the table, including identification of the specific databases accessed to generate this list (e.g., not just data repositories like the USGS ANSS comprehensive earthquake catalog or the Lamont-Doherty Cooperative Seismographic Network).

Resource Report 8 – Land Use, Recreation and Aesthetics

1. General – Provide all updated information regarding Tennessee Gas’ ongoing coordination and efforts to assess impacts and further avoid, minimize, and mitigate those impacts described in RR8. Some examples of the ongoing coordination as stated by Tennessee Gas in RR8 include, but are not limited to, impacts and mitigation measures associated with the following:
 - a. section 8.3.1.1.1 (pages 8-50) – Provide updated information from the National Park Service and any other federal agencies (e.g., Job Corps, Bureau of Land Management, U.S. Postal Service, and Army National Guard) regarding impacts and mitigation for crossing federal land;
 - b. section 8.3.1.1.2 (page 8-54) – Provide any replies from NYSDEC concerning identification of sensitive environmental areas; also provide results of coordination with NYSDEC regarding crossing the Melondy Hill State Forest;
 - c. section 8.3.1.1.2 (page 8-55) – Provide updated information regarding impacts and mitigation measures on the Finger Lakes Trail based on coordination with the Finger Lakes Trail Council and other interested parties;
 - d. section 8.3.1.1.2 (pages 8-55 and 8-56) – Provide updated information regarding impacts on the Clapper Hollow State Forest and Petersburg Pass State Forest and mitigation measures based on coordination with NYSDEC;
 - e. section 8.3.1.1.2 (page 8-56) – Provide updated information regarding impacts on the Long Path Trail and mitigation measures based on coordination with the State of New York, Rennselaer Plateau Alliance, and other interested parties;
 - f. section 8.3.1.1.2 (page 8-56) – Provide updated information regarding impacts on the Pittsfield State Forest and mitigation measures based on coordination with MADCR and other interested parties;
 - g. section 8.3.1.1.2 (page 8-56) – Provide updated information regarding impacts on the Ashuwillticook Rail Trail and mitigation measures based on coordination with Berkshire Regional Planning Commission, Berkshire Bike Path Council, MADCR, and other interested parties;

- h. section 8.3.1.1.2 (page 8-57) – Provide updated information regarding impacts on the Appalachian Trail and the Chalet WMA and mitigation measures based on coordination with MADCR, Appalachian Trail Conservancy, and other interested parties;
 - i. section 8.3.1.1.2 (page 8-58) – Provide updated information regarding impacts on the Peru State WMA and Upper Westfield River WMA and mitigation measures based on coordination with MADFW and other interested parties;
 - j. section 8.3.1.1.2 (page 8-58) – Provide updated information regarding impacts on the South River State Forest road/trail and mitigation measures based on coordination with MADCR and other interested parties;
 - k. section 8.3.1.1.2 (page 8-58) – Provide updated information regarding impacts on the Mahican-Mohawk Trail and mitigation measures based on coordination with MADCR;
 - l. section 8.3.1.1.2 (page 8-59) – Provide updated information regarding impacts on the Monague Plains WMA and mitigation measures based on coordination with MADFW;
 - m. section 8.3.1.1.2 (page 8-59) – Provide updated information regarding impacts on the Northfield State Forest and mitigation measures based on coordination with MADCR;
 - n. section 8.3.1.1.2 (page 8-60) – Provide updated information regarding impacts on the Harold Parker State Forest and mitigation measures based on coordination with MADCR;
 - o. section 8.3.1.1.2 (page 8-60) – Provide updated information regarding impacts on the Squannacook River WMA and mitigation measures based on coordination with MADFW;
 - p. section 8.3.1.1.2 (page 8-60) – Provide updated information regarding impacts on the Willard Brook State Forest and associated Off-Road Vehicle Trail and mitigation measures based on coordination with MADCR;
 - q. section 8.3.1.1.2 (page 8-61) – Provide details regarding the types of sensitive land uses that might be affected based on information from individual towns;
 - r. section 8.3.1.1.2 (page 8-61) – Provide updated information regarding impacts on the Cheshire Branch Rail Trail and mitigation measures and indicate with whom coordination has occurred;
 - s. section 8.3.1.1.2, (page 8-61) – While figure 8.3-1 appears to show the pipeline crossing Rhododendron State Park, the park does not appear to be listed in section 8.3 or table 8.3-1. Clarify if Rhododendron State Park would be crossed by the Project and if it is, provide a discussion on potential impacts on the recreational use and any other environmental resources (e.g., sensitive plant communities). Update table 8.3-1 and figure 8.3-1 as appropriate; and
 - t. section 8.3.1.1.2 (pages 8-61 and 8-62) – Provide updated information regarding impacts on the Monadnock Branch Rail Trail and mitigation measures and indicate with whom coordination has occurred.
2. Section 8.1 and table 8.1-2 – Provide the acreages of operational impacts that would be within the existing Tennessee Gas right-of-way that are mentioned in footnote 10 of table 8.1-2.
 3. Section 8.1.3 (page 8-19) – Provide updated locations, lengths, and necessary improvements of access roads based on updated surveys or landowner permission. Provide updates to tables 8.1-2 and 8.1-6 as needed.
 4. Section 8.1.4 (page 8-19) – Provide updated information on contractor yards, including a detailed explanation of how the areas would be used and include justifications for the number of sites and the total area required for the sites. Provide revised contractor yard locations/acreages based on updated landowner permissions and surveys.
 5. Section 8.1.6.3 (page 8-22 and table 8.1-8) – Provide the current information on agricultural drain tile locations.
 6. Section 8.2.1 (page 8-35) – Provide updates to the list of planned developments through further correspondence with local planning agencies or landowner consultations. Provide an updated table listing all

planning agencies that Tennessee Gas has attempted to contact regarding planned developments within 0.25 mile of the Project. Provide updated information on which agencies have responded, which agencies have identified planned development, and which agencies have verified that there are no planned developments.

7. Section 8.2.2 (page 8-45) and Appendix P – Provide updated results of field verification of structures within 50 feet of the pipeline or aboveground facilities. Update tables 8.2-2 and 8.2-3 and the site-specific drawings in appendix P.
8. Section 8.2.3 (page 8-47) – Provide locations of known septic systems that fall within the footprint of the Project. Provide the status of contacting additional affected landowners regarding the presence of private septic systems along the proposed alignment.
9. Section 8.2.3 (page 8-49) – Provide updated information based on continued communications with landowners regarding modification to proposed workspaces.
10. Section 8.3.1.1.3 (page 8-68) – Clarify whether or not the information on Tewksbury town resources has been provided by Northern Middlesex Council of Governments. Provide the information or the anticipated schedule for providing it.
11. Section 8.3.1.1.3 (page 8-71) – Clarify what steps Tennessee Gas is taking to obtain records from the Town of Fitzwilliam and provide the information or the anticipated schedule for providing it.
12. Section 8.3.1.1.3 (page 8-72) – Provide information regarding Town of Milford resources and results of consultation with NHDES.
13. Section 8.3.1.2 (page 8-81) – Provide further discussion of the impacts on Hanscom Air Force Base and Camp Curtis Guild. Include updated information on the correspondence with the United States Air Force and the Army National Guard.
14. Section 8.3.1.4 (pages 8-98 to 8-100) – Provide an explanation of the types of impacts that would result from the contractor yards on each land use mentioned and describe mitigation that would be used to alleviate the impacts.
15. Section 8.3.2.2.2 (page 8-109) – Based on consultation with the New York State Department of Transportation, confirm whether any New York scenic byways would be crossed by the Project.
16. Section 8.3.3.2.3 (pages 8-115 to 8-116) – Clarify who is preparing the MEPA documents cited, and when they will be provided to the FERC.
17. Section 8.3.3.2.5 (page 8-120) – Clarify whether the statement that “Correspondence from Connecticut agencies has not identified particular easements on parcels in the Project area” means that they are not present or whether they just have not been identified. If the latter, explain how this information will be obtained. Clarify whether lands protected under Connecticut’s Farmland Protection Program are not present or just have not been identified. If the latter, explain how this information will be obtained.
18. Section 8.3.4.1.2 (page 8-121) – Provide updated information from discussions with the Church of Bethlehem regarding the types of impacts that might affect their property and the Elmwood Cemetery and discuss how these impacts would be avoided.
19. Section 8.3.4.1.4 (page 8-122) – Specify how impacts on the Rindge Smallpox Cemetery would be avoided.
20. Section 8.3.4.2 (pages 8-123 to 8-126) – Provide updated information on schools listed as within 0.25 mile of the Project. Include the distance in feet of the school property and buildings to the Project at the nearest point. Provide a description of the types of measures that would be implemented to minimize impacts and ensure access to the schools during construction.
21. Section 8.3.4.3 (pages 8-126 to 8-130 and table 8.3-8) – Provide updated information regarding the presence of specialty crop farms, organic farms, and tree farms (including maple sugaring operations).
22. Section 8.3.4.4 (page 8-130) – Clarify how the Villi Poni Farm “will be affected by the Project,” but, “no

impacts are expected.”

23. Section 8.3.6 (page 8-131) – When discussing the coating on utility poles, clarify the specific distance meant by “minimal distance around the pole,” and provide the estimated distances from the Project workspace to the utility poles during construction.
24. Section 8.3.6.2 (page 8-132) – Provide the results of contamination investigations by Tennessee Gas at the proposed Supply Path Mid Station, Supply Path Tail Station, and Market Path Head Station locations or a schedule of when they will be provided.
25. Section 8.3.6.3 (page 8-133) – Provide results of contamination investigations by Tennessee Gas at the Market Path Tail Station or a schedule of when they will be provided. Provide information on the site investigations from MADEP or other sources.
26. Section 8.3.6.4 (page 8-133) – Provide results of contamination investigations by Tennessee Gas at the Merrimack Industrial Metals, Inc. Brownfield Site and Merrimack Meter Station or a schedule of when they will be provided. Provide information on the site investigations from NHDES or other sources.
27. Section 8.4.1 (page 8-136) – Clarify what is meant by the statement that “areas surrounding the pipeline...do not provide any other visual benefits” and how this was determined.
28. Section 8.4.2.1 (page 8-142) – Provide results of the discussions with stakeholders associated with visual impacts of the proposed Supply Path Head Station, Supply Path Tail Station, Market Path Head Station, and Market Path Mid Station 2. Provide a description of how visual effects would be determined for appurtenant facilities.
29. Address the following Scoping Comments:
 - a. provide a discussion of impacts and appropriate mitigation associated with the proposed crossing of the Gaseau Conservation property in Fitzwilliam, New Hampshire, and those properties subject to the Massachusetts Heritage Landscape Inventory program;
 - b. provide a discussion addressing the request by the New Hampshire Department of Justice (letter dated October 9, 2015) for maps and supporting documentation of all charitable land trusts affected by the proposed Project;
 - c. provide a discussion of impacts and minimization measures associated with equine health and socio-economic impacts at Keswick Farm Equine Assisted Therapy, located on Upper Gap Mountain Road in Fitzwilliam, New Hampshire.
 - d. provide a discussion of impacts on Capital Region Career and Technical School, located at 174 State Route 30A in Schoharie, New York.
 - e. address concerns that the pipeline would destroy two ski trails that are necessary for beginner skiers to access the rest of the trails at the Windblown Cross Country Ski Area in New Ipswich, New Hampshire. Provide a discussion of impacts associated with the ski area’s certification as a Tree Farm with the American Tree Farm System;
 - f. provide a discussion of any additional minimization measures associated with concerns that the topographical conditions at the proposed Market Path Mid Station 1 site would increase impacts of compressor station emissions, noise, and lighting on residents of and visitors to Burden Lake, New York;
 - g. provide a discussion of impacts on Woolman Hill Quaker Retreat Center in Deerfield, Massachusetts;
 - h. provide an updated discussion of the configuration of the proposed NED Project and the pending Merrimack Valley Reliability Project along the 17 miles where Tennessee Gas is proposing they be collocated with specific descriptions of the configuration through any and all residential areas; and
 - i. provide a discussion on the potential impacts of the Project in agricultural areas associated with crop rotation. Specifically address how impacts would be mitigated to avoid violation of New York’s

concentrated animal feeding operation permit requirements and associated certified nutrient management plans.

30. Appendix F (Alignment Sheets) – Provide additional alignment sheets to show the full extent of project features such as access roads, additional temporary work spaces, and contractor/supply yards, which may not be captured in the current aerial photos centered on the pipeline. Also address each of the specific discrepancies identified in the attachment and carefully review all of the alignment sheets to correct additional discrepancies.
31. Appendices J through N (section 9.4) – Tennessee Gas states that in residential areas it would replace ornamental shrubs that have been impacted by Project construction ‘where possible.’ Identify the situation(s) in which Tennessee Gas would not replace ornamental shrubs. Clarify what types of plants would and would not be characterized as ornamental shrubs. Further, discuss the possibility of replacing other landscaped vegetation (other shrubs, perennial plants, and trees) damaged or destroyed by construction in residential areas.
32. Appendix P (Residential Construction Plans) – Provide the following updates to tables 8.2-2 and 8.2-3 and the Residential Construction Plans (RCPs):
 - a. in order to clarify which structure in each plan is a residence, assign a unique residence identification number (Residence ID) to each residence within 50 feet of the construction workspace for the pipeline and aboveground facilities. Add a column in tables 8.2-2 and 8.2-3 for the Residence ID and label the residences in the RCPs with the Residence ID;
 - b. correct apparent discrepancies in distances listed in tables 8.2-2 and 8.2-3 and the corresponding distance labels in the RCPs. For example, the table for Residential Drawing Number SP-SEG_C-RES-002 lists the distances from the residence to the edge of workspace and pipeline centerline as 24 and 139 feet respectively. On the corresponding RCP, none of the five structures displayed has matching distances. Additionally, some distances are absent from the drawings (e.g., this occurs on drawing MG-SEG_H-RES-009);
 - c. add the aerial imagery as a background layer in the site-specific drawings in order to more clearly show other relevant features of the properties. Identify garages, mobile homes, sheds, decks, pools, major landscaping areas, driveways, and secondary access routes during Project construction, if warranted. For example, Drawing SP-SEG_C-RES-002 shows the footprints of the structures, but the aerial photo on alignment sheet TE-SEG_C-012 shows what appears to be the property’s driveway being crossed by ATWS-C-147 and perhaps by the adjacent temporary workspace as well; and
 - d. identify any known septic systems or septic drain fields in the RCPs.
33. We have received numerous comments indicating that Tennessee Gas and/or its contractors have trespassed on private property. Provide an assessment of how frequently this may have occurred and a detailed outline of the steps Tennessee Gas is implementing to ensure that it will not happen in the future.

Resource Report 9 – Air and Noise Quality

1. As previously requested in our May 15, 2015 EIR, provide the following information:
 - a. ambient noise surveys and an acoustical analysis of impacts at each HDD entry and exit site. Provide mitigation as required to meet regulatory requirements; and
 - b. for maintenance areas in the Project area, provide a discussion of any air quality or conformity provisions that would be applicable within the maintenance area, or explicitly state that no additional provisions apply for each area.
2. As previously requested in our October 8, 2015 EIR, provide the following information:
 - a. specific details on how Tennessee Gas would ensure that contractors and employees minimize vehicle and equipment idling time;

- b. the maximum speed of Project-related vehicles on unpaved roads;
 - c. how Tennessee Gas would determine when application of water would be warranted to control dust in active construction zones;
 - d. a discussion on the potential to generate crystalline silica as fugitive dust from granite excavation and how Tennessee Gas would monitor and control such dust;
 - e. the local and state nuisance-based noise ordinances and vibration ordinances for all areas in which a pipeline or compressor station would be located, and indicate how Tennessee Gas would adhere to each one during both construction and operations;
 - f. a discussion on what measures Tennessee Gas would implement to ensure that vibration impacts would not result in perceptible increases in vibration at nearby residences;
 - g. specific details on what measures Tennessee Gas would implement to mitigate HDD noise prior to offering relocation; and
 - h. a discussion of the frequency of a blowdown (venting) event. Tennessee Gas has indicated that such events would be “infrequent” and “irregular.” Clarify how many times per year unit venting and station venting would be expected to occur for maintenance purposes, as well as the likelihood of an unscheduled pipeline venting event. Provide the expected duration in hours or minutes for each and the noise contribution in terms of the day-night average sound level dBA Ldn.
3. Address the following Scoping Comments:
- a. Section 9.1.2.1 (page 9-23) and section 9.1.3.1 (pages 9-30 to 9-58) – Provide a discussion of mitigation strategies to reduce greenhouse gas emissions for the entire Project (not just compressor stations), including any specific measures that were considered but not proposed for implementation;
 - b. Section 9.1.3.1 (pages 9-30 to 9-58) – Identify whether the following measures would be implemented to reduce GHG and criteria pollutant emissions at compressor stations:
 - i. replacement of rod packing systems in reciprocating compressors every 26,000 hours of operation/every 36 months;
 - ii. capturing rod packing emissions in a closed vent system; and/or
 - iii. use of optical gas imaging equipment to monitor leaks and subsequent repair of identified leaks within a specified timeframe;
 - c. Section 9.1.3 (page 9-30 to 9-58) – Address concerns whether modeled air quality impacts at compressor stations account for air inversions, particularly at the proposed Market Path Mid Station 3 located in Northfield, Massachusetts;
 - d. Section 9.1.3 (page 9-3) – Provide equipment lists and existing and proposed operational emissions of criteria pollutants and GHGs for all meter stations;
 - e. Section 9.1.3.2 (page 9-25) – Ensure that speciated HAP emissions for all HAPs (not just formaldehyde) are provided for all compressor station equipment (including the turbines at the Supply Path Mid, Supply Path Tail, Market Path Head, and Market Path Tail Compressor Stations);
 - f. Section 9.1.4.1 (page 9-66) – Discuss efforts and commitments to use the newest equipment available from subcontractors, and use cleaner fuels and retrofits to minimize construction equipment emissions;
 - g. Section 9.1.4.3 (page 9-67) – Address concerns regarding the potential for radioactive emissions (e.g. radon) from compressor stations;
 - h. Section 9.1.5 (page 9-68) – As requested by the NHDES, address cumulative in-state and upwind emissions of nitrogen oxide (NO_x) and particulate matter with an aerodynamic diameter less than 2.5 micrometers (PM_{2.5}) in New Hampshire, with emphasis on the summer ozone season;
 - i. Section 9.2.2 (pages 9-76 to 9-92) – Address public concerns about potential impacts of low frequen-

- cy vibration/noise from compressor stations. As appropriate, indicate how Tennessee Gas will assess impacts from this low frequency vibration/noise;
- j. Section 9.2.1.2 (pages 9-72 to 9-76) – As requested by the Southwest Regional Planning Commission, indicate how Tennessee Gas would address noise impacts in New Ipswich, New Hampshire, whose Zoning Ordinance prohibits large industry;
 - k. Section 9.2.2 (pages 9-76 to 9-92) – As requested by the MADEP, indicate whether Tennessee Gas would calculate ambient noise surveys using a full week of 1-hour L90 ambient sound level measurements. Also, discuss how Tennessee Gas will account for noise impact for rural areas with low level ambient background conditions (i.e., by committing to a more stringent standard of 45 dBA Ldn instead of 55 dBA Ldn for these areas);
 - l. Section 9.2.3.2 (pages 9-94 to 9-96) – Consider conducting annual post-construction surveys during winter months to assess compressor station noise impacts;
 - m. Section 9.2.7 (page 9-101) – Address concerns that tree removal for construction of the pipeline would cause an increase in noise from non-project related sources, due to removal of existing buffer.
4. Section 9.1.1.1 (page 9-6) – Identify the source of the general description of the climate in the Project area.
 5. Section 9.1.1.2 (page 9-7) – Clarify whether the monitored concentrations shown in tables 9.1.5 through 9.1.10 are the highest reported concentration listed for 2012 to 2014 (as indicated on page 9-7), or are the average reported concentration listed for 2012 to 2014.
 6. Section 9.1.1.2 (tables 9.1.5 to 9.1.10) – Describe the existing predominant land use (i.e., rural or urban) and terrain (i.e. hilly or flat) in the area of each compressor station. For each ambient air quality monitor selected as having representative data for a compressor station, provide the predominant land use and terrain in the area of the monitor. In addition, if there are any monitors that are closer to the area of the compressor station that were not selected as having representative data, provide the monitored concentrations, distance to the compressor station, land use, and terrain in the area of the monitor for these as well. If the closest monitor with similar land use and terrain to the compressor station was not selected as being representative, provide a rationale for why the more distant monitor was selected as representative. For example, Market Path Mid-Station 4 is located in a rural area of Hillsborough County, New Hampshire. Monitor ID 33-011-0018 is also in a rural area of Hillsborough County, and is located about 6 miles from this compressor station. Explain why Tennessee Gas selected Monitor ID 33-015-0018, located in an urban area 24 miles away from the compressor station, as more representative of the compressor station area for carbon monoxide, PM2.5, ozone, and sulfur dioxide than Monitor ID 33-011-0018. In addition, provide electronic copies of, or complete citations for, the State Annual Monitoring Reports referenced in the tables and identify which values are from these reports rather than the EPA database.
 7. Section 9.1.1.2 (Tables 9.1.5 to 9.1.10) – If there is not a nitrogen dioxide or PM2.5 pollutant monitoring station within 50 miles of a given compressor station that is considered representative (i.e., predominantly the same land use and terrain as the compressor station), consider installing ambient air quality monitors and collecting pre-construction ambient air quality data for the purpose of ensuring background ambient air quality data are representative.
 8. Section 9.1.1.2 (table 9.1.10) – Provide the distance and direction of the selected air quality monitor to each compressor station.
 9. Section 9.1.1.2 (pages 9-7 to 9-19) – Update the section to reflect EPA’s Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements; Final Rule dated March 6, 2015 (80 Federal Register 44, pages 12264 to 12319) that revokes the 1997 ozone standard. If any county is partially classified as nonattainment or maintenance, clearly indicate whether any part of the Project (including pipeline and meter stations) is located within the portion designated as

nonattainment or maintenance.

10. Section 9.1.1.2 (pages 9-14 to 9-19) – For each area designated as nonattainment or maintenance for PM_{2.5}, indicate which precursors of PM_{2.5} (NO_x, sulfur dioxide, volatile organic compounds [VOCs], or ammonia) are considered significant precursors to PM_{2.5} in each state.
11. Section 9.1.2.5 (pages 9-24 to 9-29) – For each state, provide a discussion of any state air quality provisions for construction activities, or explicitly state that no additional provisions apply for construction.
12. Section 9.1.2.5 (pages 9-24 to 9-29) – Specifically state whether or not the permits for each of the compressor stations would be New Source Review (NSR) permits, or if they would be non-NSR state permits. Provide the permit applications, and any revisions/updates to the permits.
13. Section 9.1.3 (pages 9-30 to 9-58) – Provide operational methane emission estimates (as methane and CO₂e) associated with leaks and releases from the pipeline, valves, meter stations, gate stations, interconnects, taps, regulation facilities, and pig launcher/receivers along the pipeline, per year. Include supporting calculations, and indicate all assumptions.
14. Section 9.1.3.6 (pages 9-61 to 9-65) – For purposes of the General Conformity (GC) applicability analysis, ensure that construction emissions from all counties within any nonattainment or maintenance area affected by the Project are combined for comparison to each GC threshold, for each nonattainment or maintenance area pollutant and precursor (e.g., the New York-New Jersey-Long Island, NY-NJ-CT Area, which is maintenance for the 2006 24-hour PM_{2.5} standard, includes both Fairfield and New Haven Counties; thus direct PM_{2.5} emissions, as well as any precursors, should be combined for comparison to their respective thresholds). If a GC threshold does not apply for any specific reason (e.g., for an area that is nonattainment for ozone due solely to location in the ozone transport region), state this as well. If any of the emission estimates in the GC applicability analysis exceed the GC applicability thresholds in a designated nonattainment or maintenance area, provide the following information necessary for a Conformity Determination:
 - a. a revised schedule for construction and in-service for the Project. The schedule should allow sufficient time for FERC staff to prepare and issue a draft GC determination as an appendix to the draft EIS for the Project, as well as preparation and issuance of a final GC determination appended to the final EIS for the Project. The schedule should also allow sufficient time for Tennessee Gas to complete its demonstration of conformance in accordance with Title 40 of the Code of Federal Regulations (CFR) Part 93.158 prior to construction;
 - b. revised estimates of construction emissions (including construction of any non-jurisdictional facilities) consistent with 40 CFR 93.159(b) based on the revised schedule, broken down by calendar year. Provide all detailed supporting calculations, assumptions, and references;
 - c. identify which method under 40 CFR 93.158(a) Tennessee Gas would follow to demonstrate conformity. Provide all supporting documentation and detailed calculations (e.g., if purchasing offsets, provide documentation that such offsets are available within the nonattainment/ maintenance region for the time period of the Project; or if an emissions budget exists within the State Implementation Plan, provide documentation of the emissions budget and documentation of the state or local agency's concurrence that the Project can be accommodated through this budget); and
 - d. documentation of consultation with the local and/or state air quality agencies and the U.S. Environmental Protection Agency regarding the method selected for demonstrating conformity, including any comments they provide.
15. Provide a discussion regarding the potential cumulative impacts on regional and local air quality resulting from operation of the Supply Path Tail Station, Market Path Head Station, and Iroquois' Wright Compressor Stations.
16. Section 9.2.4.1 (table 9.2-24, page 9-97) – Identify the units for the Sound Level at 50 feet, A-weighted decibels (dBA). Is this the maximum sound level (L_{max})?

17. Section 9.2.2 (pages 9-36 to 9-50) – Ensure that the closest NSA in each of the 16 major direction sectors (delineated by directions N, NNE, NE, ENE, E, ESE, E, SSE, S, etc.) within 1 mile of each compressor station are identified and shown on figures 9.2-1 to 9.2-10. For each, specify the type of NSA, specify the distance and direction of the NSA from the compressor station, conduct ambient noise surveys, and calculate predicted noise levels from the operation of the compressor station. For example, there appears to be a residence ENE of the Supply Tail Compressor Station about 3,000 feet from the compressor station for which this information has not been provided.
18. If other compressor stations or industrial facilities are under construction or planned for operation that would impact noise sensitive areas within 1 mile of the proposed compressor stations, provide a discussion of the cumulative impacts of these facilities.
19. Sections 9.2.4.1, 9.2.4.4, and 9.2.5 (page 9-78 and 9-80) – Clarify what noise criterion Tennessee Gas will use when applying mitigation for construction noise, blasting noise, and HDD noise.

Resource Report 10 – Alternatives

1. General – Provide all information listed in RR10 (or in the Responses to Comments on Draft Resource Reports matrix, the Responses to October Scoping Comments matrix, or the Response to the December 8, 2015 Environmental Information Request #1) that Tennessee Gas has identified would be provided to the FERC (or include a schedule for submittal), which includes, but is not necessarily limited to:
 - a. the ongoing evaluation of the constructability of the proposed route where it would be collocated with existing pipelines or electric transmission lines in steep terrain, particularly in steep side slope terrain (Responses to Comments on Draft Resource Reports);
 - b. the ongoing evaluation of the suitability of Constitution’s updated alignment for collocation (Responses to Comments on Draft Resource Reports);
 - c. analysis of an alternative route for the Peabody Lateral (Responses to Comments on Draft Resource Reports, and Responses to October Scoping Comments);
 - d. updated, comprehensive tables containing all stakeholder-, landowner-, and agency-requested minor route deviations filed on the docket or made known to Tennessee Gas after September 4, 2015 or otherwise not previously provided to the FERC (Responses to Comments on Draft Resource Reports);
 - e. updated alternatives environmental data comparison tables for each potential compressor station site (Responses to Comments on Draft Resource Reports); and
 - f. a supplemental report regarding analysis of the Interstate 88 Hybrid Alignment Alternative mentioned in section 10.3.1.1.3 (page 10-31).
2. General – As requested in our February 27, 2015 and October 8, 2015 EIRs, provide additional data categories in all alternatives comparison tables for miles or feet of expected side-slope construction (including data for both moderate and severe side slope), shallow bedrock, karst geology, landslides, numbers of landowners affected, residences located within 125 and 250 feet of any proposed work area, and miles/acres of interior forest.
3. General – Provide consistent data categories in all alternatives comparison tables where possible. Note that in section 10.3.1.2.7 (table 10.3-9, page 10-57) data comparison categories include “coldwater fisheries crossings (Massachusetts only), threatened and endangered species critical habitat crossed (Massachusetts only), and contiguous forest tracts greater than 100 feet long,” but these data categories are missing for other alternative routes located in Massachusetts. Define “contiguous forest tracts greater than 100 feet long.”
4. General – As requested in our February 27 and October 8, 2015 EIRs, evaluate the constructability of the proposed Project route where it would be collocated with existing pipelines in steep terrain and where the most suitable location for construction may already be encumbered, thereby potentially precluding or constraining collocation. Identify any such specific areas where collocation would not be

possible. Further, identify and describe any other potential constraints associated with collocation with other pipelines or electrical transmission lines including side slopes, urbanized areas, or other factors. As applicable, discuss how the avoidance of these constraints could affect the current collocation data.

5. Section 10.2.2.4 (page 10-21) – Provide an analysis of the potential viability for the transport of a Project-equivalent volume of compressed natural gas via railway (in addition to liquefied natural gas via railway).
6. Section 10.3 (page 10-22) – Include assessment and information where applicable for alternatives facilitating avoidance or minimization of impacts on lands associated with the Land and Water Conservation Fund (LWCF) program. Refer to the letter dated December 2, 2015 from the State of New Hampshire, Department of Resources and Economic Development that provides additional detail on the collection of accurate and officially confirmed LWCF Section 6(f) property information as well as identifying LWCF Section 6(f) areas that may be impacted by the proposed Project. Include the number of LWCF lands crossed as well as the total length of these lands crossed in each alternatives comparison table where applicable.
7. Section 10.3.1.2.9 (page 10-63) – As requested in our February 27, 2015, May 15, 2015, and October 8, 2015 EIRs, provide comparison tables that include the number of subject Article 97 properties crossed as well as the total crossing length(s) for the Article 97 Avoidance and Collocation Route Alternatives, list and describe the subject properties, and depict the subject locations in maps as well. Clarify whether or not the two Article 97 alternatives could be potentially connected with the proposed route near Segment G, MP 13 to form hybrid alternative routes.
8. Section 10.3.1.2.2 (page 10-41) – As requested in our February 27, 2015 and October 8, 2015 EIRs, provide locations of Areas of Critical Environmental Concern (ACEC) and provide data for crossing(s) lengths in alternatives comparison tables, where appropriate.
9. Section 10.3.2 – Address the comments contained in the letter received by the FERC from NYSDEC on October 16, 2015 regarding pipeline routing alternatives to avoid or minimize impacts to the Cannonsville/Stream Mill Important Bird Area. In addition, address the comment regarding designing a specific alternative to avoid or minimize impacts on watershed that feeds Cleveland, Windsor, and Egypt reservoir, and provides drinking water for the City of Pittsfield as well as multiple towns in western Massachusetts.
10. Section 10.3.2.3 (page 10-73) – Provide an analysis of shifting the Fitchburg Lateral Extension to the east to avoid or minimize impacts on the Squannassit ACEC. Update figure 10.3-16 to depict the Willard Brook State Forest.
11. Section 10.3.2.4 (page 10-76, Figure 10.3-17) – Depict the “aquifer protection area and Pulpit Falls” on figure 10.3-17. Confirm the calculations for the “Difference (if applicable)” column in table 10.3-14 (and elsewhere) as the data for the length of the corresponding segment appears to be incorrect for segment 5.
12. Section 10.3.3 (pages 10-87 and 10-93) – Update tables 10.3-16 and 10.3-17 to identify all stakeholder-, landowner-, and agency-requested minor route deviations. In addition, address any stakeholder comments where a minor route deviation may not be specifically requested, but where a specific resource concern (e.g., Project proximity to a home, well, spring, wetland, future residential development, etc.) is identified that would potentially benefit from a resource avoidance/impact minimization analysis by Tennessee Gas. Evaluate and consider routing, workspace, and construction method alternatives as appropriate. Re-check to ensure that all relevant comments filed on the docket have all been included and note examples of apparently missing comments that include, but may not be limited to LL#1959.04 (docket letter dated April 17, 2015) and LL#579.04 (docket letter dated April 10, 2015), and the Town of Dalton, Massachusetts comment dated August 7, 2015 (referenced in the Massachusetts Energy Facilities Siting Board docket letter dated October 19, 2015 and as responded to by Tennessee Gas on the docket on December 28, 2015). Specific to the Town of Dalton comment, it appears that the response

provided by Tennessee Gas does not specifically answer the comment and that no cross-reference is provided to the specific location of other information in support of the response. Expand the response accordingly to fully address the Town of Dalton comment.

13. Responses to October 2015 Scoping Comments – Tennessee Gas indicated that multiple reroutes had been assessed in regard to avoidance of Land Conservation Investment Program (LCIP) lands, but discussions of these reroutes do not appear to be included in either RR 10 or in other recent filings. Either provide a cross-reference to the specific location of this information within previously filed material or provide the analysis including discussion, comparative data, and mapping.
14. Response to the December 8, 2015 Environmental Information Request #1 – Notations regarding coldwater fisheries indicated that only coldwater fisheries crossings for Massachusetts were presented and that coldwater fisheries data for New York is not publicly available. In RR 3, section 3.1.2.3, Tennessee Gas states that consultations were initiated with NYSDEC in 2015 to refine the list of coldwater fishery designated streams that would be crossed by the Project. Provide all applicable alternative environmental comparison tables to include the number of coldwater fisheries crossings in New York, or provide the anticipated schedule for filing this information with this FERC.
15. Tables 10.3-16 and 10.3-17 (pages 10-87 and 10-93) – As requested in our October 8, 2015 EIR, provide an additional data column indicating whether the stakeholder’s specific concerns have been fully (emphasis added) resolved. If the requested reroute was rejected or if the stakeholder’s concerns have not been fully resolved, then provide a clear and complete explanation. For example, the explanation provided on page 10-87 of “not adopted due to constructability issues related to existing pipeline infrastructure in the area” is not sufficient detail or justification.
16. Responses to October 2015 Scoping Comments (attachment 1) – Explain the relationship(s) of the new table to tables 10.3-16 and 10.3-17 in RR 10. Revise the new table’s data columns to match those presented in tables 10.3-16 and 10.3-17 in RR 10 as well as providing the stakeholder resolution status noted in the comment located immediately above.
17. Section 10.6 (page 10-115) – Provide an alternatives analysis for each proposed MLV that would not be located in an existing pipeline infrastructure/industrial setting, and where there would be a potential visual impact on a residence.
18. Response to the December 8, 2015 Environmental Information Request #1 – Where applicable, explain why a longer access road for compressor station site alternatives is proposed where shorter access roads appear to be feasible based on mapping by Tennessee Gas. For example, the aerial photography provided for Market Mid Station 2 Alternative 1 shows a relatively long access road from the alternative site extending northeast to an existing road; however, it appears that a much shorter access road could be constructed from the existing road on the southwest quadrant of this figure extending northeast to the site. Similarly, it appears that a shorter access road could be used at an alternative site for the Market Mid Station 1 (specifically the FERC Alternative 1B) extending from the existing road at the southwest quadrant of the figure and generally following the existing utility right-of-way to the southwest corner of the alternative site.

Resource Report 11 – Reliability and Safety

1. Tennessee Gas states in multiple places in RR11 that it “will meet or exceed” the applicable safety requirements. Specifically list and describe any instances where Tennessee Gas intends to exceed regulatory safety requirements.
2. Provide a detailed overview of how steep topography, land instability, geology, and other natural forces could affect reliability and safety for the Project, and describe any associated proposed impact avoidance, minimization, and/or mitigation measures proposed. Clarify whether Tennessee Gas anticipates the use of strain gauges in steep or unstable areas, and if so describe their features and usage.
3. Section 11.2.1 (page 11-3) – Provide updated information regarding class locations and high conse-

quence areas based on new aerial imagery that was planned to be obtained in November 2015 via over-flight of the currently proposed route.

4. Provide equivalent High Consequence Areas (HCA) for all compressor stations.
5. Clarify the Potential Impact Radius (PIR) for specific segments of the pipelines, not just HCAs, as well as equivalent PIRs for each compressor station.
6. As described on page 37 of the Responses to Comments on Draft Resource Reports, October 8, 2015, provide the conclusion regarding Tennessee Gas' consideration of the feasibility of incorporating natural gas recapture (the recapture of natural gas at compressor stations instead of venting it) into the Project's compressor stations for both planned blowdowns as well as emergency blowdowns
7. Section 11.2.7 (page 11-13) – Discuss whether Tennessee Gas would sponsor and financially support “mock emergency drills” conducted with local emergency responders. Include an analysis of existing emergency responders, equipment, labor, status (full-time or volunteer), and capability along the Project route, particularly for fire departments in remote or relatively inaccessible areas.

Attachment – Specific comments on Appendix F Alignment Sheets

1. Address the following inconsistencies between table 2.3-1 and the alignment sheets, and provide new alignment sheets.
 - a. consider differentiating symbology for the various classifications of wetlands (PEM, PSS, PFO, etc.) to make type of wetland impact easier to understand in alignment sheets;
 - b. the following wetlands are missing labels on the alignment sheets: SU-G-W037, WPI-600, DE-G-W032, WPI-773, WPI-794, WPI-795, WPI-798, WPI-888, WPI-891, WPI-894, NWI-924, WPI-1022, WPI-1095, WPI-1195, NWI-1375, NWI-1376, WPI-1212, WPI-1254, WPI-1309, NWI-1021, PL-M-W006, WPI-1390, WPI-1395, WPI-1484, WPI-1487, WPI-1625, WPI-1647, TR-D-W001, WPI-1800, WPI-1819, WPI-1908, WPI-1930, WPI-1929, WPI-1935, WPI-1971, WPI-2423, WPI-2426, WPI-2428, WPI-2437, WPI-2519, PH-Y-W008, and WPI-3103;
 - c. the following wetlands are identified in the table but do not appear on the alignment sheet: NWI-1369, WPI-1112, WPI-1162, WPI-478, NWI-1373, RE-G-W019, RE-G-W021, WPI-1117, WPI-1402, WPI-1464, NWI-1417, and NWI-1415;
 - d. wetlands are not labeled in compressor station drawings;
 - e. wetlands are not able to be verified in most contractor yards and along access roads;
 - f. the following locations appear to be impacted by ATWS, but are not delineating: ATWS-C-055, ATWS-E-061, AL-D-W02;
 - g. the following locations contain wetlands that do not appear to be impacted on the alignment sheets, but are listed as being impacted in wetland tables: NYS-012, NWI-1312;
 - h. the following are wetlands appearing to be impacted by the project path, but are not included in the wetland tables: WPI-1578, NO-G-W010, NWI-1313, NWI-1314, wetlands at MP 1.3 in Segment O, and wetlands between MP 24.0 and 26.0 in Segment J; and
 - i. the following features have labeling errors:
 - i. there is a field delineated wetland on sheets TE-SEG_A-017 and TE-MLV-A_02_002 that is shown on the alignment sheets, but is not labeled and does not appear in table 2.3-1. It occurs along Segment A at MP 16.55;
 - ii. label for SU-L-W114 is outside the view of the alignment sheet at MP 24.18 in Segment C;
 - iii. SU-L-W110 is labeled as SU-L-W108 in the alignment sheet at MP 24.84 in Segment C;
 - iv. SU-D-W004 in table 2.3-1 appears to correspond to a wetland labeled as SU-D-W003 in the alignment sheet at MP 33.87 in Segment C;

- v. DE-L-W006 has a typo in the wetland ID in table 2.3-3;
 - vi. AL-B-W001 has no color at MP4.58 in Segment F;
 - vii. WPI-1016 & RE-G-W022 are labeled in the HDD crossing plans, but do not appear to be labeled in the alignment sheet;
 - viii. there is an extra WIP-1093 label that is not pointing to anything; and
 - ix. TR-X-W004 in table 2.3-7 is labeled as TR-I-W004 in the alignment sheets.
2. Address the following inconsistencies between table 8.1-4 and the alignment sheets:
- a. provide documentation for ATWS that were not found on the sheets but suspected of being required for access road starts. The following examples of ATWSs in the table but not on the provided alignment sheet: ATWS-A-259, ATWS-B-003, ATWS-C-266, ATWS-D-247;
 - b. the following ATWSs span public roads:
 - i. Segment A: ATWS-A-061, ATWS-A-071, ATWS-A-256;
 - ii. Segment E: ATWS-E-486;
 - iii. Segment F: ATWS-F-311;
 - iv. Segment Q: ATWS-Q-134; and
 - v. Segment J: ATWS-J-072;
 - c. multiple unidentified/unlabeled ATWSs along Segment J between MP 22.2 and 25.9 that need to be labeled;
 - d. the following ATWS are identified in the table but not found on the map but are not suspected of being related to access road construction:
 - i. Segment A: ATWS-A-007, ATWS-A-253;
 - ii. Segment E: ATWS-E-219;
 - iii. Segment F: ATWS-F-330, ATWS-F-382, ATWS-F-452;
 - iv. Segment G: ATWS-G-031, ATWS-G-142, ATWS-G-155;
 - v. Segment H: ATWS-H-046, ATWS-H-062, ATWS-H-073, ATWS-H-196, ATWS-H-197, ATWS-H-198, ATWS-H-199, ATWS-H-200, ATWS-H-201, ATWS-H-202, ATWS-H-203;
 - vi. Segment I: ATWS-I-123, ATWS-140;
 - vii. Segment J: ATWS-J-147, ATWS-J-168;
 - viii. Segment N: ATWS-N-118, ATWS-N-134;
 - ix. Segment P: ATWS-P-012, ATWS-P-030; and
 - x. Segment S: ATWS-S-123;
 - e. the following ATWS is listed identified twice on the alignment sheets:
 - i. ATWS-C-283; and
 - f. the following ATWS are unlabeled on the alignment sheets but correspond with mapped ATWS:
 - i. Segment I: ATWS-I-229, ATWS-I-230, ATWS-I-231, ATWS-I-232, ATWS-I-233, ATWS-I-234, ATWS-I-235, ATWS-I-236, ATWS-I-237, ATWS-I-238, ATWS-I-239, ATWS-I-240; and
 - ii. Segment P: ATWS-P-053;
3. Address the following inconsistencies between table 8.1-6 and the alignment sheets:
- a. document full extent of all Access Roads required for construction on alignment sheets. Currently missing full documentation of access roads such as: NED-PAR-A-0001, TGP-TAR-A-0800, NED-TAR-C-0100; and
 - b. use different symbology on alignment sheets to indicate temporary versus permanent access roads.

20160226-5083

John Serio, Stephentown, NY.
Analysis of Need - Environmental Information Request
February 26, 2016
PF14-22
CP16-21
NED

This comment is to FERC.

In FERC's letter requesting information from Tennessee Gas posted today (dated February 26, 2015 (sic)), sections labeled "Socioeconomics" and "Alternatives" are included. The impact of demand response pricing is not addressed in these sections. Nor is it addressed in the Tennessee Gas filings.

FERC must consider the implementation of a fuel pricing schedule that would provide incentives for utility customers (especially the largest users) to transfer their energy usage from high demand periods to low demand periods.

Until an analysis of how demand response pricing would impact the need for additional gas has been conducted, FERC has neither completed the NEPA review of the project nor has a true assessment of the necessity for the project been established. Any argument that there is a need for this project cannot be evaluated without such an analysis.

John J. Serio
Stephentown, NY

20160226-5341

Louise A Delehanty, Pelham, NH.
The Honorable Norman C. Bay
Chairman
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Dear Chairman Bay,

I am writing to answer Maine Governor LePage's letter regarding his approval of the NED project.

His comments are late in coming. I ask to please have my comments recorded.

When he states that, with his colleagues in most of the New England states, he has been moving forward with an energy infrastructure initiative to build new pipelines, does he mean Massachusetts, New Hampshire, and Connecticut? I do not believe each Governor, the Senators, or the Representatives totally agree with his views. Vermont and Rhode Island are not in Kinder Morgan's plans, yet!

Family members own a small vacation cottage in the beautiful state of Maine. It is located near the town of Lubec, with its historic lighthouse. Governor LePage must be familiar with the terminal proposed on the coastline. Could it be for foreign export of gas?

FERC, please remember the people of New England and the state of New York in the KM/Tennessee pipeline's path.

Thank you.

Louise Delehanty

The Commonwealth of Massachusetts
MASSACHUSETTS SENATE

SENATOR BARBARA A. L'ITALIEN
Second Essex and Middlesex District

February 25, 2016

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

Dear Ms. Bose,

We are writing as the elected Massachusetts Senator and Representative for the Town of Dracut to request that the Federal Energy Regulatory Commission (FERC) host an additional scoping session in our community relative to the Northeast Energy Direct (NED) pipeline project (FERC docket #CP16-21-000). Given the size and magnitude of this project proposal and its potential impacts on local health, environment, property values, and public safety infrastructure, we believe it is critical that residents have an opportunity to voice their opinions in a fair and open manner as FERC considers the application submitted by the Tennessee Gas Pipeline, a subsidiary of Kinder Morgan.

Since FERC hosted a scoping session at Dracut High School on August 11, 2015, the proposed construction site for a compressor station has been relocated from the Parker Village neighborhood to 970 Broadway Road in Dracut. This compressor station would impact several new abutters, many of whom were not informed of its relocation until November 2015 and have not had an adequate opportunity to seek information, ask questions, and voice their opinions about its construction. In fact, Kinder Morgan has asked to waive their notification requirements for these residents. Furthermore, the new location of the compressor station at 970 Broadway Road would be located on a formerly contaminated Exxon site, and its construction could possibly disturb toxic contaminants that would threaten local residences, farms, and natural resources.

Given the significance of the NED pipeline project and its possible impacts on the environment, home values, and public safety infrastructure in Dracut, we believe it is essential that all impacted community residents, particularly those in close proximity to the proposed compressor station, are afforded an equal and adequate opportunity to raise questions and express their concerns about its construction. We request that FERC hold an additional scoping session in Dracut in the near future so that the opinions of these newly impacted residents may be considered as FERC evaluates the application of the NED pipeline project.

Sincerely,

Barbara L'Italien
State Senator
Second Essex & Middlesex District

Colleen M. Garry
State Representative
Thirty-Sixth Middlesex District

cc: Senator Kathleen O'Connor-Ives, First Essex District
Representative Diana DiZoglio, Fourteenth Essex District
Representative Linda Dean Campbell, Fifteenth Essex District
Representative Frank A. Moran, Seventeenth Essex District
Representative James J. Lyons, Jr., Eighteenth Essex District
Representative James R. Miceli, Nineteenth Middlesex District

FEBRUARY 22, 2016

Ms. Kimberly D. Bose, Secretary
 Federal Energy Regulatory Commission (FERC)
 888 First Street, N.E.
 Washington, DC 20426

Northeast Energy Direct Project - PL Alternate 2A

FERC Docket Number CPI6-21-000 as the Northeast Energy Direct Project (aka the NED)

- RE:1. Tennessee Gas Pipeline Company FERC filings in support of the NED, 2014-2015.
 2. Northeast Energy Direct Project - PL Alternate 2 to FERC, Patrick J. Leary, Dated August 21, 2015
 3. Environmental Data Request, FERC, December 8, 2015
 4. Response to Environmental Information Request No. I, TGP, Dated December 30, 2015

Dear Ms. Bose:

This letter examines statements by Tennessee Gas Pipeline Company, L.L.C. (herein “Tennessee”) in its Documentation for the Northeast Energy Direct Project (herein “NED”). Tennessee has simply not made a case for necessity based on demand to put a pipeline in New Hampshire. I urge the FERC not to issue a Certificate of Public Convenience and Necessity required for the project to proceed as this pipeline is not needed in New Hampshire. This pipeline is desperately needed in Massachusetts. please stick it there. I recommend using the original concept path known as the Massachusetts Alternative.

In the original Resource Requirements documentation, Tennessee made a weak to non-existent case for moving the last large segment (70+ miles) of pipeline, into Southern New Hampshire from Northern Massachusetts. The location of the pipeline segment in Massachusetts was referred to as the Massachusetts Alternative. In the search for other alternate routes, the FERC issued an Environmental Data Request on December 8, 2015. This request identified the following additional alternate routes that are on topic for this segment: Existing Line 200 Alternative combined with the Massachusetts Turnpike Alternative; and Massachusetts Route 2 Alternative, and the Article 97 Collocation Alternative. The following table provides the 4 alternates together:

Table 1 NED Eastern Segment Alternates

Alternate Number and Dates	Short Dcscriptive
#1 Up to November 2014	Massachusetts Alternative
#2 November 2014	New Hampshire Power Line Alternative
#3 December 2015	200 Line + Mass Pike Alternative
#4 December 2015	Route 2 Article 97 Alternative

In the most recent filing, #4, Response to Environmental Information Request No.1, TGP, December 30, 2015, Tennessee has ruled out Alternates 3 and 4 while still preferring Alternate 2. However, the differences between Alternative 1 and Alternative 2 are minimal and still un-quantified. To alleviate this situation I provide enough additional insight in Table 2, using Tennessee’s original data, to support the contention that there is little difference between Alternatives 1 and 2.

Table 2 Comparison of Alternates 1 and 2

{table not OCR compatible, omitted}

ADDRESSING NEED

In late 2013 all six New England Governors and all twelve New England US Senators asked for more energy for New England - please see Annex A for these letters. The emphasis of both letters was on natural gas and electricity.

The winter time energy balance in New England is very dynamic. Fortunately, the FERC has provided’ a

succinct summary of this complex situation. “*This slide (please see Figure J on page 2) shows monthly natural gas demand for New England since the winter of 201 2, with a forecast through the flex/three winters and the historic seasonal norm. Last winter New England avoided significant spikes in natural gas demand, despite high residential and commercial demand. Various other sources of generation including oil and coal, plus power imports, helped reduce natural gas demand from New England power generators by 20%. This in turn reduced total natural gas demand to around the same level as the prior*

{OCR failure: 4 pages containing text, map, charts omitted}

CONCLUSIONS & RECOMMENDATIONS

There is no necessity for a new “greenfield” natural gas pipeline in New Hampshire. There is an extreme need for more natural gas in Massachusetts. If the FERC is to consider the NED as a viable candidate to fulfill the need for more natural gas in Massachusetts, then the NED must be located there. Based on the information present, the best path for locating NED in Massachusetts is the Massachusetts Alternative, i.e., the original concept path.

ALSO, since a plan is not a reality, please do not allow Massachusetts to close any more power plants until the replacements are firmly in place. This may help to forestall a huge increase in future winter electric bills for all the residents and businesses in New England.

Sincerely,

Patrick J. Leary 2/22/2016

Footnote:

1 Winter 2014-15 Energy Market Assessment. Item No. A-3, October 16,2014.

ANNEX A

New England Governors’ Commitment to Regional Cooperation on Energy Infrastructure Issues

{OCR failure, omitted}

Letter to Secretary Moniz, US DOE, December 20, 2013, from 12 US Senators

{OCR failure, omitted}

{entire submission as a low quality scan (.TIF) can be downloaded at: }

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14158263>

20160229-0013

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Stephen Wetterwald

247 Broadway Rd

Dracut, MA 01826

20160229-5102

Richard Husband, Litchfield, NH.

Dear Chairman Bay:

Please respond, and in the affirmative, to the February 10, 2016 request of New Hampshire Governor Margaret Wood Hassan that the FERC require the submission of a health impact assessment for this proposed project. I am extremely proud of Governor Hassan--my governor--for taking the initiative on this critical issue and whole-heartedly support the mandating of such an assessment. Obviously, given the scope of the project and health concerns involved, the assessment should be comprehensive. Minimally, citizens are entitled to such an assessment as threshold requirement for consideration of such a project.

Thank you for your time and courtesy in this matter.

Very truly yours,
Richard Husband
10 Mallard Court
Litchfield, NH 03052

20160229-5111

Sean Radcliffe, Temple, NH.
February 29, 2016

Norman Bay, Chairman
Federal Energy Regulatory Commission
888 First Street, NE
Washington, O.C. 20426

RE: FERC Docket No. CP16-21-000

Dear Chairman Bay,

The Kinder Morgan Northeast Energy Direct (NED) Docket CP16-21-000.export pipeline will put our health at risk due to contamination of air, soil and water from pollution from blowdowns, leaks and accidents created during and after construction. I add my voice to SUPPORT the February 2016 requests sent to you by NH Governor, Maggie Hassan, and our Washington DC delegates, requesting that the Federal Energy Regulatory Commission (FERC) include a comprehensive health impact assessment as part of the review process for NED. We must understand the health impacts and have baseline information to assess future health concerns.

There is evidence that leaks and releases from compressor stations around the nation are associated with elevated concentrations of organic compounds that are components of natural gas and combustion of natural gas at compressor stations . This includes methane, hexane, benzene and a variety of other compounds. Some of these compounds are known to be carcinogenic, and any cancer caused by them may appear only after a number of years to those persons exposed. In addition, there could be additional negative effects on the respiratory and nervous systems for residents living near these compressor stations.

FERC has traditionally relied on review of compliance with federal exposure standards for air toxins. However there are several reasons why these standards may be inadequate to protect public health. Many of these standards were sat many years ago, and may be obsolete on the basis of current information concerning risks to humans from inhalation of these chemicals. Most standards and indeed most monitoring around compressor stations are based on average concentrations measured over relatively long pagoda of time, and may not address higher exposure rates at peak release times.

FERC should routinely include public health experts in its review process, a practice that is not done routinely at present. This is a concern because the protection of the health of the people living near to these sites should be a top priority, workers and nearby residents must be protected against negative health impacts that may result from exposure both in the short and long term.

I request the FERC immediately take the following actions before issuing any approval for the Northeast Energy Direct pipeline (NED) project Docket CP16-21-000.

Include public health expertise on all Environmental Assessment and Environmental Impact Statement teams assigned to this project. Such individuals must be independent. credible and free from conflicts of Interest.

Convene an independent expert panel to review the current federal exposure standards around compresses stations to assure they are adequately protective of human health.

Insure that all approvals with respect to compressor stations comply with whatever health standards are developed through this process.

It is only through a transparent and effective review process that our citizens can be assured that there are no negative health impacts with any projects that FERC and other governmental agencies are charged to regulate. And it is therefore only through satisfactory mitigation and prevention actions that citizens can be assured that all reasonable steps have been taken to address these issues before any approvals are issued.

Sean Radcliffe
Temple Conservation Commission
45 Mountain View Road
Temple, NH 03084

20160229-5155

P•L•A•N
Pipe Line Awareness Network
for the North East, Inc

www.plan-ne.org

February 29, 2016

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington, DC 20216

Re: Docket No. CP14-529, TGP Connecticut Expansion; Docket No. CP16-21, Northeast Energy Direct
Pending Legal Challenge to Natural Gas Conversion and Expansion Plan, and Overstated Need

Dear Secretary Bose:

In evaluating the claims of urgency regarding the proposed TGP Connecticut Expansion Project (the “CEP”), please note that the Connecticut Supreme Court is currently reviewing a challenge to Connecticut’s adoption of its Comprehensive Energy Strategy (“CES”), pursuant to which precedent agreements were approved by the Connecticut Public Utilities Regulatory Authority (“PURA”) for the CEP, as well as precedent agreements for the Northeast Energy Direct project.

Specifically, the Connecticut Energy Marketers Association has sued PURA and the Connecticut Department of Energy and Environmental Protection, claiming that the CES, which calls for the conversion of 300,000 homes and businesses to natural gas and the construction of some 900 miles of new natural gas pipelines in the state, was improperly adopted without an environmental impact evaluation.[1] Briefs from the state agencies are due at the state Supreme Court on March 17, 2016.

Moreover, as one commentator puts it: “The governor’s goal of increasing natural gas use in the state by converting, at ratepayer expense, hundreds of thousands of buildings to natural gas is falling short of its objectives. Since the cost of home heating oil is the same or less than gas, there is no economic reason for anyone to convert to gas [2]

There is reason to believe that the gas companies are contracting for capacity in excess of their actual needs, at ratepayers’ expense.

Respectfully submitted,

Kathryn R. Eiseman, President
Pipe Line Awareness Network for the Northeast, Inc.
17 Packard Road
Cummington, MA 01026
eiseman@plan-ne.org

1 See <http://fueloilnews.com/2016/01/29/supreme-court-to-hear-cemas-natural-gas-case/> (last visited February 27,

2016).

2 See <http://www.westhartfordnews.com/articles/2016/02/26/opinion/doc56cdf25e1d6e2241288732.txt> (last visited February 27, 2016).

20160229-5218

{ 10 pages, skip to end of 20160229-5218 }

The Nolumbeka Project, Inc.

88 Columbus Avenue, Greenfield, MA 01301

Tel: (413) 657-6020 Fax: (413) 498-4318

February 27, 2016

Ms. Kimberly D. Bose

Federal Energy Regulatory Commission

888 First Street, NE

Washington, DC 20426

RE: The Kinder Morgan North East Direct Pipeline Project Docket No. CP16-21

Traditional Cultural Properties Studies Request under Section 106 of the National Historic Preservation Act and supported under other related Massachusetts and Federal Laws

Dear Secretary Bose:

The Nolumbeka Project Inc. would like to request a Traditional Cultural Properties Study for the above listed project.

Study Request: Traditional Cultural Properties Study

This is a request for a Traditional Cultural Properties (TCP) Study in the Area of Potential Effect (APE) of the proposed project.

We contend that the proposed archaeological survey, as described by Kinder Morgan in Tennessee Gas Pipeline Northeast Energy Direct Project (NED) Environmental Report, Resource Report 4, November 2015 is inadequate as it does not specifically seek to identify Native American traditional cultural resources via a TCP study. A formal TCP study involves consultation with the tribes, because the privilege and obligation to identify TCP from their culture(s) rests with them. In order to make a fair assessment of the cost-benefits of this project, destruction of or harm to Native American TCPs must be taken into account.

According to the federal government in the publication: Parker, Patricia L. and Thomas F. King. 1998. Guidelines for Evaluating and Documenting Traditional Cultural Properties: National Register Bulletin #38, National Register of Historic Places, National Park Service, Washington D.C. (hereafter referred to as Guidelines, 1998), identification of TCPs involves three related processes: ethnographic research, archaeological field research, and historical research.

In the archaeological study proposed by Kinder Morgan, there is no mention of ethnography. A formal TCP study would correct this oversight by requiring tribal consultation to be part of the process. This in turn would increase the likelihood that Native American TCPs are not left out of the survey.

Further, the field research proposed by Kinder Morgan does not include surveying for ceremonial stone landscape, a Native American TCP of a type that has been found in this area and subsequently protected by the National Register of Historic Places (see e.g. the Turners Falls Sacred Ceremonial Hill, a protected site on the National Register). The ability to recognize ceremonial stone landscape is a specialized skill which archaeologists are not trained in; the training and expertise to identify this landscape resides with the tribes. Thus, academically-trained archaeologists are not adequate to the task of identifying these particular TCPs in the field, and require the assistance of the tribal community. Please note that this situation is common when dealing with TCPs and the authority of the traditional cultures in the identification of their TCPs is recognized by the federal government (Guidelines, 1998).

Finally, the historical research proposed by Kinder Morgan to be conducted via the Massachusetts Historical

Commission is also inadequate, given the Commission's incomplete database of TCPs. The tribes have more information about existing TCPs than has been registered with the state. Thus, by relying on only state government resources, the project proposers do not have complete information and cannot adequately protect traditional cultural properties (TCPs) in the Area of Potential Effect (APE).

A comprehensive TCP study done according to federal guidelines with tribal participation is needed to facilitate the project proposer's obligation to minimize impact to historic and prehistoric cultural resources. These include Ceremonial Stone Landscape and other Traditional Cultural Properties known (by Native American tribes) to be inside the APE.

Goals and Objectives

The goal of the proposed Traditional cultural Properties study is to assist the Federal Energy Regulatory Commission (FERC) in meeting its compliance requirements under Section 106 of the National Historic Preservation Act (NHPA) as amended, by determining if licensing the Project will have an adverse effect on NHPA-eligible Traditional Cultural Properties, or other cultural resources of tribal significance.

The objective of the proposed Traditional Cultural Properties study is to identify TCPs and other cultural resources of tribal importance that may potentially be affected by project construction and or operations, evaluate the TCPs eligibility for the National Register of Historic Places, and identify project-related activities that may effect these resources within the Area of Potential Effect (APE).

Public Interest Consideration If Requester Is Not A Resource Agency

1. Identification of Traditional Cultural Properties in the APE.

What is a Traditional Cultural Property?

According to the federal government in the publication: Parker, Patricia L. and Thomas F. King. 1998. Guidelines for Evaluating and Documenting Traditional Cultural Properties: National Register Bulletin #38, National Register of Historic Places, National Park Service, Washington D.C., Traditional Cultural Properties (TCPs) are locations associated with cultural practices or beliefs of a living community that are rooted in that community's history or important in maintaining the continuing cultural identity of a community. Relevant examples include (p.1):

- Locations associated with traditional beliefs of an aboriginal/indigenous group about its origins, its cultural history, or the nature of the world and cultural landscapes.
- A rural community whose organization, buildings and structures, or patterns of land use reflect the cultural traditions valued by its long-term residents.
- Locations where Native American religious practitioners have historically gone and are known or thought to go today, to perform ceremonial cultural rules of practice.
- Locations where a community has traditionally carried out economic, artistic or other cultural practices important in maintaining its historic identity

The area affected by this project includes known (to Native American tribes) Traditional Cultural Properties. Further, the area is acknowledged, by the Commonwealth of Massachusetts via the Massachusetts Historical Commission, to contain a large amount of unexplored archaeological resources, which are Native American:

“Although development has destroyed a large number of native archaeological sites in the mid and upper portions of the Connecticut River Valley, towns such as Hadley, Hatfield, Sunderland, Montague, Deerfield, Greenfield and Northfield continue to have excellent archaeological potential.” (Massachusetts Historical Commission. Historic and Archaeological Resources of the Connecticut River Valley: A Framework for Preservation Decisions. Boston, MA: Massachusetts Historical Commission. 1984, 1988, 2007. Page 53)

However, use of the Massachusetts Historical Commission's database as the sole source of TCPs is problematic, as it is incomplete and does not include tribally significant ceremonial stone landscape and other

TCPs that have not been filed with the commonwealth, in part due to the sensitivity of their sacred nature, and in part because while the federal government via the National Register of Historic Places recognizes ceremonial stone landscape as a form of TCP, the Commonwealth of MA. does not.

2. Appropriate and federally-required participation of Native American tribes in identifying and protecting their cultural resources

Native American tribes are the definitive authority on their Traditional Cultural Properties (Guidelines, 1998). In the current project proposal, tribal participation is inappropriately limited to involvement after the fact when burials are found. For chapter 106 of the National Historic Preservation Act to be satisfied, federal agencies must consult with Indian tribes throughout the process:

“When Indian Tribes...attach religious and cultural significance to historic properties off Tribal lands, section 1019(d)(5)(B) of the act requires Federal agencies to consult with such Indian Tribes...” The National Historic Preservation Act, 800.2(c)(2)(ii)(D)

3. Avoiding disturbance of human burials

Some Native American burial sites can be identified with more comprehensive historical and field research, combined with ethnographic research. A TCP study would contribute to avoiding disturbance of human burials and should be part of the project plan.

4. Evaluating, Documenting, and Listing Traditional Cultural Properties on the National Register

Traditional Cultural Properties are, like other historic and prehistoric properties, cultural resources that deserve protection from the federal government (Guidelines, 1998). Listing them on the National Register of Historic Places does not automatically afford protection, but it does allow their value to be recognized and weighted in the decision-making process.

Massachusetts, Vermont and New Hampshire seem to be lagging behind many other states in the country on their preservation efforts around Native American cultural resources. The chance of a Native American site being listed on the NRHP in Massachusetts is 1 out of 300, in Vermont, it is 1 out of 147.2, and In New Hampshire it is 1 out of 105 while in places like Maine it is 1 out of 12.7. (Doug Schwartz, Vice President New England Antiquities Research Association, 1996, np)

Existing Information and Need for Additional Information

Existing information is taken from: *Tennessee Gas Pipeline Northeast Energy Direct Project (NED) Environmental Report, Resource Report 4, November 2015*

Sections 4.4.1.3.7

“The proposed location for the Market Path Mid-Station 3 is in Franklin County. There are no previously recorded sites present in or adjacent to the Market Path Mid-Station 3 parcels that will be impacted by the Project. The nearest eligible historic property is the Turners Falls Sacred Ceremonial Hill site, also known as Prayer Hill, However, it does not appear that the compressor station is located in the district based on the NRHP determination of eligibility notification.”

We assert that Kinder Morgan is not being accurate and forthright in this statement.

In the National Register of Historic Places (NRHP) determination of eligibility for the Turners Falls Sacred Ceremonial Hill Site (TFSCCH) comment sheet dated December 11, 2008 (United States Department of the Interior, National Park Service, National Register of Historic Places Determination of Eligibility Comment Sheet, The Turners Falls Sacred Ceremonial Hill Site (Formerly, The Airport Improvement Project-Turners Falls Municipal Airport), Franklin County, Massachusetts. Signed 12/11/2008.), there are over 19 references to an expanded ceremonial landscape district or cultural landscape directly related to the TFSCCH site up to a 16-mile radius around the TFSCCH site, which Kinder Morgan has not acknowledged.

The following quotes from that document, support our contention that on December 11, 2008, when the

Keeper of the National Register of Historic Places made a determination of eligibility for the Turners Falls Ceremonial Hill District (TFSCH), the determination of eligibility document identified a significant ceremonial stone landscape district extending out in a 16 mile radius around the Ceremonial Hill Site in Turners Falls, MA that encompasses almost all of the 400 foot wide corridor APE pipeline foot print here in this section of the Connecticut River Valley including the Market Path Mid-Station 3 Compressor Station in Northfield MA, all of the river crossing loci, and much of the Article 97 protected lands in the hills and lower farming fields of the valley. These quotes are from the December 11, 2008 NRHP determination comments:

- Page 1 “...the sacred ceremonial hill and a larger ethnographic and cultural landscape of sacred significance.”
- Page 4 “... federally recognized tribes acknowledge that the grouping of stone features here is the central component of a ceremonial landscape, which is defined by the “viewscape” visible from this observation point and interrelated points to the south and west,...and the distant peaks...16 miles distant in the town of Heath “
- Page 5 “It is one of a undetermined number of traditional cultural places in the middle Connecticut Valley that can be documented” “It is an archeological site that contributes to a National Register eligible expansion of the Riverside Archeological District (NR 1975); this expansion encompasses a significant concentration of precontact archeological sites ...” “...this enlarged district also includes the confluence of the Millers River,...” “In addition the ceremonial hill may be one of a group of traditional cultural places forming a rural historic landscape made up of natural features important in cultural beliefs and origin stories and sites related to sacred ceremonial rituals, including but not limited to astronomical observations,...” “Ongoing research, which includes astronomical observations from the Turners Falls site and a survey of related stone features throughout the region...”
- Page 6 “This area can be seen as a large, connected, cultural landscape that includes related historic sites, traditional cultural places, and archeological sites.

This NRHP document clearly indicates the importance of the Montague plains as well as repeated reference to other important traditional cultural practices and sites within in this “pauwau (medicine district).” The Market Path Mid Station 3 parcels, (the Northfield compressor station) and the Montague Plains lay right in the middle of this pauwau (medicine district).

In addition to these nationally-recognized areas of Native American cultural significance, preliminary field research has revealed that there are undocumented stone structures and other traditional cultural properties located within the APE of this project. This area, on and near where the compressor station is to be located, contains a significant number of traditional cultural properties and landscape features not listed in the MHC files, including a significant large stone feature that has been identified as a tribal ceremonial fertility destination point, and that conforms to the TFSCH district cultural practices discussed in length in the 2008 NRHP Determination of Eligibility Comment Sheet document mentioned above.

Finally, historical research documents that we have obtained reveal that the early tribes withheld certain tracts of lands from sale to the first settlers in Northfield, identified by historians as the Bald Hills, which had they burned on an annual cycle for thousands of years to facilitate clear line of vision to the TFCHS and other ceremonial sites to the four directions, as well as a clear line of vision to the night skies. It is also well documented that they considered the Bald Hills to be the sacred subterranean home of Hobomac, a deity they called upon often in ritual to assist the tribes, as has been documented they did so over 10,000 years ago to help subdue a giant troublesome beaver who lived in the middle of the great ancient Lake Hitchcock. The earliest colonial records of Northfield speak of Hobomac’s active existence under the Bald hills right up to the time of those colonial writings.

Properly performed ethnographic and historical research within a TCP study has much to contribute to this project.

Section 4.5.3 Massachusetts

“As of the date of this Resource Report, only survey of portions of the Wright to Dracut Pipeline Segment in Berkshire and Franklin County has been completed in Massachusetts.”

This quote alerts us to the fact that Kinder Morgan has offered up to FERC and the public an incomplete report that excludes even the required archaeological survey without a TCP study. Between the missing archaeological survey information, and the as-yet unrequired traditional cultural properties study, neither the proponent nor FERC has the knowledge needed to do an accurate cost-benefit analysis which must include cultural and environmental resources.

Further this lack of detail makes it impossible for the Nolumbeka Project, Native American tribes, and other concerned organizations to weigh in and comment on the potential project impacts. It is our assertion this report was premature and incomplete.

Section 4.6 CUMULATIVE IMPACTS TO CULTURAL RESOURCES

In this section, Kinder Morgan states that the Area of Potential Effect (APE) is slated be determined by the State Historic Preservation Office (SHPO). We assert that this is inadequate to protect TCPs. The federal government has determined:

“...the way to determine what constitutes a reasonable effort to identify traditional cultural properties is to consult those who may ascribe cultural significance to locations within the study area” (page 7, Guidelines, 1998).

Thus, we contend that in order to fulfill its obligations under chapter 106 of the National Historic Preservation Act, FERC must require consultation with Native American tribes to assist in the determination of the APE.

Tribal oversight and assessment is essential to the accurate accounting of these and other cultural resources which may contain ceremonial stone landscape including alignments which e.g. extend from one hilltop to the next. The determination of the project APE will be incomplete without such tribal oversight, which should be funded equally with any non-tribal efforts.

Section 4.6.1 Past, Present, and Reasonably Foreseeable Actions

In this section of Kinder Morgan’s report, it is stated that with respect to cultural resources, it is reasonable to expect that this project will involve grading and subsurface activities associated with construction, and will have the potential “to impact previously unknown subsurface artifacts or human remains.” We see this statement to FERC with regard to their accountability to subsurface artifacts and human remains as one that acknowledges they suspect there will be ancient unmarked human burials discovered and disrupted during the activities associated with construction.

Disturbance of any site where human burials are suspected to be is illegal in Massachusetts. Massachusetts General Laws (MGL) 114 section 17 Preservation of Ancient Burial Places states:

“A town shall not alienate or appropriate to any other use than that of a burial ground, any tract of land which has been for more than one hundred years used as a burial place: and no portion of such burial ground shall be taken for public use without special authority from the general court. “Burial place”, as referred to in this section, shall include unmarked burial grounds known or suspected to contain the remains of one or more American Indians.”

This law was upheld in the case *Town of Sudbury v. Department of Public Utilities*, 351 Mass. 214 (1966), however, without the (underlined, above) reference to Native American burials. Later, the specific reference to Native American burials was added to strengthen this important law.

Kinder Morgan has stated they expect to find ancient unmarked burials in the path of this project, and therefore, we contend that they cannot move forward in Massachusetts.

In addition to disturbing Native American burials, the path of the proposed project was relocated to go right through the historic Northfield Farms Cemetery in Northfield, MA and very close to a number of other ancient (more than 100 years old) European/American Indian burial grounds in Northfield and Deerfield

Massachusetts.

We contend that Massachusetts state laws apply in these cases. The Advisory Council on Historic Preservation (ACHP) Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects (adopted February 23, 2007) informs us that:

“when making their Section 106 decisions... in many cases, federal agencies will be bound by other applicable federal, tribal, state or local laws that do prescribe a specific outcome,”

Also under ACHP Principle #6 :

“When burial sites, human remains, or funerary objects are encountered on state and private lands, federal agencies must identify and follow state law when it applies.”

Other Massachusetts laws may apply to the issue of burials, including:

MGL 114 Section 18:

“Any town having within its limits an abandoned or neglected burying ground may take charge of the same and keep it in good order... no body shall be disinterred. No fence, tomb, monument or other structure shall be removed or destroyed”

MGL 114 Section 45:

“no undertaker or other person shall exhume a human body and remove it from a town, from one cemetery to another, or from one grave or tomb other than the receiving tomb to another in the same cemetery until he has received a permit from a board of health or its agent aforesaid or from the clerk of the town where the body is buried.”

The treatment of burials is further complicated by laws governing archaeological pursuits on private land. We contend a TCP survey performed in conjunction with the tribes as equal partners under section 106 would mitigate some of these complications not least by greatly reducing the likelihood of encountering human burials.

Nexus to Project Operations and Effects.

Kinder Morgan’s NED Project construction operation, and pipeline route and compressor station maintenance and operation, has the real potential to negatively impact TCPs due to the destructive nature of the trenching, drilling, blasting, clear-cutting, road building, and maintenance on or in close proximity to upland ceremonial cultural stone landscapes, river valley burial grounds, and village and fishing sites located in the 400 foot wide path of the pipeline APE.

The potential for cultural resource erasure and destruction in and near the project APE and within the federally-recognized Turners Falls Sacred Prayer Hill district, is amplified by archaeologists’ limited knowledge of the ceremonial cultural practices, typically held closely by the tribes’ medicine men and women, and the limited understanding and recognition of sacred cultural places and resources by the archaeological consultants who do the research in advance of the project license and execution.

Under Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended, federal agencies must take into account the effects of their undertakings on historic properties and afford the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment on such undertakings. As defined under 36 CFR 800.16(1), historic properties are prehistoric or historic sites, buildings, structures, objects, districts, or locations of traditional use or beliefs (i.e., TCPs) that are included in, or eligible for inclusion in, the National Register of Historic Places (NRHP). Historic properties are identified through a process of evaluation against specific criteria. For most cultural resources evaluated for listing on the NRHP, these criteria are found at 36 CFR 60.4. However, to be considered a historic property, a TCP must meet other significance criteria identified in amendments made to the NHPA in 1992. These criteria are found at §101(d)(6)(A). A Traditional Cultural Properties survey in conjunction with tribal representatives would identify and mitigate impact to human burials and TCPs.

Proposed Methodology

Task 1: Establish study area

The study area should be determined by the State Historic Preservation Offices (SHPOs) in consultation with the Tribal Historic Preservation Offices (THPO's), taking into consideration knowledgeable local contacts and other organizations including local Historic Commissions.

Task 2: Research

Research must go beyond the incomplete state and federal databases to include tribal sources (written and oral), and other local sources including but not limited to the below:

- University of Massachusetts Archaeological Services Archives (with the caveat that they often list research locations and studies under a number of different names for the same locus. This has in the past, allowed for a disconnect of access to the full body of knowledge on a given site if it was listed at one time or another under a different name.)
- Tribal Historic Preservation Officers (THPOs) and other tribal contacts
- The Pocumtuck Valley Memorial Association Library (PVMA) in Historic Deerfield
- The Historical Commissions in the surrounding towns.
- The State Historic Preservation Officer (SHPO) records of Vermont and New Hampshire should be reviewed with in conjunction with Massachusetts' in order to see how they connect.
- Private and public manuscript collections, pictorial resources and maps, including the Nolumbeka Project archives, local newspaper archives, and private artifact collections
- Folklore

Task 3: Tribal Consultation and Identification of Resources

Following the expanded historical review suggested in Task 2, the next step in identifying potential TCPs will involve extensive ethnographic consultation with the tribes and local researchers. Consultation, the necessary fieldwork, and potential TCP documentation shall be in accordance with Section 106 of the NHPA, as amended, and shall be consistent with the National Register Bulletin No. 38, Guidelines for Evaluating and Documenting Identification of Traditional Cultural Properties (Guidelines, 1998).

In order to facilitate tribal consultations, the project proposers/licensee's are requested to retain a qualified, professional ethnographer who meets the standards for ethnography as defined in Appendix II of National Register Bulletin No. 38 (Guidelines, 1998). The Licensee's will coordinate its selection of the ethnographer with the assistance of affected tribes and other interested cultural/tribal stakeholders including the Nolumbeka Project's anthropologist.

The ethnographer, after vetting by the tribes, in consultation with tribal representatives and other stakeholders will determine the scope and breath of interviews. It will be the responsibility of the ethnographer to contact the appropriate tribe(s) and interested tribal and cultural stakeholders to arrange for interviews at a time and location acceptable to those tribal Interviewees. The ethnographer and tribal interviewees may need to visit the APE together to accurately define potential TCPs or other ethnographic and non-TCP cultural resources of importance to the tribes. It will be necessary for the Licensees to arrange for an initial introductory meeting bringing together the Licensees, tribal representatives, and the licensee's suggested ethnographer prior to hiring the ethnographer.

Interviews will often need to be conducted on a one-to-one basis with the ethnographer. The oral traditions and information collected during interviews will be used to help define the potential TCPs, or other cultural resources of tribal significance in the APE, and assist in making sound judgments and resource management and other decisions in the Projects planning. If during tribal interviews the ethnographer and interviewees determine it appropriate, the Licensee's ethnographer will coordinate with tribal interviewees to obtain Traditional Ecological Knowledge. The sole purpose of addressing Traditional Ecological Knowledge (TEK)

will be to identify important tribal locations and cultural resources within the APE. The tribes can also bring in local Historical Commissions and other organizations to assist in that process.

If participating tribes do not wish to disclose the locations of any potential TCPs or other cultural resources, the Licensees will instead work with the tribes to identify the general issues and concerns that the tribe(s) may have regarding potential impacts of the Project upon resources known to the tribe(s) and further work with the tribes and appropriate land management agencies to develop agreeable measures to address these concerns.

Task 4-Site Visits

Knowledgeable tribal representatives, stakeholders, researchers and the Licensee's ethnographer may wish to visit archaeological sites including artifacts, features, sacred artwork or other physical remains from past human activities identified during the study or during the Licensee's Historic Properties Study. The purpose of the visit would be to provide tribal representatives the opportunity to examine any archaeological sites of interest to the tribes that were encountered during the Historic Properties Study fieldwork, and to enable the ethnographer to obtain additional information on the potential TCPs that may be associated with the sites. The licensees or their ethnographer will make a reasonable effort to reach out to the participating tribes to invite participation in archaeological site visits by calling, sending letters or through electronic mail. Tribal contact process, using the protocols discussed in Bulletin No. 38 (Guidelines, 1998) become very important to maintain the integrity of the process.

Task 5-National Register of Historic Places Evaluation

Following the completion of task 4, the Licensee's ethnographer will evaluate the eligibility of identified TCPs and other cultural resources of tribal importance for listing on the NRHP using the data collected from the field studies described above. This will be done in consultation with participating tribes.

The amendments in 36CFR 60.4 to the NHPA in 1992 (ss101(d)(6)9A0) specify that properties of traditional religious and cultural importance to a tribe may be determined eligible for inclusion in the NRHP because of their "association with cultural practices or beliefs of a living community that are: 1) rooted in that community's history; and 2) are important in maintaining the continuing cultural identity for the community." Only the tribes can say what is important to them. Therefore, all TCPs that are evaluated at this phase will be done in consultation with the tribes, the appropriate federal agencies and the SHPOs. Those evaluations will be submitted to the appropriate agencies and tribes for review and comment prior to final submission to the SHPOs for concurrence.

The Licensee's will work with the tribes regarding resources of tribal importance that may not qualify for the NRHP, or resources the tribes may have regarding potential impacts of the project upon resources known to the tribes. The Licensees will work with the tribes and land management agencies to seek agreeable measures to address these concerns.

Task 6-Identify and assess Potential Project Effects on National Register Eligible Properties

As required under 36 CFR ss 800.5 the Licensees will identify and assess any adverse affects on TCPs resulting from Project Operation & Management. Adverse effects are defined as follows:

"An adverse effect is found when an undertaking may alter, directly or indirectly any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the properties location, design setting, materials, workmanship, feeling, or association. Consideration shall be given to all qualifying characteristics of a historic property, including those that may have been identified subsequent to the original evaluation of the property's eligibility for the National Register. Adverse effects may include reasonably foreseeable effects caused by the undertaking that may occur later in time, be further removed in distance or be cumulative." (36 CFR ss 800.5 (a) (1).

Task 7-Reporting

The Licensees will prepare a report at the conclusion of the study that includes the following sections; 1 Study Goals and Objectives; 2 Methods; 3 Results; 4 Discussion, and; 5 Description of Variances from the FERC-approved study proposal, if any.

Copies of this report will be provided to the affected Indian tribes and interested stakeholders including but not limited to the Nolumbeka Project research staff, and local Historical Commissions. Interested parties will be provided the opportunity to review the TCP report before it is sent to the SHIPOs for concurrence.

Task 8-Consistency of Methodology with Generally Accepted Scientific Practices

The proposed study methods listed above should be consistent with ACHP's guidelines for compliance with the requirement of Section 106 of the NHPA found at 36 CFR 800 and with the related guidance set forth in National Register Bulletin 38 (Guidelines, 1998).

Level of Effort and Cost

The Nolumbeka Project has experienced on other recent FERC licensed projects in the local area that one licensee allocated approximately \$450,000, and a second licensee \$140,000 for non-tribal entities doing archaeology and a TCP study, with \$0 allocated to fund any tribal assistance given the licensee in meeting their obligations under Federal 106. We have witnessed the crippling effect on the TCP tribal cultural preservation work this has had on a project's 106 process. As the tribes are the only entity that can make assessments on all things Indian under the TCP study, and their expert assistance is as valuable non-tribal experts, we assert that a research budget equal to the non-tribal budget would be in line with a balanced workload and level of tribal responsibility for the preservation requirements under Federal 106. As the NED project is a much larger project than the earlier mentioned project, we suggest the budget needs to reflect that level of project responsibility to assist the tribes in executing their expected tribal responsibilities and obligations to their people. We suggest they, the tribes, need to be part of this budget conversation as early in this process as possible.

Federal guidelines on level of effort assert that:

“What constitutes a ‘reasonable’ effort depends in part on the likelihood that such properties may be present. The likelihood that such properties may be present can be reliably assessed only on the basis of background knowledge of the area's history, ethnography, and contemporary society developed through preservation planning. [...] the way to determine what constitutes a reasonable effort to identify traditional cultural properties is to consult those who may ascribe cultural significance to locations with the study area.” (Guidelines, 1998, p.7)

Works Cited

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Joseph Graveline, President
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Greenfield, MA. 01301
(413) 657-6020 oldgraywolf@verizon.net

{end of 20160229-5218}

20160301-0007

Skye Stephenson, PhD
14 Barrett Ave
Keene, NH 03431

January 5, 2016

Dear Honorable Commissioner Colette D. Bose:

I am writing to you as a concerned citizen of New Hampshire regarding the proposed Northeast Energy Direct (NED) Pipeline, which Kinder Morgan and its allies would like to build partially through sections of New Hampshire, due to opposition in some communities in Massachusetts. AS A CITIZEN, LOCAL RESIDENT AND EDUCATOR, I AM OPPOSED TO THE PIPELINE for several reasons.

First of all, we should be shifting our focus away from gas and oil energy consumption towards renewable energy now due to climate change concerns. This pipeline would just contribute to our worsening global climate with all this entails.

Secondly, this proposed pipeline provides no real benefits to New Hampshire citizens while the costs of environmental destruction and other costs will be picked up by us. The primary winners will be the corporations and perhaps export consumers outside of the United States.

Thirdly, while I do not live in a community directly impacted by the pipeline, I believe we will all be impacted by it in one way or another. It is time for us to treat the earth with respect, and not misuse it through fracking and other practices destructive to our rocks and waters.

I urge you to please use your position in FERC to oppose this pipeline, and keep it from being built in New Hampshire.

Many thanks for your consideration,

Skye Stephenson, PhD

20160301-0025

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}
Seda Sam-Mao 100 Cart Path Rd Dracut, MA 01826

20160301-5244

3/1/2016

To: Federal Energy Regulatory Commission

Re: Docket # PF14-22-000

I am writing on behalf of property owners* and concerned residents in Bloomfield, CT regarding the Kinder-Morgan/Tennessee Gas proposal to construct a new 14.8 mile natural gas pipeline through Bloomfield as part of a larger project called Northeast Energy Direct. Concerns have previously been expressed about the overall need for such a project as well as its route through the Metropolitan District Commission's Reservoir # 6 property in West Hartford. We are writing more specifically about the adverse effects the pipeline would have on Bloomfield given its current route through our town and to suggest an alternative which deserves strong consideration.

Kinder Morgan has chosen to co-locate the new pipeline along the route of the existing pipeline built in 1952. This route, from south to north, crosses through prime open space, established residential areas, a valuable municipal recreational area and important wetlands. Specifically, construction of a new pipeline along this route will adversely affect:

- Spear property: forest/streams property (off Juniper Rd and adjacent to MDC) preserved and owned by the Wintonbury Land Trust
- Residential homes in the following neighborhoods: Pent and Penwood Rd, Duncaster Rd (with scenic road designation) Worthington, Wadhams, Habitat, Harvest and Woods Rd
- Wintonbury Hills Golf course-owned by the town of Bloomfield
- Wetlands south and north of Adams Rd.

An alternative to this proposed route is to use the existing Eversource Right of Way (ROW) through Bloomfield/Simsbury. The attached maps show this route in comparison to the Kinder-Morgan's proposed route. This alternative (south to north) crosses route 185 west of Gale Pond, travelling north and connecting to the Eversource transfer station where it could be extended east about 2000 feet along the original Penn Central ROW to reconnect with the Kinder Morgan's proposed pipeline route just before it crosses route 187 (Blue Hills Ave). This route minimizes disruption and damage to public and private property inherent in the current plan. Please note that Kinder-Morgan is already planning to use Eversource ROW in West Hartford. Further, Kinder Morgan is required by your regulations to consider alternatives to their current pipeline route and has recently changed routes in response to community public/private concerns (see attachment #2).

On behalf of the affected individuals and our community we thank you for reviewing and considering this important issue. Sincerely,

Victor Herson
42 Duncaster Rd
Bloomfield, CT 06002
vherson@comcast.net
860-242-2526

*additional Bloomfield property owner signees:

Patricia Connolly
6 Worthington Dr
Benson Horowitz

10 South Ridge Drive
Jeff Seeman and Cassandra Lokke-Seeman
8 South Ridge Drive
Mary Kalinoski
2 Stuart Drive
Bob Kaczmarczyk
48 Duncaster Rd
Dale Bertoldi
52 Duncaster Rd
President, Wintonbury Land Trust

{2 maps, Bloomfield, CT, Harford County, showing alternate routes; omitted. Download from: }

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14159171>

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14159172>

20160302-0014

Friendly's Ice Cream, LLC
February 9, 2016
Mr. Norman C. Bay
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Dear Chairman Bay:

I am writing to specifically urge you to support the Northeast Energy Direct pipeline project. As background, the Northeast Energy Direct pipeline project is proposed by Kinder Morgan to help alleviate the lack of pipeline capacity in the State which in turn will reduce energy costs and improve the State' and region's emissions. We in Central and Western, MA also deal with moratorium issues with utilities- Columbia Gas and Berkshire Gas. The latter requiring the Northeast Energy Direct project to be built in order to remove the existing moratorium, meet its current demands and provide the capability to grow and expand its customer base.

Supported by our manufacturing plant located here in Wilbraham, MA, Friendly's has doubled its packaged ice cream operation over the last 5 years, has grown to become one of the top 7 ice cream brands in the nation, and is now distributed to over 10,000 supermarkets across 49 states. We now employ over 200 hourly workers in our Wilbraham plant as well another 100+ office workers. Additionally we employ over 5,000 workers across our 259 restaurants, many of those restaurants in Western Massachusetts.

As you can imagine, operating our business has many challenges. Costs such as energy, wage rates, tax and regulations are all difficult to manage as we strive to maintain quality products that our customers crave and are at an affordable price.

Energy has become a huge issue for us not just at our Wilbraham campus where we make ice cream products but also at our distribution center in Chicopee MA and at each and every restaurant throughout our system. Please note:

- Last year alone, our energy costs were up 30 percent, system wide. This represented an approximate \$800,000 cost increase; a cost that we cannot afford to absorb. There is no risk mitigation agent, program or policy to help us.
- We have tried utility based programs to improve efficiency at our main plant and as well as some of our restaurants. Efficiency is good, and we want to be a good corporate citizen, however it does not

have a significant impact on our costs, which is concerning. We need our electricity and natural gas prices to be less expensive.

It is increasingly important that the local region position itself to procure reliable and affordable energy supplies not only for the millions of people that reside here, but for the many businesses that support these families. It is clear that the natural gas supply in the US is more abundant than at any time in the history of the country, and providing access to this vital and clean energy supply is absolutely essential for the continued success of our region.

I am looking to you, to help lead this effort to provide our region with a new natural gas pipeline. This plan for a new natural gas pipeline as outlined to us by Kinder Morgan will supply our area with the greatly required clean and lower cost energy. This new natural gas pipeline will turn the table in lowering energy cost and improving the subsequent distribution of this energy. All families in our region will benefit from this new gas supply system and it will consequently provide desperate aid to the local manufacturers that are competing in their respective industries.

Sincerely,

Tim Hopkins
Executive Vice President
Friendly's Manufacturing and Retail, LLC.
Friendly's Ice Cream, LLC
1855 Boston Road
Wilbraham, Massachusetts 01005
413-731-4000

20160302-5029

{same 2 maps as in 20160301-5244 above}

20160303-5022

Barbara Templeton, Redding, CT.

An open letter to Kinder Morgan, Tennessee Gas Pipeline Co.:

I am against your survey of lands for taking them by eminent domain, so that you can build a pipeline to export natural gas. That activity is not directly related to either recreation or conservation.

There are some who accept your dubious claim that building the pipeline will lower their energy costs, but none of the people who favor the pipeline, that I have talked to, approve of Kinder Morgan taking a piece of THEIR property by eminent domain. Taking private property by eminent domain "for the common good," such as building highways, fire stations, or schools, can be justified, but increasing corporate profits by exporting natural gas is not "for the common good."

This is really all about "winning the hearts and minds" of the local people. Some have said this is all about the power of a wealthy corporation. A Kinder Morgan spokesman said it was just about solving an engineering problem. The reality is — and a study of history concurs — the proposed pipeline cannot and will not be built unless Kinder Morgan can "win the hearts and minds of the local people."

Thanks to several actions on your part, you have already lost the support of almost all of the residents of all the affected towns. It is doubtful that you will be able to change that.

Civil disobedience training sessions in the area have been ongoing for at least a month. First, you told the Northfield Select Board that \$3 million in property taxes would be forthcoming. You neglected to respond to requests for details.

When some residents visited towns where you have pipelines, they found that similar promises had been made, but property taxes turned out to be less than anticipated, and you sought an abatement after the pipeline was built.

Then you claimed that the pipeline would bring jobs, jobs, jobs. When the survey teams arrived with strange accents and vehicles with Texas license plates, that claim became a joke.

The third mistake was the moratorium by Berkshire Gas “until the pipeline is built.” How hard is it to see through that?

Then you donated money to a legislator in the eastern part of the state who introduced a bill to make an exception to taking land in a state forest in the western part of the state. A newspaper in Salem reported that story, and the legislator didn’t even show up for the hearing at the Statehouse — for his own bill.

Reflecting the will of their constituents, legislators at both the state and national level have joined The Opposition.

At an open house at the Northfield Elementary School, Kinder Morgan paid for attendees to be “wanded” and patted down. K-M’s claim of a possible threat by “eco-terrorists” is difficult to take seriously.

At a public hearing in Winchester, N.H., sponsored by Kinder-Morgan, two company representatives tried to put their best spin on the proposed pipeline. After two hours of questions and comments — almost all against the pipeline — one of the selectmen finally asked the Kinder Morgan reps whether Kinder Morgan would ever recognize that just about everyone in the area is against the pipeline. I thought that the Kinder Morgan reps — New Hampshire native sons — were visibly shaken.

I am not aware of wide spread support for the pipeline in the media.

The daily stories in The Recorder have been fair and balanced, but a convincing case for the pipeline has not been made.

FERC said that its approval will depend upon proof that the pipeline is needed. The Massachusetts attorney general just released the results of a study concluding that the pipeline is not needed.

The Opposition has you exactly where we want you. You have failed to win the hearts and minds of the local people, the media, and the legislators. I do not expect you will do in any better with FERC, but if you do get approval, you will lose in the courts.

Thank you,

Barbara Templeton

20160303-5161

**NASHUA RIVER
WATERSHED**

ASSOCIATION

Protecting our water, our, land, our communities

February 18, 2016

Roy M. Nascimento

President and CEO

North Central Massachusetts

Chamber of Commerce

860 South Street

Fitchburg, MA 01420-7073

RE: Roy Nascimento’s January 27th Letter to FERC regarding Docket # CP16-21-000

Dear Mr. Nascimento:

The Nashua River Watershed Association, founded in 1969, is a long-standing member of the North Central Massachusetts Chamber of Commerce. Our mission is to work for a healthy ecosystem with clean water and open spaces for human and wildlife communities, where people work together to sustain mutual economic and environmental well-being in the Nashua River watershed. We serve 32 communities in north central Massachusetts and southern New Hampshire, including all fifteen of the communities in the Chambers ser-

Room 1A
Washington, DC 20426

Date: 2-22-16

Via Certified Mail, Return Receipt Requested

Re: Denying property access

As the owner of the property located at:

20 Wren St, Litchfield, NH 03042

Linda Gallant

I am denying permission to the Tennessee Gas Pipeline Company, LLC (a Kinder Morgan Company), its representatives, contractors, subcontractors, or associates to enter my land to perform surveys, or for any other purpose. Any physical entry onto my property will be considered unauthorized, and treated as trespass. re post 1/15/16 late filing:

- 1) We have been unaware of a deadline
- 2) also unaware of potential use of eminent domain
- 3) re #2 - we were told at the first town meeting this would not occur - another lie

Linda Gallant

20160304-0034

Town of Dracut

TOWN HALL

62 ARLINGTON STREET

DRACUT, MASSACHUSETTS 01828

February 19,2016

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE, Room 1A
Washington, DC 20426

RE: CP16-21-000

Subject: Request for a new FERC scoping session for the Dracut, MA (Market Trail End) North East Energy Direct proposed compressor station site.

Dear Ms. Bose,

We are hereby respectfully requesting that FERC halt the application process for docket CP6-21- 000, and quickly open a new scoping session for the Dracut, MA (Broadway Road) proposed compressor station site based upon the following points:

- The FERC scoping session that was held on August 13,2015 at the Four Oaks Country Club in Dracut pertained to the compressor station being located at Parker Village, not along 970 Broadway Road which is the latest proposed site.
- Kinder Morgan announced a compressor station site change from the Parker Village area to 970 Broadway Road at a Kinder Morgan open house on November 2, 2015 at the Four Oaks Country Club in which several of the new abutters were never notified; and then submitted its application to FERC on November 20, 2015.
- The last minute change of the compressor station sites did not give the new 1/2 mile radius abutters adequate time to seek information and to ask questions of the Project, nor were many of these new abutters notified by Kinder Morgan.
- On January 6, 2016, the Tennessee Gas Pipeline Company requested a waiver from the necessary

notification to abutters. This is not best practice and violates these abutters' constitutional Rights per Landowner Notification Rights per Section 157.6(d).

- Furthermore, Kinder Morgan seems to have known right from the beginning that they wanted to locate the compressor station at the 970 Broadway Road location, for they made purchase land agreements with the impacted parties on August 21, 2015 (see attached purchase agreements).

The above points begs the asking of the question, "Why did Kinder Morgan go through the notion of declaring at the August 2015 FERC scoping session that the compressor station would be located at the Parker Village site, when they made signed purchase agreements in August of 2015 for the Broadway Road properties?"

This action by Kinder Morgan appears to be outright deception in order to keep the 1/2 mile radius abutters in the dark so that these abutters would not have sufficient time to seek information, ask question and to have their voices heard. The original Parker Village site appears to have been a smokescreen so that Kinder Morgan could create the illusion that they made a concession to the Town of Dracut by moving the site location from Parker Village to Broadway Road, when they actually knew all along that the Broadway Road site was what they wanted from the very beginning based upon them signing purchase land agreements dated August 21, 2015.

Because of the aforementioned, the Town of Dracut is requesting that a new scoping session be held in Dracut. It is apparent that Kinder Morgan knew back in August of 2015 that they wanted the Broadway Road site and therefore had ample time to inform all of the 1/2 mile radius abutters. Furthermore, there are many new homes that reside within the 1/2 mile radius — Kinder Morgan needs to ensure that they are using the most current information to make certain that these abutters get notified.

Respectfully,

The Dracut Board of Selectmen
Tony Archinski, Chairman
Allison Hughes, Vice-Chairwoman
Tami M. Dristillaris, Clerk
Joseph DiRocco, Jr.
Cathy Richardson

MEMORANDUM OF AGREEMENT FOR OPTION TO PURCHASE PROPERTY

Dated: 8-21-15

Seller: Paul Toupin, 960 Broadway Road, LLC

Buyer: Tennessee Gas Pipeline Company, LLC

Registry: 2015 00054621

Bk: 29619 Pg: 141 Page 1 of 5

Recorded 11/30/2015 12:24 PM

Dracut Tax Map 21 Lot 12, 29.84 acres

MEMORANDUM OF AGREEMENT FOR OPTION TO PURCHASE PROPERTY

Dated: 8-21-15

Seller: ZAOM, LLC; Oto Albanese,

Buyer: Tennessee Gas Pipeline Company, LLC

Registry: 2015 00054622

Bk: 29619 Pg: 146 Page 1 of 4

Recorded 11/30/2015 12:24 PM

Town of Dracut Tax Map 21 Lot 14, 16.4025 acres

{Agreements and maps omitted; full submission can be downloaded at: }

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14164379>

20160304-0038

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Daniel F. Walters 16 Hull St Hingham, MA 02043

20160304-0039

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Andrew Mark Quillen Glastonbury Abbey, 16 Hull St Hingham, MA 02043

20160304-0040

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Carole Corye 43 Park Ave Hull, MA 02045

20160304-0041

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Thomas Pendergast 37 School House Rd #9 Weymouth, MA 02188

20160304-0042

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

John Gauley 16 Hull St Hingham, MA 02043

20160304-0043

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Sinead Lowrie 30 Border St Scituate, MA 02066

20160304-0044

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Douglas J. Henry 43 Park Ave Hull, MA 02045

20160304-0045

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Robert Miles 23 Hobart? Lane Rockland, MA 02370

20160304-5168

Cathy Kristofferson, Ashby, MA.

Please properly file the comment from the State of West Virginia Accession Number 20160304-0007 to the correct Kinder Morgan project at CP15-77.

20160307-5016

Submission Description: (doc-less) Out-of-Time Motion to Intervene of Robin A Donahue under CP16-21-000.

Submission Date: 3/5/2016 6:05:04 PM Filed Date: 3/7/2016 8:30:00 AM

Dockets

Filing Party/Contacts:

Filing Party _____ Signer (Representative) _____ Other Contact (Principal) _____
Individual robinadonahue@hotmail.com

Basis for Intervening:

As a Dracut resident I have concerns about the size and safety of the project and compression station, if our town can handle a safety emergency, the noise pollution, the aesthetics to my community, and the health of the farm animals where I purchase food for my family to eat which in turns affects the overall health of my family and community.

Because it is early in the proceedings I do not feel my intervention would be disruptive or prejudice to others in the proceeding and hoping that my intervention would be allowed. I thank you in advance on behalf of my family.

Shouldn't we maximize the existing natural gas pipeline that supplies this region before destroying the natural beauty of the land I have chosen to raise my family in. A farming community where I take my child to see where his food comes from, helping him to respect the earth and its resources. I am concerned about the pollution of the ground, air and water surrounding this large compression station. As well as the safety of the children in the nearby school, the wildlife we observe while walking the trails as a family through the open space the town has purchased with our tax money.

How can it be that I am being asked to pay to build the infrastructure of a project that will supply me with our own natural resources that a privately help company will make massive profits. Should we not be looking at projects that offer long term energy development? I do not know enough about this and have found there is a lot of misinformation to mislead on in making such as monumental decision.

20160307-5123

March 7, 2016

To: Federal Energy Regulatory Commission; Docket No. CP16-21 and

Massachusetts Department of Public Utilities; Docket No.s 16-01, 16-02, 16-03

Speaking to the need or more specifically the lack of need for expensive new large gas infrastructure projects in Massachusetts and the Northeast know that:

National Grid recently shared with U.S. employees a document written 2/19/16: 'When temps dip below zero, our gas teams turn on' in which Frank Su, director, LNG operations, is quoted saying "Our teams work year 'round to make sure that absolutely nothing goes wrong on *the three or four days a year we need to tap into the LNG supply to meet demand.*"

Also, the ISO-NE's annual capacity auction filed 2/29 with FERC confirm that the auction concluded with a year-over-year drop in prices *and with sufficient resources*, including three new power plants, *to meet demand in 2019-2020.*

Furthermore, the ENERGYST REPORT Analysis of Alternative Winter Reliability Solutions for New England Energy Markets, Prepared for: GDF SUEZ Energy North America, dated August 2015, concludes:

"Although the extreme winters of 2012/13 and 2013/14 created peak prices with higher than average basis differentials, these price signals do not indicate a shortfall in baseload delivery capacity. In reality, there is a significant amount of underutilized natural gas pipeline capacity with more being built, as well as significant amount of existing infrastructure that offers an economic source of diversification and reliability. Winter peak price signals reflect a divergence in basis differentials above \$5 per mmBtu less than 60 days out of the year. This is reflective of a peaking problem that is best solved with a peak solution, not a baseload infrastructure investment. Fortunately, there is a significant amount of existing energy infrastructure already in place and being expanded to meet winter reliability requirements, including existing pipeline capacity, dual-fuel capability, LNG import infrastructure and planned pipeline expan-

sions that do not rely on electric ratepayers subsidizing a new natural gas pipeline. A moderate level of contractual arrangements were in place for Winter 2014/15 and price spikes Analysis of Alternative Winter Reliability Solutions for New England Energy Markets Page 52 experienced the previous winter were reduced by half. Additional underutilized capacity remains available and using it more fully could have an even greater positive impact for the region. To test our hypothesis that dual-fuel capability is sufficient to address winter peaks, with and without LNG imports, we ran our market model through 2030. The results confirm our expectation that dual-fuel capability is not needed under average conditions but serves as an insurance policy for extreme winter conditions when other energy infrastructure is not available. Dual-fuel capability can generate benefits in the form of lower electricity prices to electricity consumers of around \$100 million during the 2019/20 winter season with contracting conditions similar to Winter 2012/13 and Winter 2013/14, and reduce natural gas consumption by up to 7.4 million mmBtu per month when needed most under projected conditions. A new transmission line from Canada reduces gas consumption year round, but by less than the full 1,200 MW of capability, or around 2.5 million mmBtu per month, due to oil-fired generation displacement. Dual-fuel capability is a more flexible peaking resource. There are a number of policy initiatives in place that lower new natural gas demand and preclude the need for a new pipeline. Federal and state programs to support renewable resources which minimize future projections of natural gas demand as well as low load growth expected due to demand response and energy efficiency programs limit the potential growth of natural gas demand in New England. Under the base case, natural gas consumption in New England is expected to increase in 2017 due to the retirement of Brayton Point, followed by a steady decline as more efficient natural gas units come online. Consistent with the EIA's long-term projections, natural gas demand in New England is not projected to increase under current projections of market conditions and environmental policy, but to decline. In the near-term, more than 600 million cubic feet per day of pipeline expansion, new LNG contracts entered into by gas distribution companies, and ISO-New England's programs to ensure performance in the forward capacity market are Analysis of Alternative Winter Reliability Solutions for New England Energy Markets Page 53 market-based solutions that will mitigate winter reliability concerns and high energy prices. The potential for lower cost, non-gas-fired generation imports via a transmission line from Canada, if built as part of the clean energy program, also will diversify the generation base in New England. As a result, energy infrastructure is adequate over the next ten years to support winter reliability. Significant conversion to natural gas-fired generation is required to justify new pipeline capacity, which is expected to be limited by other policies that support renewables, imports and limited load growth. Even during extreme winter conditions, new pipeline capacity is not required to meet New England natural gas demand needs given existing infrastructure, current market conditions, and policy initiatives. In the meantime, market-based solutions are occurring in the context of policy initiatives that propose to diversify our power production resources and resolve concerns about an overreliance on natural gas. New England has competitive markets for both natural gas and electricity. These markets have shown a keen ability to respond to market price signals and winter reliability programs, as seen during the 2014/15 winter. The combination of LNG imports and dual-fuel units reduced basis differentials by close to 50 percent, roughly the same benefits as public estimates of a new pipeline, without any upfront capital cost. This benefit can be expected to continue, without the capital investment associated with building a new natural gas pipeline funded by electricity ratepayers, so long as commercial contracts are in place to utilize existing infrastructure. If there is a market failure contributing to high winter prices, it is due to a lack of incentive to enter into contracts to utilize existing capacity. High prices have created an incentive. ISO-NE market-based performance incentive programs motivate contracting with existing infrastructure. Competitive energy markets in New England respond to incentives, as seen by the experience from Winter 2014/15. They can be expected to respond as conditions change going forward. *Analysis of Alternative Winter Reliability Solutions for New England Energy Markets Page 54 Contracts, not construction, are required. New England's energy markets are working.*"

The above referenced documentation confirms the Massachusetts Attorney General's position, as well as the many others previously filed, that there are more economical and effective means available to achieve Mas-

sachusetts energy goals than the one's being proposed and promoted by the profit-driven industrial interests of Kinder Morgan, National Grid and Eversource.

Taken as a whole, I do not believe the case has been made that Kinder Morgan's Northeast Energy Direct Project is needed and will reduce energy costs in our region. It is my opinion that this unnecessary, misguided, and unwise project only benefits the greed of profit-driven industry interests at the expense of significant irreversible, negative environmental impacts to atmospheric, terrestrial and hydrological resources including surface waters as well as the negatively effects the safety and health of all in the region.

Sincere regards,
Keith Babbitt
Warwick, Massachusetts

20160307-5241

UNITED STATES OF AMERICA BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Tennessee Gas Pipeline Company, LLC)

Docket No. CP16-21-000

**MOTION TO SUBMIT SUPPLEMENTAL COMMENTS OF
NORTHEAST ENERGY SOLUTIONS, INC.**

Pursuant to Rules 212 and 214 of the Federal Energy Regulatory Commission ("Commission") Rules of Practice and Procedure, 18 C.F.R. §§ 385.212 and 385.214, Northeast Energy Solutions, Inc. ("NEES") timely moved to intervene in the above-captioned proceeding. As opposition was not filed against NEES' timely motion to intervene within 15 days after it was filed, NEES is a party in the above-captioned proceeding. Further, pursuant to Rule 212 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385. 212, NEES herewith Moves to Submit these Supplemental Comments.

1. In support of this motion, NEES states, as follows: The exact legal name of the Movant is as set forth in the above, unnumbered paragraph. NEES is a multi-jurisdictional nonprofit corporation comprised of energy, land, environmental, end-user, and related economic interests. Uniquely, NEES, through its founding members, represents over 101,100 individuals in Massachusetts and New York who collectively own or hold conservation restrictions on over 46,211 acres of land. NEES also includes municipalities and a state legislator among its members. NEES is an educational resource and advocacy group (before state and federal government officials) that works to ensure that economically viable and environmentally responsible energy projects account for its member's collective and respective interests. NEES was founded to represent its members in providing energy infrastructure analysis and advocacy regarding the economics of energy projects and transactions in the Northeastern United States.
2. The name and mailing address of the person upon whom all communications concerning the proceeding should be served is, as follows:

Vincent De Vito, Partner
Bowditch & Dewey, LLP
300 New Jersey Avenue, NW, Suite 900
Washington, DC 20001
Telephone: 617-757-6518
Fax: 508-929-3019
vdevito@bowditch.com

3. On or about November 20,2015, TGP filed the Application pursuant to sections 7(b) and 7(c) of the Natural Gas Act, and the Commission regulations thereunder, seeking authority to: (i) construct, install, modify, and operate certain pipeline and compression facilities to be located in Pennsylvania, New York, Massachusetts, New Hampshire, and Connecticut; and (ii) to abandon certain facilities, all as part of a proposed Northeast Energy Direct Project ("NED"). The proposed NED is comprised of two

components:

- a. Supply Path Component: Comprised of the proposed facilities from Troy, Pennsylvania to Wright, New York, including approximately 174 miles of pipeline facilities in Pennsylvania and New York, the proposed construction of three new compressor stations and modifications to one existing compressor station, further construction of two new meter stations, and purported appurtenant facilities.
 - b. Market Path Component: Comprised of proposed facilities from Wright, New York to Dracut, Massachusetts. These proposed facilities include approximately 188 miles of mainline pipeline facilities in New York, Massachusetts, and New Hampshire, laterals located in Massachusetts and New Hampshire, and Connecticut), proposed construction of six new compressor stations, 13 new meter stations and modification of 14 existing meter stations, and purported appurtenant facilities.
4. The Commission issued a Notice of Application for the Application on December 7, 2015.
 5. On January 11, 2016, NEES filed an Objection To Irving Oil Terminals Operations, Inc. (“Irving”) Motion To Intervene And Further Protest (“Protest”). NEES’ Protest, among other things, highlighted the incongruity between TGP’s claim of use against Irving’s claim.
 6. Consistent with the Protest, the supplemental information filed herewith, further illustrates that while TGP continually purports that NED is not intended for export such is not the case. NEES is a party to other proceedings at the state and federal levels that have revealed a connection between export projects and NED. Specifically, the applications of Pieridae Energy (USA) Ltd. (“Pieridae”) and Bear Head LNG Corporation and Bear Head LNG (USA), LLC, (collectively, “Bear Head”), filed with the U.S. Department of Energy (“DOE”), each reference NED as a potential supply source. NEES’ argument with regard to exports from NED are more fully set forth in the supporting documents which attached hereto as Exhibits A, B, C, and D, and are incorporated herein by this reference.[1]
 7. NEES respectfully requests that these Supplemental Comments and its Exhibits be made part of the formal record in this proceeding.
 8. WHEREFORE, for all of the aforementioned reasons, NEES respectfully requests the relief sought herein be granted.

Respectfully submitted,
On behalf of NEES:
Vincent De Vito, Partner
Bowditch & Dewey, LLP
300 New Jersey Avenue, NW, Suite 900
Washington, DC 20001
Telephone: 617-757-6518
Fax: 508-929-3019
vdevito@bowditch.com
March 7, 2016

Footnote:

1 Supporting documents are attached hereto as Exhibit A (Motion to Intervene: FE Docket No. 14-179-LNG), Exhibit B (Reply: FE Docket No. 14-179-LNG), Exhibit C (Supplement: FE Docket No. 14-179-LNG), and Exhibit D (Motion to Intervene: FE Docket No. 15-33-LNG).

cc: Governor Charles D. Baker (MA)
Governor Daniel Malloy (CT)
Governor Andrew M. Cuomo (NY)
Senator Lisa A. Murkowski (AL)
Congressman Peter T. King (NY)
Congressman James P. McGovern (MA)
Commissioner Tony Clark, FERC

Commissioner Cheryl A. LaFleur, FERC
Chairman Norman C. Bay, FERC
Commissioner Philip D. Moeller, FERC
Commissioner Colette D. Honorable, FERC
Attorney General Maura T. Healey (MA)
President Stanley C. Rosenberg (MA Senate)
Speaker Robert A. DeLeo (MA House of Representatives)
Ann F. Miles, Director, Office of Energy Projects, FERC
Eric J. Tomasi, Environmental Project Manager, Office of Energy Projects, FERC
Michael McGehee, Deputy Director, Office of Energy Projects, FERC
State Senator Michael Brady (Brockton, MA)
State Representative Bradley H. Jones, Jr. (North Reading, MA)
Matthew A. Beaton, Secretary, Office of Energy and Environmental Affairs (MA)
Rob Klee, Commissioner, Department of Energy and Environmental Protection (CT)
Basil Seggos, Acting Commissioner, Department of Environmental Conservation (NY)
Rebecca Tepper, Chief, Energy and Telecommunications, Attorney General (MA)

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document on all parties listed on the official service list compiled by the Secretary in this proceeding and attached hereto.

Dated at Boston, Massachusetts this 15 day of March, 2016.

Vincent DeVito, Partner
Bowditch & Dewey, LLP
300 New Jersey Avenue, NW, Suite 900
Washington, DC 20001
Telephone: 617-757-6518
Fax: 508-929-3019
vdevito@bowditch.com

{Exhibits A - D omitted, full submission can be downloaded (42 pages, 1,590 KB) at: }

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14165037>

20160308-0030

February 15, 2016

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE, Room IA
Washington, D.C. 20426

Re: proposed Northeast Energy Direct project, Tennessee Gas pipeline L.L.C./Kinder Morgan (FERC Docket No. CP16-21-000)

Dear Secretary Bose:

I am a resident of Bloomfield, CT, living near the wetlands pathway of this proposed pipeline, writing in strong opposition to the proposal by Tennessee Gas pipeline/Kinder Morgan (TGP) to install a natural gas pipeline for 14.8 miles from East Granby to Farmington, CT. TGP has proposed the installation of a 24 inch diameter pipeline next to the existing 16 inch pipeline across the Metropolitan District Commission's (MDC) watershed land in West Hartford and Bloomfield. The pipeline will stretch across 5.7 miles of MDC wetlands and our regional drinking water lands (and through many other private, municipal, and public

lands in surrounding communities j. With a construction right of way of 90 feet, the project will create a clear cut swath over 62 acres, including largely Class I and Class II watershed land at the MDC and segments of the New England Trail.

I oppose the proposed pipeline for the following reasons:

1. Connecticut is a leader in clean renewable energy solutions such as solar, wind, and geothermal. We need to support these efforts to foster clean renewable energy and reduce our dependency on fossil fuels such as natural gas.
2. The pipeline is unnecessary. The Office of the Massachusetts Attorney General issued a regional report on November 18, 2015 concluding that additional pipeline capacity would not serve New England's future energy needs.
3. Natural gas is not clean energy. Natural gas is a non-renewable, carbon-producing fossil fuel, and land-ruining in its extraction. The natural gas to be piped through some of Connecticut's most pristine and precious lands is produced through the toxic fracking process. I have also heard that little of the gas will be of local benefit and that Kinder Morgan has had safety incidents and pipeline spills throughout the country and reportedly has said that such incidents are part of doing business.
4. Conservation and energy efficiency coupled with increasing investments in renewable energy sources such as solar power, wind turbines and geothermal heat pumps will lead to greenhouse gas reductions and to more Connecticut jobs, a smarter economic direction.
5. The promotion of smaller, distributed renewable energy sources such as solar, wind and geothermal provides a more secure energy grid, limiting power outages in natural disasters to smaller areas, and also limiting the opportunities for hackers and terrorists to disrupt the flow of energy. Piping natural gas over a long distance does not provide a secure and accessible energy resource.
6. The current proposed route for the pipeline has the potential for harming our water supply, precious natural resources, and private and public properties. While I believe the pipeline is not needed and an environmental mistake, at the least, an alternate route is required.

Therefore, I urge FERC to deny TGP's application for this unnecessary and retrogressive pipeline.

Thank you for considering these comments.

Sincerely,

Linda R. Isham
326 Seabury Dr.
Bloomfield, CT 06002

20160308-0050

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE, Room IA
Washington, D.C. 20426

Re: proposed Northeast Energy Direct project, Tennessee Gas pipeline L.L.C./Kinder Morgan (FERC Docket No. CP16-21-000)

February 28, 2016

Dear Secretary Bose:

I am a resident of Bloomfield, CT, living near the wetlands pathway of this proposed pipeline, writing in strong opposition to the proposal by Tennessee Gas pipeline/Kinder Morgan (TGP) to install a natural gas pipeline for 14.8 miles from East Granby to Farmington, CT. TGP has proposed the installation of a 24 inch diameter pipeline next to the existing 16 inch pipeline across the Metropolitan District Commission's (MDC) watershed land in West Hartford and Bloomfield. The pipeline will stretch across 5.7 miles of MDC

wetlands and our regional drinking water lands (and through many other private, municipal, and public lands in surrounding communities). With a construction right of way of 90 feet, the project will create a clear cut swath over 62 acres, including largely Class I and Class II watershed land at the MDC and segments of the New England Trail.

I oppose the proposed pipeline for the following reasons:

I. Connecticut is a leader in clean renewable energy solutions such as solar, wind, and geothermal. We need to support these efforts to foster clean renewable energy and reduce our dependency on fossil fuels such as natural gas.

II. The pipeline is unnecessary. The Office of the Massachusetts Attorney General issued a regional report on November 18, 2015 concluding that additional pipeline capacity would not serve New England's future energy needs. Regional Electric Reliability Options Study: <http://www.mass.gov/ago/doing-business-in-massachusetts/energy-and-utilities/regional-electric-reliability-options-study.html>

III. Natural gas is not clean energy. Natural gas is a non-renewable, carbon-producing fossil fuel, and land-ruining in its extraction. The natural gas to be piped through some of Connecticut's most pristine and precious lands is produced through the toxic fracking process. Reports indicate that none of this gas will be of local benefit, but will be sent overseas for use. Additionally, Kinder Morgan company executives concede that the company "has had safety incidents and pipeline spills at sites throughout the country", but said such events are an unavoidable part of providing the energy essential to daily life and the economy." Carlson, Suzanne (2015, October 7). Gas Pipeline Proposal Meets With Public Disapproval in West Hartford. The Hartford Courant. <http://www.courant.com/community/west-hartford/hc-west-hartford-gas-pipeline-meeting-1008-20151007-story.html>

IV. Conservation and energy efficiency coupled with increasing investments in renewable energy sources such as solar power, wind turbines and geothermal heat pumps will lead to greenhouse gas reductions and to more Connecticut jobs, a smarter economic direction.

V. The promotion of smaller, distributed renewable energy sources such as solar, wind and geothermal provides a more secure energy grid, limiting power outages in natural disasters to smaller areas, and also limiting the opportunities for hackers and terrorists to disrupt the flow of energy. Piping natural gas over a long distance does not provide a secure and accessible energy resource.

Therefore, I urge FERC to deny TGP's application for this unnecessary and retrogressive pipeline.

Many thanks for considering these comments.

Sincerely,
Drew Stone
68 Andrew Dr.
Canton, CT 06019

20160308-0178

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}
Mark Duckworth 9 Four Winds Rd Merrimack, NH 03054

20160308-0179

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}
Susan Greene 26 Holbrook Rd N. Weymouth, MA 02191

20160308-0180

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}
{scan too faint to read name or address}

20160308-0181

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}
Scott Sweeney 22 Elizabeth Drive Dracut, MA 01826

20160308-0182

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}
Gerard Bedard 7 Silk Lane Tyngsboro, MA 01879

20160308-0183

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}
Constance Lanseigne-Case 7 Monticello Dr Pelham, NH 03076

20160308-0184

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}
Linda Gallant 20 Wren St Litchfield, NH 03052

20160308-0185

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}
Laura Borth 16 Farm St Weymouth, MA 02190

20160308-0186

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}
Stephanie Husband 10 Mallard Ct Litchfield, NH 03052

20160308-0187

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}
Julia Steed Mawson 17 South Shore Dr Pelham, NH 03076

20160308-0206

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}
Mary Beth Raven 9 Four Winds Rd Merrimack, NH 03054

20160308-0207

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }
Debora Ash PO Box 251 Peterborough, NH 03458

20160308-0208

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }
Linda Gallant 20 Wren St Litchfield, NH 03052

20160308-0209

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }
Constance Lanseigne-Case 7 Monticello Dr Pelham, NH 03076

20160308-0210

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }
Donald H. Brunelle 39 Briarwood Rd Pelham, NH 03076

WHEREAS, the Town of Bethlehem committed to reducing greenhouse gas emissions as part of adopting the Climate Smart Communities pledge in 2009 and initiating the Sustainable Bethlehem Program in 2012; and

WHEREAS, a 2015 report released by the Massachusetts Office of the Attorney General concluded that additional natural gas from Kinder Morgan's proposed Northeast Direct pipeline was not needed to maintain electric power system reliability in New England; and

WHEREAS, the Bethlehem Town Board is committed to promoting and protecting public health and safety by all reasonable means, reducing the production of greenhouse gases in our Climate Smart Community, continuing to implement the Sustainable Bethlehem Program, and combating global climate change;

NOW THEREFORE BE IT RESOLVED, That the Town of Bethlehem recognizes the potential impact of natural gas pipelines on human health and the environment and requests the State of New York to perform a comprehensive Health Impact Assessment regarding risks posed by the proposed Northeast Direct pipeline, and that the Governor order the NYS Department of Environmental Conservation to suspend issuance of state permits pending completion of the comprehensive Health Impact Assessment; and

BE IT FURTHER RESOLVED, further, That the Town of Bethlehem recognizes that the pipeline is not needed and urges the Federal Energy Regulatory Commission to not issue a certificate of public convenience and necessity authorizing construction and operation of the proposed Northeast Energy Direct pipeline; and

BE IT FURTHER RESOLVED, That the Town Clerk send copies of this resolution to:

Governor Andrew Cuomo;

NYS Department of Environmental Conservation Acting Commissioner Basil Seggos;

NYS Department of Health Commissioner Howard Zucker;

Berne Town Supervisor Kevin Crosier, Knox Town Supervisor Vasilios Lefkaditis, and New Scotland Town Supervisor Douglas LaGrange;

Albany County Legislators Andrew Joyce, William Reinhardt, Joanne Cunningham, Charles Dawson, Richard Mendick, and Michael Mackey;

State Senators Neil Breslin, George Amedore, Kathleen Marchione, and James Seward;

Assembly Representatives Patricia Fahy, Peter Lopez, Angelo Santabarbara, and Steven McLaughlin;

Senators Kirsten Gillibrand and Charles Schumer;

Congressmen Paul Tonko and Christopher Gibson; and

Federal Energy Regulatory Commission Commissioners Norman Bay, Tony Clark, Colette Honorable, and Cheryl LaFleur.

On a motion by Councilman VanLuven, seconded by Councilwoman Becker and approved with the following vote:

AYES: Supervisor Clarkson, Councilwoman Becker, Councilwoman Davis, Councilwoman Sasso, Councilman VanLuven

NOES: none

ABSENT: none

This resolution was adopted on February 10, 2016.

20160309-0013

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }
Edward G. Poliquin PO Box 96 New Ipswich, NH 03071

20160309-0014

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }
Curtis Dumais 172 Route 123 Sharon, NH 03458

20160309-0015

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }
Angela Zouyelos 25 Tallant Rd Pelham, NH 03076

20160309-0025

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by: }
Eric Kruszczyński 133 Litchfield Ave Dracut, MA 01826

20160309-0026

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by: }
John McDonald 26 Mountainview Dr Dracut, MA 01826

20160309-0027

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by: }
Donna M. Fitz Patrick 45 Reagan Rd Dracut, MA 01826

20160309-0043

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Room 1A
Washington, DC 20426

Date: 2-18-16

Via Certified Mail, Return Receipt Requested

Re: Denying property access

As the owner of the property located at:
126 Frontier Drive
Pelham, NH 03076

I am denying permission to the Tennessee Gas Pipeline Company, LLC (a Kinder Morgan Company), its representatives, contractors, sub-contractors, or associates to enter my land to perform surveys, or for any other purpose. Any physical entry onto my property will be considered unauthorized, and treated as trespass.

Karen Eno

20160309-0044

Ms. Kimberly Bose
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Dear Ms. Bose:

I am writing in regard to the Kinder —Morgan Northeast Energy Direct Pipeline, urging you, in the strongest way possible, to ACTIVELY work to prevent this pipeline from irrevocably damaging the land through which it passes as well as the lives of the residents of your state that you have sworn to protect.

The reasons are numerous:

- The pipeline will pass through the town of Pelham's aquifer, in a community which has, almost entirely, private wells. In the Granite state that will mean blasting.
- Kinder-Morgan touts lowering gas prices to businesses and homeowners, but it has very few contracted customers. It has requested an export license — something that would not seem to be necessary for a supply that they claim will be local. When it IS exported, costs will follow the overseas markets which are 4-10 times higher than in the US.
- Kinder-Morgan has a very poor safety record, as documented on the enclosed sheets.
- The Federal Energy Regulatory Commission is funded by oil companies -the very ones it is supposed to be regulating. Certainly this has to be a conflict of interest.
- ALL experts agree. ALL gas lines leak.
- The pipeline will NOT lower costs to homeowners. A tariff could be imposed on the electric bills for all homeowners using the grid in order to pay for this EXPORT pipeline.
- The pipeline was not originally planned to go through New Hampshire. It was moved north to New Hampshire because Massachusetts legislators and homeowners took actions to strongly oppose it.
- Pipeline pig stations and compressor stations emit gasses that the Federal government lists as both toxic and carcinogenic.
- The proposed compressor station in Dracut, Mass. will be one mile from the Pelham border. It will be located on the former Exxon superfund site. Construction/Blasting on this site poses serious health and safety concerns. In addition, Kinder-Morgan has admitted that they cannot meet the state's noise pollution guidelines. The noise from the compressor station will be roughly equivalent to that of a jackhammer.

How has this project not garnered outrage among those in Concord who are supposed to be looking out for our welfare? Does anyone care about "government of the people; by the people" ?

PLEASE HELP US STOP THIS PROJECT BY ACTING NOW!

Joel P. and Sharon Hone
295 Windham Road
Pelham, NH 03076

{4 attached pages omitted; entire submission can be downloaded (6 pages, 261 KB) at: }

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14167521>

20160309-0069

954 Chestnut Street
Newton, Mass. 02464
February 21, 2016

RE: Northeast Energy Direct Pipeline Project

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Dear Secretary Bose,

I am writing in support of the Northeast Energy Direct Pipeline Project. As a homeowner in the Boston metropolitan area, I rely on natural gas for home heating and clothes drying. The revolution in gas extraction techniques has lowered the cost of gas for millions of Americans, especially helping people with financial difficulties, yet here in New England the benefits have yet to arrive due to our supply constraints. A recent

article in Yankee Magazine, Power Struggles, brought this project to my attention.

A diversified energy supply is key to our energy independence and energy resilience. Domestic gas reduces our dependence on foreign supplies and employs American workers. Please work diligently with all stakeholders to minimize the impact on land owners and the environment, maximize the safety of the design, and most importantly, approve the project as quickly as possible.

My motivation to write you is based solely on my role as a consumer of gas and a citizen concerned about our energy future. I have not been contacted by any representatives of the parties involved nor do I have any financial relationship with any party.

Sincerely,

Leland P. Fisher

cc: Preston Troutman, Director of Business Development
Tennessee Gas Pipeline Co., L.L.C

20160309-0085

hand written letter, 2 pages, Sara C. Foster, 400 Seabury Dr, Pat 4172, Bloomfield, CT 06002, opposing.

20160309-0114

FERC

Do you have any idea how frustrated we are in opposing this pipeline and compressor plant. We retired to Northfield, MA to live a simple life. I was a school teacher for 34 years my husband a woodworker. Within two months of moving here, we became, you might say, obsessed with the inequities of big business, and manipulation of a small hamlet of farmers, crafts people and hard working folks.

Do you realize that this past week, my wife and I have been to 4 pipeline meetings, two vigil walks and countless sleepless hours trying to figure out how to put up road blocks and outsmart Kinder Morgan PR employees each getting six figure salaries to bully us.

We are not the unique odd balls...there are thousands who have similar stories.

We are suddenly trying to become engineers, hydrologists, medical professionals, lawyers, etc. to defend our land, our air, our ground, our sounds, our health, our homes, our town with not a single benefit to us, our community, or really our state. If you refused to allow them to export at all, that would be for the common good and necessity.

We beg you to think about the future, and have the courage to turn this gigantic ship around. We want you to help be the tug boats to make a difference. It is not a sacrifice to conserve; it only requires the cleaning up of bad old habits. You'd be amazed about how little kids are more on board with conservation measures today...Do you remember how dirty our waterways were? Do you remember how everybody smoked everywhere any time? Do you remember how littered our streets and highways were with wrappers and bottles? Help move this country towards a beautiful sustainable future.

If we need gas to help with this transition, let's be prudent with our natural resource. If we need jobs in this country, there are more jobs in renewables today than oil, gas and coal. If we need heat and light...lets fund more insulation and energy efficiency measures. Let's fund more solar, wind, hydro, etc. Let's fund more studies on renewables and battery backups. It will be a bit of a roller coaster, but it is worth the ride, might also be fun!

Is the pipeline or compressor plant, or incineration zone in your back yard? How would you feel about not being able to sell your house because it is in the incineration zone? Not able to get a mortgage? Not able to get home owners insurance? Not about to use your house as collateral to get a student loan for your kids?

Again, I beg you to really look at the issues in this country and around the world. We have a grave situation in all our hands.

FERC NED PROJECT

Do NOT approve the NED pipeline because it is not for public convenience or necessity. Our Attorney General did an extensive study pertaining to this topic. **This Is about GREED, not need!**

Do NOT approve this behemoth pipeline because Kinder Morgan is trying once again to steal our land, our air, our ground, our sound, our homes, our health, our future...and more. Do NOT approve this project because they are trying to bully their profit making through our rural landscape by using cheaper pipes, destroying our preserved woods, disturbing our farms and risking the pristine quality of our water. We are average citizens, not earning 6 figure salaries to defend this shell game. We all have day jobs! There are thousands along the proposed pipeline that want to make a difference.

- Do NOT approve this project because it is time to move forward with conservation, insulation, education, innovation, weatherization, solar and wind installation, etc. Do NOT approve this project because it clearly is not the intent of eminent domain.
- Do NOT approve this project because Kinder Morgan Tenn Gas has yet to supply the funds for dedicated baseline studies prior to any shovel work. We don't have a chance at winning any law suit against this monstrosity once it goes in.
- Do NOT approve this export project. We will need to preserve our natural resources for our future, for jobs in this country, and for research so we can be energy independent
- Do Not approve this project because time is up! Yes, we are in a grave situation in this world. Conservation is NOT a sacrifice, just a re-think of old bad habits. If everybody conserved 5% more, that would make a notable dent in our consumption.
- Do you live in the incineration zone? You must know houses in that area have almost no value, no opportunity for a mortgage...no opportunity for insurance, no opportunity for a student loan (no house collateral).
- I beg of you...STOP this NED PIPELINE. Have the courage to begin a new safer direction. Consider. Eminent domain a fancy term for politicians seizing private property to enrich fat cats who bank roll them.
- **Finally, I know your job is a thankless position, and I am thanking you, and hoping you have the courage to say NO to NED.**
- Virginia Hastings 30 North Lane Northfield, MA 01360 hastingsv@aol.com

20160309-0119

United States Senate
Washington, DC 20510
March 8, 2016

Hon. Norman C. Bay, Chairman
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Dear Chairman Bay:

We write to express our opposition to the Northeast Energy Direct Pipeline (NED) (Docket No. PF14-22-000) project proposed by the Tennessee Gas Pipeline Company, a subsidiary of Kinder Morgan, and request that the Federal Energy Regulatory Commission (FERC) reject the current permit application for construction of this project.

The NED Pipeline project represents a redundant expansion of industrial natural gas infrastructure on a route that travels from Pennsylvania and through a number of rural communities in New York State in Broome, Delaware, Schoharie, Albany, and Rensselaer Counties, which will bear all the impact and risk, while receiving little to no benefit from this project. Since the announcement of this project, our offices have received comments from community leaders, advocacy groups and individuals all who have legitimate concerns about the safety and potentially negative environmental impacts of the proposed pipeline and associated infrastructure. Most specifically, the gas compressor stations proposed for Rensselaer and Schoharie counties, have the potential to negatively impact air quality, public health, and the quality of life currently being enjoyed in these communities.

The overwhelmingly negative feedback we have received from the public during scoping sessions hosted by FERC, and community meetings hosted by Kinder Morgan, has made it clear that this project, both the construction of the pipeline and building of these compressor stations in New York, does not have the support of our constituents. The proposed infrastructure would disrupt the lives of hundreds of New Yorkers, many who rely on the land for their livelihoods and have resided in and contributed to these communities for generations. At no point has it been made clear that there is a compelling economic need for this project in our state, however, the potential for long lasting environmental and health impacts is clear. It is for these reasons that we must express our opposition to this project and ask FERC to consider alternatives to this proposal.

Sincerely,

Charles E. Schumer
United States Senator

Kirsten Gillibrand
United States Senator

20160309-0146

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Linda A. O'Connell

5 Gemini Circle

Andover, MA 01810

20160309-0147

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Cherylann Pierce

23 Mayflower Drive

Londonderry, NH 03053

20160309-0148

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Deborah Sweeney

23 Elizabeth Drive

Dracut, MA 01826

20160309-0150

Protect New Hampshire - NHPipelineAwareness.org

A Family Action Petition:

Keep Our Neighborhoods, Farms, Woods, Water, Wildlife and Air Clean and Safe. We say ... "NO Pipeline!". Please say "No" to the "Kinder Morgan Northeast Energy Direct (NED) Pipeline" too.

The Miller-Avery Family
161 Ashburnham Rd
New Ipswich, NH 03071

20160310-0006

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by:}

Carol Culhane

66 Ashburnham Rd

New Ipswich, NH 03071

20160310-0007

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }

James W. McConnell

PO Box G

Keene, NH 03431

20160310-0028

TO:

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First St., NE. Rm. 1A
Washington, DC 20426

Re: Proposed Northeast Energy Direct Project, Tennessee Gas Pipeline
LLC/Kinder Morgan (FERC) Docket No. CP16-21-000)

Dear Secretary Bose:

I am a resident of Bloomfield, CT., living near the wetlands pathway of this proposed pipeline. I am strongly opposed to the proposed installation of a pipeline from East Granby to Farmington, CT. The proposed line will run across wetlands, watershed lands and our regional drinking water supply lands.

I draw your attention to the report by the Office of the Massachusetts Attorney General of Nov. 18, 2015 concluding that the additional pipeline capacity would not serve New England's future needs.

I do not support additional use of natural gas, but the development of renewable source of energy. This would limit power outages in natural disasters to smaller areas than would reliance on natural gas lines, and limit the possibility of hackers disturbing the flow of energy.

For the above reasons, I urge you to cease the development of the natural gas pipeline.

Thank you for your consideration.

Sincerely,

Alice W. Cruikshank

20160310-0031

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Christina Autiello

9 Monte Rd

Dracut, MA 01826

20160310-0032

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Susan Jones

23 Winterberry Rd

Pelham, NH 03076

20160310-5108

BEFORE THE UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Tennessee Gas Pipeline (TGP),)
a wholly owned subsidiary of Kinder Morgan)
Northeast Energy Direct Pipeline)

Docket CP16-21

**PETITION OF THE TOWN OF DRACUT FOR A FORMAL EVIDENTIARY
HEARING ON NEED FOR THE NORTHEAST ENERGY DIRECT PIPELINE**

Pursuant to Rules 157.10 and 212 of the Commission's Rules of Practice and Procedure (18 CFR. §157.10 and 18 CFR. §212), the Town of Dracut, petitions the Commission to conduct a formal evidentiary hearing[1] to resolve disputed material issues of fact concerning the present and future need for the Northeast

Energy Direct Pipeline Project (NED) proposed by Tennessee Gas Pipeline (Tennessee Gas or Applicant) in its application for a certificate under Section 7 of the Natural Gas Act, 15 U.S.C §717f(e). The Town of Dracut filed a Motion to Intervene on December 2,2015.

The Town of Dracut seeks a formal hearing as a forum to resolve the conflicting positions on project need and to enable the public to better understand the project [2]

The question of need for the NED project is particularly controversial. Currently, the NED Project is substantially undersubscribed, even after Tennessee Gas' decision to downsize the pipeline from 36 inches to 30 inches.[3] In addition, Tennessee Gas' assessment of future demand directly conflicts with a study on need for gas commissioned by the Massachusetts Attorney General [4] and other credible industry studies.[5]

Moreover, EPA's recent release of its final Ocean Power Plan regulations injects additional uncertainty into the already complicated process of forecasting future power need and raises the stakes on the importance of accuracy. On the one hand, some take the position that underestimating future gas demand may contribute to reliability problems or increased electric costs as fossil-fuel plants are taken off-line under the Clean Power Plan without adequate gas supply for substitute generation.[6] On the other hand, equally troubling results flow from overbuilding, since excess pipeline capacity may lock states into reliance on gas-fired generation to the detriment of renewables [7] and burden impacted landowners with abandoned pipeline infrastructure and higher rates associated with excess capacity. Given the sharp controversy over whether the NED Project is actually needed, and in light of the pipeline's long-term impacts on landowners and ratepayers and potential consequences for regional energy choices, if the Commission is inclined to approve the pipeline, a formal hearing is required to resolve the factual dispute over the need for the NED Project.[8]

II. THE COMMISSION MUST HOLD A HEARING TO EVALUATE THE NEED FOR THE NED PROJECT, BECAUSE NEED IS A MATERIAL ISSUE OF DISPUTED FACT.

The Natural Gas Act contemplates the possibility of formal evidentiary hearings in Section 7 certificate proceedings. The Natural Gas Act expressly provides that the Commission "shall" set certificate matters for hearing (15 U.S.C §717f(c)(I)(B)); while Rule 157.10(a)(I) instructs persons seeking intervention to "specifically state" whether a formal hearing is sought on the application. 18 CFR. §157.10(a)(I). The Commission must hold a hearing where there are material issues of disputed fact inappropriate for resolution based on paper submissions [9] - and can expect reversal on appeal for failure to do so.[10] As discussed next, the question of project need satisfies that criteria for an evidentiary hearing.

A. The Issue of Need Is Material to the Commission's Certificate Decision.

First, a hearing is required only for resolution of disputed facts material to the Commission's decision.[11] The issue of project need is not merely material, but absolutely essential to the Commission's decision on the certificate.

Under the Natural Gas Act, the Commission must determine that a project "is or will be required by the present or future public convenience and necessity;" otherwise, it must deny the certificate application. 15 U.S.C. §717f(e). Similarly, the Commission's Policy Statement requires applicants to demonstrate a need for the proposed project [12] As the Commission itself explains:

[W]e do not believe the public interest is served by granting a section 7 certificate for construction where no market is in evidence. A section 7 certificate confers powers of eminent domain on the recipient, and construction of facilities necessarily will result in some environmental disturbance.[13]

Accordingly, because a finding of need is a pivotal factor to granting a certificate, the question of need for the NED Project is a material issue.

B. The Issue Of Future Need Is Disputed In This Proceeding.

Second, the requirement for a hearing is triggered only when a material involves questions of disputed facts.[14] A party requesting a hearing must identify the factual issues in dispute with specificity, as the Commission may disregard a hearing request based solely on "allegations or speculations without an ad-

equate [factual] proffer to support them.”[15]

In this proceeding, the record is rife with factual disputes concerning both the need for, and benefits of the NED project. Set forth below is a list of disputed facts that require resolution through an evidentiary hearing:

Disputed Fact No.1: Whether current precedent agreements show a need for the project.

The Commission’s Certificate Policy Statement allows applicants to demonstrate project need based on a showing of contracts to support the project. Consistent with the Certificate Policy Statement, Tennessee Gas claims that its current long-term contracts are proof of regional need for the project.[16]

At best, project is only partially subscribed - with only 61 percent of the supply path capacity and 41 percent of the market path capacity committed under precedent agreements.[17] And the percentage of committed capacity may shrink further if pending challenges to the Massachusetts Department of Public Utilities decision approving precedent agreements with Boston Gas, Bay State Gas and Berkshire Gas succeed.[18] The Commission should therefore set for hearing the disputed issue of whether the partially subscribed projects are adequate to show a need for the project, as Tennessee Gas claims.

Disputed Fact No.2: Whether Tennessee Gas’ claims of future subscriptions show a need for the project.

Perhaps recognizing that a 41 percent subscription rate will not support a finding of need, Tennessee Gas also asserts that “it is confident” that it will attract additional contractual commitments for the pipeline from electric distribution companies.[19] The Commission is also required to evaluate both the present and future need for a project.

Not only is there a factual dispute over whether there is a current need for the project, but also, whether there will ever be a future need. Although Tennessee Gas expresses confidence over future prospects, the reality is that in the two years that the project has been in the works, Tennessee Gas was unable to fully subscribe the project. In fact, Tennessee Gas was forced to downsize the project from 36 inches to 10 inches because of insufficient demand. Thus, the Commission should set for hearing the issue of whether there is a future need for the project, as well as the likelihood that Tennessee Gas will ever fully subscribe the project.[20]

Disputed Fact No.3: The project is needed to ensure electric reliability and reduce electric costs.

Tennessee Gas also attempts to justify project need by claiming that it will contribute to reliability of the electric system at a time when more stringent emissions requirements are giving rise to plant shut downs and help reduce electric costs.[21] At least three reports directly dispute Tennessee Gas’ claims.

- The Massachusetts AG Report, Power System Reliability in New England: Meeting Electric Resource Needs in an Era of Growing Dependence on Natural Gas released in November 2015, [22] which concluded that “the region is unlikely to face electric reliability issues in the next 15 years and additional energy needs can be met more cheaply and cleanly through energy efficiency and demand response;
- A report by Skipping Stone entitled Solving New England’s Deliverability Problems Using Storage and Market Incentives (2015) [23] which concluded that a “big pipeline” solution to the region’s winter deliverability problems - would result in dramatic underutilization of the pipeline the large majority of the year, and would not be cost effective. The Skipping Stone report instead recommends use of LNG capacity and gas demand response measures to address electric reliability;
- The Department of Energy’s Report on Natural Gas Infrastructure (February 2015), which noted that “Policy changes [to relieve high electric costs] underway include modifications to ISO forward capacity market incentives to better align resource performance and flexibility and FERC’s proposed reforms to improve the coordination and scheduling of natural gas pipeline capacity with electricity markets.”[24]

In light of the significant - and complex -- factual dispute over whether the NED Pipeline is needed to re-

duce electric costs and improve reliability, the Commission must hold a hearing to resolve this issue.

C. A Paper Hearing Is Not Appropriate for Resolution of the Issue Of Need

Even where material issues of fact are in dispute, the Commission is not required to hold a hearing if it can resolve the disputes based on paper submissions.[25] Here, a paper hearing will not suffice for several reasons.

First, an assessment of Tennessee Gas' need for the project will inevitably involve determinations regarding the credibility of several claims - such as its "confidence" in its ability to fully subscribe the project. Credibility determinations are typically reserved for adjudicative fact-finders= and appropriately resolved through live testimony [27] Second, given the level of public participation in this matter, "a trial-type hearing would help citizens to better evaluate this project." [28] In fact, in one controversial matter involving the proposed Iroquois Pipeline, the Commission convened an evidentiary hearing to address both the need for the project and expected rates based on "the unprecedented level of public comment, input and concern" and a desire "for public policy reasons, to give all parties in the proceeding another opportunity to air their concerns." [29] These same considerations apply with equal force here.

III. CONCLUSION

There are substantial factual disputes regarding the need for the NED Project - either to serve present and future customers or to reduce electric rates and enhance reliability. Meanwhile, the pipeline's long-term impacts on the environment, landowners and ratepayers in the Town of Dracut and throughout the region and potential consequences for regional energy choices are substantial. Accordingly and for the reasons discussed in this Petition, the Town of Dracut petitions the Commission to hold a formal hearing to resolve the factual dispute over the need for the NED Project prior to granting a certificate for the project.[30]

Respectfully submitted by The Dracut Board of Selectmen,

Tony Archinski, Chairman
Alison Hughes, Vice-Chairwoman
Tami M. Dristiliaris, Clerk
Joseph DiRocco, Jr.
Cathy Richardson

Footnotes:

- 1 This Petition uses the terms "formal hearing" or "evidentiary hearing" interchangeably to refer to an on-the-record hearing conducted before an administrative law judge in accordance with the Subpart E of Part 385 of the Commission's Rules of Practice and Procedure, and with an opportunity for discovery, presentation of testimony and evidence and cross-examination.
- 2 See Louisiana Assoc. of Indep. Producers v. FERC, 958 F.2d 1101, 1109 (1992) (referencing Commission's position that "a trial-type hearing would help citizens to better evaluate" a pipeline project).
- 3 Kinder Morgan Board Okays Scaled Back Version of NED Pipeline, Masslive.com, July 16, 2015, online at http://www.masslive.com/news/index.ssf/2015/07/kinder_morgan_to_scale_back_ca.html.
- 4 See Power Reliability in New England: Meeting Electric Resource Needs in an Era of Growing Dependence on Natural Gas, Analysis Group (November 2015) <http://www.mass.gov/ago/docs/energy-utilities/reros-study-final.pdf>. Several intervenors have referenced this report which has also been filed with the Commission by the Massachusetts Attorney General and made part of the record in this proceeding.
- 5 Solving New England's Deliverability problems using storage and market incentives, sponsored by Conservation Law Foundation (Skipping Stone 2015) (taking position that large scale pipeline is not necessary to address peak needs that occur seasonally only).
- 6 See, e.g., New England Energy Market Outlook Demand for Natural Gas Capacity and Impact of the Northeast Energy Direct Project, Commissioned by Kinder-Morgan (2015), online at http://www.kindermorgan.com/content/docs/!NED_CapacityOutlook.pdf (contending that need for gas will grow as nuclear and coal-fired plants are taken offline).
- 7 See J. Peress, How to Ensure that New Natural Gas Infrastructure Doesn't Lock Out Renewables, July 2015, online at <http://www.forbes.com/sites/edfenergyexchange/2015/06/05/how-to-ensure-new-natural-gas-infrastructure->

doesnt-lock-out-renewables /#2715e4857 aOb5a6e5461345f.

- 8 See, e.g., *Cajun Elec. Power Coop v. FERC*, 28 F.3d 173, 177 (D.C. Cir. 1994)(requiring hearing to resolve disputed factual issues that cannot be resolved based on written submissions).
- 9 *Moreau v. FERC*, 982 F. 2d 556, 568 (D.C. Cir. 1993)(“ Furthermore, we have held ... that FERC need not conduct an evidentiary hearing when there are no disputed issues of material fact, and that even where there are such disputed issues, FERC need not conduct such a hearing if they may be adequately resolved on the written record.”)(citations omitted).
- 10 See, e.g., *General Motors v. FERC*, 656 F.2d 791,795 (D.C Cir. 1981)(reversing FERC for failure to hold a formal hearing on issue of adequate need to support increase in peak day service under certificate where issue is disputed).
- 11 *ANR Pipeline Co. v. FERC*, 870 F.2d 717, 723 (D.C Cir. 1989)(finding no need for FERC to hold a hearing on the point at which company learned the source of new gas since issue is not material to FERC’s resolution of company’s entitlement to incentive pricing).
- 12 *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC 61,227 (1999), order on clarification, 90 FERC ,-r 61,128, order on clarification, 92 FERC ,-r 61,094 (2000) (Certificate Policy Statement) at 25.
- 13 *Questar Pipeline*, 67 FERC ,-r61,145 (1994)(dismissing application for pipeline that lacks showing of project need under standards predating the Certificate Policy Statement).
- 14 *ANR Pipeline Co. v. FERC*, 870 F.2d 717, 723 (D.C Cir. 1989)(affirming FERC’s decision to forego a hearing on the source and timing of company’s information regarding location of new gas where issue is not material to FERC’s decision regarding company’s entitlement to incentive pricing).
- 15 *General Motors v. FERC*, 656 F.2d 791, at n. 20. 16 NED Application at 77-78.
- 17 NED Application at 24.
- 18 See *MassLive* (September 21, 2015)(reporting appeals of Mass. DPU approval of precedent agreements, online at http://unvw.masslive .cOill/news!index.ssf!2015/09/plan-ne_files lawsuit naming dpu.html).
- 19 NED Application at 7-8.
- 20 *City of Pittsburgh v. FPC*, 237 F.2d 741 (D.C Cir. 1956)(finding that FERC erred in failing to consider issue of future need for project at hearing).
- 21 *Tennessee Gas* proffered a study prepared by ICF to support these conclusions, available online at <http://br.kindermorgan.com/pressrelease/all/new-study-outlines-new-englands-need-additional-natural-gascapacity-37 -billion-com>.
- 22 Online at <http://www.mass.gov/ago/docs/energy-utilities/re.ros-study-final.pdf>.
- 23 Online at <http://www.skippingstone.com/New-England-GasDeliverability.pdf>
- 24 DOE Report on Natural Gas at n. 22, online at [http:// energy .gov / sites / prod/ files /2015/02/ f19 /DOE % 20Report% 20N atural % 20Gas % 20Infrastructure% 20V _02-02. pdf](http://energy .gov / sites / prod/ files /2015/02/ f19 /DOE % 20Report% 20N atural % 20Gas % 20Infrastructure% 20V _02-02. pdf).
- 25 See *Moreau v. FERC*, 982 F. 2d 556, 568.
- 26 *Trimmer v. United States DOL*, 174 F.3d 1098 (10th Cir. 1999)(according deference to credibility determinations by ALD).
- 27 *Smith v. Zant*; 887 F.2d 1407, 1433 (11th Cir. 1989)(questioning whether credibility determination could be made without live testimony).
- 28 See *Louisiana Assn. of Independent Producers v. FERC*, 958 F. 2d 1101 at 1109 (D.C. Cir. 1992).
- 29 *Id.*
- 30 See, e.g., *Cajun Elec. Power Coop v. FERC*, 28 F.3d 173,177 (D.C. Cir. 1994)(requiring hearing to resolve disputed factual issues that cannot be resolved based on written submissions).

20160311-0008

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }

Lisa Oden

6 Upper Pratt Pond Rd

New Ipswich, NH 03071

20160311-0009

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }

Jessica Harms

6 Elm St #2

Peterboro, NH 03458

20160311-0010

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }

Erin O'Loughlin 17 Kemare Rd Nashua, NH 03062

20160311-0011

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }

Jaqueline Hobbs 172 Rt. 123 Sharon, NH 03458

20160311-0012

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }

Stephanie Tuttle 6A Twin Meadow Dr Hudson, NH 03051

20160311-0023

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by: }

Stephanie Tuttle 6A Twin Meadow Dr Hudson, NH 03051

20160311-0024

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by: }

Ruth Molvey 14 Hutchinson Rd Merrimack, NH 03054

20160311-0025

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by: }

Katy Hedwall 6A Twin Meadow Dr Hudson, NH 03051

20160311-0026

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by: }

Christopher Hedwall 6A Twin Meadow Dr Hudson, NH 03051

20160311-0028

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }

Mary Eileen Indelicato 11 Stillwater Dr Amherst, NH 03031

20160311-0029

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by: }

Jeff Tuttle 6A Twin Meadow Dr Hudson, NH 03051

20160311-0030

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by: }

? Mroz 6 Watersedge Dr Nashua, NH 03063

20160311-0031

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by: }

Erin O'Loughlin 17 Kenmare Rd Nashua, NH 03062

20160314-0014

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission

888 First Street, NE
Room 1A
Washington, DC 20426

Date: 03/06/16

Via Certified Mail, Return Receipt Requested

Re: Denying property access

As the owner of the property located at:

17 Falcon Drive
Pelham, NH 03076

I am denying permission to the Tennessee Gas Pipeline Company, LLC (a Kinder Morgan Company), its representatives, contractors, sub-contractors, or associates to enter my land to perform surveys, or for any other purpose. Any physical entry onto my property will be considered unauthorized, and treated as trespass.

Judith Portanova

20160314-0017

{duplicate copy of 20160307-5123 above}

20160314-0029

TOWN OF PLAINFIELD
Plainfield, Massachusetts 01070
Town Office: 634-5420 • 634-5406 • Fax: 634-5683

February 25, 2016

Jim Hartman, Principal Land Specialist
Tennessee Gas Pipeline Company, LLC.
1615 Suffield Street
Agawam, Massachusetts 01001

Via Certified Mail, Return Receipt Requested

RE: Northeast Energy Direct Project (CP16-21-000) Survey Activity

Dear Jim:

We are in receipt of the Notice of Public Comment Hearing documents D.P.U. 16-02 and D.P.U. 16-03 in which Tennessee Gas Pipeline Company, LLC. has petitioned the Massachusetts Department of Utilities for the "Authority to Perform Vernal Pool and Other Surveys on Certain Private Properties" and "Authority to Perform Surveys on Certain Private Properties". If the Massachusetts Department of Public Utilities grants Tennessee Gas Pipeline Company, LLC. permission to perform such surveys in the Town of Plainfield, we respectfully request Tennessee Gas Pipeline Company, L.L.C. to send notification of Tennessee Gas Pipeline Company, LLC's intentions to survey including proposed dates of access to both public and privately owned properties at least 7 (seven) business days in advance to the Plainfield Select Board, 304 Main Street, Plainfield, Massachusetts 01070 by certified mail.

Thank you in advance for complying with our request.

Yours truly,

Phillip S. Lococo Judith Feeley Dennis W. Mimitz
Plainfield Select Board

Cc Kinder Morgan
FERC, Sec. Kimberly D. Bose
Massachusetts Department of Public Utilities

20160314-0047

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }
Ruth Mulrey 14 Hutchinsinon Rd Merrimack, NH 03054

20160314-0048

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }
Tricia Mroz 6 Watersedge Dr Nashua, NH 03063

20160314-0055

Hand written card, Ellen Dickinson, 139 West St #8, W. Hatfield, MA 01088: opposing

20160314-5004

Evelyn Taylor, New Ipswich, NH.
3/13/2016

FERC Docket CP16-21

PCU Docket DG 14-380

This comment is to take offense to H.R. 3021: To amend the Natural Gas Act to allow the use of aerial survey data for certain applications, and for other purposes.

This act is another gross attempt to brutally harass and forcefully deny one's right to ownership of property secured through a lawful deeded process.

This act screams of desperation from private corporate enterprise to take what is not rightfully theirs at any time and by any means; a bullying temper tantrum thrown from the bowels of despair in being faced with the reality that landowners are no longer accommodating of energy giants and others denigrating human status to that of sacrificial pawns in their game of getting everything they want.

To what extent will the United States Legislature allow such a proposal to proceed? To what extent will the United States government destroy the freedoms so many have fought and died for to create and sustain? To what extent will the United States government allow private pursuits to annihilate the inalienable rights of the populace?

With all the needed repair and replacement due on this planet to provide true energy solutions, this act is not in rightful stride with any positive and progressive solution. Trust and cooperation to secure the support of the public for projects that honestly demonstrate public need for the public good will never be achieved by way of selfish tactics, falsehoods, threats and humiliation.

The educated minds of the world are in mass agreement of an urgent and immediate need to minimize and reverse methane emissions. The era of extravagant and wasteful use of fossil fuels must come to a close. Even young school children are aware of this need, yet it's sadly humorous that the self proclaimed experts in the field of methane production are so openly and forcefully pressing forward with further global proliferation.

"Clean and cheap gas!" they proclaim. Certainly not!

What is the cost the world must now pay to respond, reverse, repair and replace the destructive profit-seeking practices of the present and past abuses of fossil fuels?

If these methane proponents are so intent on requesting an act to allow them to survey, the act that is most needed and in the best interest of the public is one to demand the survey be to evaluate the damages done and require these entities to construct a plan to end and repair them, not an act that delivers another rubber-stamped approval to construct a devious plan to promote further demise.

There is no need for the malicious intent of this act.

I urge this act be incinerated along with the excess methane being wastefully leaked and vented off into our

environments, clouding the clear blue skies and tainting the clean pure waters that once encircled and flowed in excess around the globe.

20160314-5011

Evelyn Taylor, New Ipswich, NH.

Tennessee Gas Pipeline Company, L.L.C. and Kinder Morgan must be compelled to define their use of “natural gas” to describe the fracked gas expected to be transported through the Northeast Energy Direct Pipeline Project. Those words do not convey the known health and environmental hazards and dangers to be bestowed upon us from this pipeline.

A MUST READ for everyone, whether directly in the path of this pipeline or hundreds of miles from it, is a document made accessible for public review titled COMPENDIUM OF SCIENTIFIC, MEDICAL, AND MEDIA FINDINGS DEMONSTRATING RISKS AND HARMS OF FRACKING (UNCONVENTIONAL GAS AND OIL EXTRACTION), Third Edition, October 14, 2015.

This document exposes the horrific bodily harm and contamination of food, air, water, and soils linked to fracking operations from carcinogenic chemicals and other noxious compounds being spread across the United States. It is the most terrifying tale of recklessness since the testing of atomic bombs that spread radioactive clouds circumventing the globe in the 1950’s and 60’s.

I contend that this pipeline has not been properly described and because the eminent dangers have not been effectively disclosed, that this project should be permanently cancelled with no option to ever proceed.

20160314-5274

{8 pages, skip to end of 20160314-5274 }

March 11,2016

Kinder Morgan/Tennessee Gas Pipeline company, LLC
1615 Suffield Street
Agawam, MA 01001

Kinder Morgan/Tennessee Gas Pipeline Company, LLC
8 Anngina Drive
Entield, CT 05082

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Room 1A
Washington, DC 20425

Via Certified Mail, Return Receipt Requested

RE: DENIAL OF PROPERTY ACCESS

PER MERRIMACX CONSERVATION COMMISSION, MERRIMACK, NH

PARCET 28-358-1- Naticook Road, Merrimack, Hillsborough County, New Hampshire

DOCKET CP#16-21-000

FORMERLY DOCKET PF#14-22-000

Pursuant to the attached minutes for the Merrimack Conservation Commission meeting of Monday, December 21, 2015, in which the following persons were in attendance:

Merrimack Conservation Commission:

- Tim Tenhave, Chairman
- Matt Caron, Vice Chairman
- Michael Boisvert
- Cynthia Glenn

Gage Perry
Councilor Jody Vaillancourt

Representing Northeast Energy Direct Pipeline:

Adele Fiorillo, Environmental permjt Lead, Normande:u
Barry Duff, Princ;pal Project Manager at Kinder Morgan
Mike Lennon/ Right of Way Coordinator, Northeast Land

Also in attendance from Kinder Morgan but not presenting were:

John Proulx
Lucas Meyer

As the owner ofthe property known as:

A tract of land Identified as Parcel 2B_338-1 situated on Naticook Road in Merrimack, Hillsborough County, New Hampshre, and further described on the attached Quitclaim Oeed'

This letter confirms that on December21,2015,the Merrimack Conseruation Commission unanimously voted (6-0 O) to **DENY** permission to the Tennessee Gas Pipeline Company, LLC (a Kinder Morgan Company), its representatives, contractors, sub_contractors, or associates to enter Parcel 2B_358-1, located on Naticook Road in Merrimack, Hillsborough County, New Hampshire, to perform surveys, or for any other purpose. Any physical entry onto this property will be considered unauthorized, and treated as trespass.

Tim Tenhave
Chair, Merrimack Conservation Commission
Town of Merrimack, New HamPshire
6 Baboosic Lake Road
Merrimack, NH 03054

cc: Attorney Carolyn Elefant
John Proulx

Attachments: Merrimack Conservation Commission Minutes December 21, 2015
Quitclaim Deed Lot 358-1

Town of Merrimack, New Hampshire

Community Development Department
6 Baboosic Lake Road
Town Hall - Lower level - East Wing
Planning - Zoning - Economic Development - Conservation

603 424 3531
Fax 603 424-1408
www.merrimacknh.gov

**MERRIMACK CONSERVATION COMMISSION
DECEMBER 21, 2015
MEETING MINUTES**

A regular meeting of the Merrimack Conservation Commission was held on Monday, December 21, 2015 at 6:38 p.m. in the Merrimack Memorial Conference Room.

Chairman Tim Tenhave presided:

Members of the Commission Present: Matt Caron, Vice Chairman
Michael Boisvert
Cynthia Glenn
Gage Perry
Councilor Jody Vaillancourt

Members of the Commission Absent:

Also in Attendance: Adele Fiorillo, Environmental Permit Lead, Normandeau Associates

Barry Duff, Principal Project Manager at Kinder Morgan
Mike Lennon, Right of Way Coordinator, Northeast Land Services
Debra Huffman, Horse Hill Nature Preserve Sub-Committee

Chairman Tenhave reminded the Commission and viewing audience the Commission meets once in the month of January on the 11th.

The Commission currently has open positions; 1 full-time and 3 alternate. Individuals interested in serving on the Commission should contact Becky Thompson in the Town Manager's Office.

PUBLIC COMMENT - None

APPOINTMENTS - None

STATUTORY/ADVISORY BUSINESS - None

OLD BUSINESS

1. Northeast Energy Direct (NED) Pipeline

Commission to have a general discussion on the NED project and any immediate actions it may wish to take. This discussion will include:

- A meeting with representatives of Kinder Morgan related to the survey agreement for Commission parcel 2B-358-1. Kinder Morgan has requested the Commission agree to and sign a survey agreement.

Mike Lennon, Right-of-Way Coordinator, Northeast Land Services noted their standard survey permission form was submitted, which included some hold harmless language and a summary of the types of surveys they would like to conduct.

Barry Duff, Principal Project Manager, Kinder Morgan, introduced himself as the Project Manager for the main line in New Hampshire.

Adele Fiorillo, introduced herself as the environmental consultant on the project.

Chairman Tenhave noted members of the Commission received a copy of the information provided regarding the request. The land was donated to the Commission in 2013. The family that made the donation wanted very particular restrictions placed on the property. After negotiations and discussion, both parties arrived at what is now formally written in the Deed.

Mr. Lennon noted he has reviewed the Deed for that property and surrounding parcels.

Chairman Tenhave opened the floor to questions from the Commission.

Commissioner Perry stated his belief the original intent had been to look to adopt the survey agreement that was proposed by the Town. Chairman Tenhave stated that to be an option. Councilor Vaillancourt noted the Town does not have a signed survey agreement with Kinder Morgan.

Commissioner Boisvert remarked the Deed language seems to restrict precisely what is being requested, e.g., restricts those types of structures from being placed on the property. He stated the Commission has to abide by the language of the Deed, and it is the responsibility of the Commission to protect land such as this.

Mr. Lennon reiterated they have reviewed the Deed, and understand there are some layers that, if and when Kinder Morgan were to move forward with the route as filed with the Federal Energy Regulatory Commission (FERC), they would have to go through for acquisition of an easement. At this point in time, they are not making any request for an easement. The request is specific to survey activity to explore the viability on that site or the potential of any co-location along that route through Continental Boulevard. Environmental studies would extend onto the property itself. He remarked he did not note any language in the Deed preventing survey activities.

Commissioner Boisvert stated the survey activities are for a purpose that is restricted in the Deed. Councilor Vaillancourt questioned the Attorney General Department of Justice letter to the FERC dated October 9, 2015. She noted the language around charitable trusts, and stated her belief this would fall into that category, e.g., that this is a charitable trust the Commission is responsible for based on the Deed and the intentions

of the donor. She reviewed the different types of amendments should the Commission wish to amend the Deed so that this type of activity could be allowed. The literature identified the different risks and processes. She stated her belief under the definitions it would appear this would be considered a high-risk amendment. There would be a good many hoops to jump through if that were the intent of the Commission.

Councilor Vaillancourt noted the Attorney General has to review any such requests, and the language indicates rarely, if ever, do they grant these types of amendments. She stated her belief the precedent and law is there. The survey in and of itself, to her, is no different than allowing them to construct the pipeline on the property. She questioned why the Commission would allow permission to survey. Commissioner Glenn stated agreement, and questioned if anyone has contacted the New Hampshire Charitable Trust as was stated in the letter.

Mr. Lennon responded they are in the process of finishing up the complete title work. They have done it for most of the route; however, there have been several changes in Merrimack over the past weeks and months. That complete title package is not done at this point in time. It will be shortly, and at that point in time all of the appropriate agencies will receive copies. Commissioner Glenn restated her opinion the request to survey the property should be denied.

Chairman Tenhave commented on having gone through the Deed and reviewed the literature, and stated his opinion the way it is written, the Commission does not have the ability to provide for a pipeline to go through that parcel. The way he reads the language, the Commission would have to try to prevent a pipeline from going through that parcel. If not, the Attorney General could hold the Commission legally accountable on the grounds it was not fulfilling its fiduciary responsibility. Although he understands the survey is a different activity, the intent of conducting it is to place the pipeline on the property. He stated he does not believe it worthwhile, at this point, to move forward with the survey.

Mr. Lennon remarked they respect the consensus of the Commission. He noted there have been many other land owners along the project who have cited similar reasons for not to allow direct access, but have been willing to share knowledge of the property, which may not be available to them publicly. Mr. Lennon remarked if full access is not granted to the survey crews, and there are features on the parcel; environmental concerns the Commission may have, etc., that information would be appreciated to help educate them so that they can continue to design and refine the route to minimize impacts.

Chairman Tenhave stated the entire border of the property is fenced. The State put most of that in when they did Continental Boulevard. What can likely be found in the plans for Continental Boulevard is a number of culverts (2) that go under Continental Boulevard and drain into the Commission's parcel. One comes from Town owned land on the opposite side, which has a culvert across Naticook Extension, which leads into private property that is all wet area. That would be to the west of where Naticook Road dumps into Continental Boulevard (closer to Pennichuck Square). There is a much smaller one that is further east. It is mostly standing water all the time. The only dry land is a few patches where there has been enough vegetation to create little islands. It has all of the classic vegetation for wetlands. It was noted by the previous owners of the property that there is quite a bird population on the property.

The only dry spots are right along Continental Boulevard. There is kind of a swale coming off Continental Boulevard that helps channel the water, which then dumps into the property as opposed to just running straight across the road and sheeting in. That swale provides treatment of any of the liquids or whatever that would be on the road surface before it enters the water. That swale is an important feature that was built into Continental Boulevard and the Commission property. Chairman Tenhave commented he thinks that is probably part of the State land, but along the border of the Commission property.

Chairman Tenhave stated the consensus to be not to move forward with the survey agreement in any form.

Mr. Lennon commented he picked up on the potential, in the future as the project evolves, for the Commission to evaluate that position as they go through some of the steps with the agencies listed in the referenced letter.

Mr. Duff remarked part of why they want to get survey access is to identify characteristics of the property,

e.g., certain habitats, species, etc. If they found it to be detrimental they would relocate. The end result is potentially to put the pipeline through there, but it is also to gather information. There have been times where they have found cultural resources on a site, which has caused them to have to move. It is a fact finding effort with the survey effort to try to figure out whether this is the best route or if there is a better alternative.

Chairman Tenhave noted the New Hampshire Department of Transportation (NH DOT) ran into a number of cultural issues when they were putting in the roadway. He remarked he understands the reason for the request; however, he is concerned with putting any kind of a shovel in the ground on that property. He commented the Commission has not owned the property long enough to conduct its own detailed analysis. Mr. Duff responded one advantage is that they would share data with the Commission.

Commissioner Perry remarked like all of the Commission properties, he wants people on it, and the data is something the Commission wants. However, some of the activities, e.g., trenching and digging, he is concerned with. He commented even at this time of year the property is wet. The Deed language leads him to believe the Commission would not be allowed to permit such activity on that property.

MOTION BY COUNCILOR VAILLANCOURT THAT THE COMMISSION DENY PERMISSION TO KINDER MORGAN/TENNESSEE GAS PIPELINE TO SURVEY PARCEL 2B-358-1

MOTION SECONDED BY COMMISSIONER GLENN

ON THE QUESTION

Commissioner Glenn informed the Commission she had a form that could be completed and signed denying permission to survey. Chairman Tenhave stated Commissioners had not had the opportunity to review the language of the form, and suggested the Commission could follow up with that at a later time.

MOTION CARRIED

6-0-0

Commissioner Glenn requested Kinder Morgan make any contractors aware that they do not have permission to be on the property. Mr. Lennon responded he can assure the Commission they will not have any contractors on that parcel or any other parcel without direct permission from the landowner.

- Wetland mitigation process. Commission to discuss potential projects that might be possible for the compensatory mitigation Kinder Morgan may have to do if both FERC and the New Hampshire Site Evaluation Committee (NH SEC) approve NED.

Chairman Tenhave questioned if Commissioners had any thoughts on potential projects. He stated a desire to come to closure on either a list that can be provided or a decision not to provide any information by the January timeframe.

Commissioner Boisvert commented timing has a lot to do with it. He spoke of South Grater Road, which the Commission recently walked, and noted that has potential, but it is a timing issue. Chairman Tenhave remarked if Kinder Morgan gets the timetable they are pursuing, construction activity would not begin until 2017. The New Hampshire Department of Environmental Services (NHDES) would like all projects done early in any sort of construction phase to ensure they are completed. The Commission would be looking at timing for a project in the spring of 2017.

Councilor Vaillancourt informed the viewing audience any project that will impact wetlands is required to apply to the NHDES. The developer files for mitigation, which means the developer has to pay money into the Aquatic Resource Mitigation (ARM) Fund. That money can go to any project in the State of New Hampshire. If the Commission had wetlands that were impacted in Merrimack, and the developer paid into this fund, that money could go to a mitigation project that is not located in Merrimack. What the Commission is looking to do is identify mitigation that could take place in Merrimack. That action is not meant to indicate the Commission supports the proposed pipeline. The intent is to try and guarantee, by being proactive; that any mitigation money that goes into this fund stays in Merrimack for Merrimack projects.

Chairman Tenhave stated when a project will have a permanent wetland impact,; after filing a Dredge & Fill Permit Application with NHDES, there is the option of working with the Conservation Commission to

suggest local projects with priority given to the same watershed where the impact occurs, if at all possible. Those local projects can be the purchase of upland buffers, which would be the high land next to the wetland that was being disturbed or another area that is similar in the same watershed. They could do a wetland restoration project where they repair a wetland area, hopefully within the same watershed, and they can also do a wetland creation project, which is very rarely done as creating wetlands is a science in and of itself, and is not always successful. The last option is, if they can't find a project within the local municipality that can meet the requirements, they can put money in this fund that is then available for everyone in the State to apply for.

Chairman Tenhave commented some see that as an easy way out to simply put money into the ARM Fund and let the State manage it. New Hampshire DES requires that the developer show that they were not able to find a local project before they will allow them to put money in that fund. What the Commission has been advocating for is sufficient time to identify a local project so that any mitigation dollars do not go into that fund.

Chairman Tenhave remarked, in the past few years, the Commission has run across this in a few different ways. He provided a few examples of mitigation projects the most recent being replacement of the Manchester Street Bridge. The bridge was being elongated, widened, etc. The project had a permanent wetland impact. New Hampshire DES has a formula to determine the level of mitigation required for any given scenario, e.g., payment to the ARM Fund, upland purchase, etc. Typically the formula is 10/1 or 15/1; if you are going to impact 1 acre you have to do 10 or 15 acres of another activity. For the Manchester Street Bridge project mitigation as in the form of a wetland restoration project. That mitigation resulted in restoration of the Red Maple Trail. The Commission rebuilt the trail, stopped a lot of the water and the damage that was occurring, an emergency lane was created, and a good deal of drainage was addressed along that trail area. They also ruled out motorized use so there couldn't be contaminants going into the Red Maple Swamp, which is a very unique habitat that the State wants to preserve and protect. Chairman Tenhave stated his belief when the formulas were done there was the need for a project in the \$20,000 - \$30,000 range, and approximately \$35,000 was expended on that project.

Chairman Tenhave stated, at the last meeting, the estimate provided for permanent impact as a result of the proposed NED pipeline, was stated as 1 - 1.5 acres. The ARM Fund calculation comes out to somewhere in the range of \$300,000. There is the need to pay a penalty if not doing a local project, which is what NHDES uses for administrative costs to divvy the money back out. He commented the money would allow the Commission to purchase a reasonable parcel or have a project size to accomplish something of consequence. If the pipeline were to come to fruition and the mitigation dollars they would have to provide is of a sizable amount, it would allow the Commission to retain more money in its own fund for other projects.

Commissioner Boisvert commented the Commission would likely be tied to private discussions with regard to land purchases. Vice Chairman Caron noted there are some properties on the Commission's radar. Chairman Tenhave commented the Commission has been very clear that there are conservation focus areas in Town; one around the Horse Hill Nature Preserve (HHNP), one around Grater Woods, and then along the watersheds where the Commission is actively looking to purchase parcels. Because of their unique characteristics, he believes a case could be made for each of those parcels.

Councilor Vaillancourt stated her belief land purchase would be a good use for that sum of money. She questioned if the Commission were to consider the purchase of a piece of land as a mitigation project, how far along the process would it have to be. She also questioned how the Commission would move forward if negotiations were underway for a land purchase and the proposed pipeline project were not to come to fruition resulting in the mitigation dollars not being available. Chairman Tenhave responded his recollection of the Grater Woods project was that it had to be all the way to Purchase & Sales Agreement. New Hampshire DES was involved before the Purchase & Sales was signed. The input provided was if a Purchase & Sales included these sorts of covenants in the Deed, they would be interested in that as mitigation. They would do a value check on the land to ensure it had the appropriate value in dollars as well as conservation purposes.

Councilor Vaillancourt questioned if the Commission would have to be prepared to purchase property with monies from the Conservation Fund. Chairman Tenhave remarked with the Grater Woods project the Outlet Malls purchased the parcel from the private land owner and immediately donated it to the Conservation Commission. Within days or hours the land changed hands twice. The Mall had a Purchase & Sales with the private landowner and the Commission also had a Purchase & Sales with the Mall to acquire the land once they had ownership of it. He commented you can be sure the Commission and its former Chairman were very involved with the private landowner to pull it all off. It is not something that happens in a matter of weeks. There was the need to also ensure the Town Council was going to approve the Purchase & Sales. If a mitigation project occurs on a property already owned by the Commission it is totally within the control of the Commission.

Chairman Tenhave suggested the reconstruction of South Grater Road to be a project the Commission could hold off on doing. The Stewardship Plan for Grater Woods talks about gating Grater Woods in two places along South Grater Road. The reason for doing that is it passes through what is now a beaver pond most of the time. It is being chewed up by four-wheelers and everything else. It is inappropriate to have those kinds of motorized vehicles going right through a pond. It would be more appropriate to take that pathway, which is a vital emergency access road, reroute it on high ground, and repair some of the erosion that has gone on as a result of vehicles going through the area. A project of that caliber would likely be in the same price range as the Red Maple Trail project. Chairman Tenhave stated his belief that would be a very appropriate thing to do, but prior to that occurring there is the need to close the road down, which is an activity the Commission has committed to doing.

Chairman Tenhave commented until the FERC identifies the route, you cannot calculate the exact size of mitigation. Councilor Vaillancourt questioned if there would be a single project or several. Commissioner Perry stated it is a value equation; the Commission needs to either identify enough projects to reach the level of mitigation required or the balance would go into the ARM Fund. Chairman Tenhave stated wetland rules allow for a partial payment into the ARM Fund and a project to be done if that is all the Commission can work with a developer to get done. Chairman Tenhave commented on the amount of paperwork that has to be filed with NHDES when proposing a project.

Commissioner Perry commented Dan Cyr did walk South Grater Road and was formulating ideas. Although unsure how far along he got with an actual plan to do that road, he suggested Bay State Forestry could be contacted to identify where they are, and asked to bring that plan back to the forefront. Chairman Tenhave commented originally the Commission was talking about making it accessible for forestry purposes. He stated his opinion there is the need to have good western safety access to that parcel (large enough for a woods truck).

Chairman Tenhave suggested another project may be the invasives problem at the Wasserman Conservation Area. There are 10 acres of Burning Bush. Commissioner Perry commented there is so much of it and it is so large when you first happen upon it, you don't know what it is, and then you realize it is Burning Bush. Vice Chairman Caron stated the majority of that is in the Greens Pond Fish & Game Club.

When asked, Chairman Tenhave stated the intent for this meeting was to determine if there were any projects a member of the Commission was considering that would require follow-up before the Commission's January 11th meeting. He commented, although he is not aware of the exact rules, he believes there to be a window. They were pushing for the Commission to do something or else they would go with the ARM Fund. However, the wetland rules state that they have to show to NHDES that they tried to work with the Commission and were not successful. He stated the minutes of the Commission's meetings will tell anyone that the Commission's desire is to work with them and create projects.

Commissioner Perry spoke of trail development such as the environmental trail being discussed to go around the pond and the Bambi Trail. Those trails and bridges will be expensive and labor intensive. He questioned if the Chairman believed those types of projects would be within the realm. Chairman Tenhave was unclear whether the Environmental Trail would fit, but believes the Bambi Trail would. Vice Chairman

Caron noted it would be a restoration project.

Chairman Tenhave suggested the Commission brainstorm some ideas. He commented he is hesitant to talk about a few land opportunities as they are simply not mature enough. Vice Chairman Caron stated the answer, if anyone is asking the question, is yes we have projects. Chairman Tenhave stated the item would be placed on the agenda for the January 11th meeting. He commented, at the last meeting, he had stated the Commission would try to have something identified for the January meeting, but certainly by the February meeting.

- Whether the Commission should petition for intervener status at this time and how best to do that.

See: <http://www.ferc.gov/resources/guides/how-to/intervene.asp>

<http://www.ferc.gov/resources/guides/citz-guide-gas.pdf>

Chairman Tenhave spoke of the January 6th deadline for submission of a Motion to Intervene. Commissioner Glenn commented on the Town having filed earlier in the day. Chairman Tenhave questioned the will of the Commission with regard to authorizing him to draft a letter, on behalf of the Commission, to intervene stating two items; the proposed route goes right through a Commission property and by RSA 36-A the Commission is responsible for the water resources in the Town, and this pipeline, as proposed would go right through important water resources in our Town.

MOTION BY COMMISSIONER PERRY TO DESIGNATE THE CHAIRMAN AS THE LETTER WRITER FOR THE MOTION TO INTERVENE ON BEHALF OF THE COMMISSION

MOTION SECONDED BY COMMISSIONER BOISVERT

ON THE QUESTION

Councilor Vaillancourt commented all that is needed to cite for intervener status is one issue that identifies the Commission as being impacted by the proposed pipeline. She reminded the Commission the deadline to file is January 6th. The Commission will not meet again before that time.

The consensus of the Commission was that the two reasons stated would be sufficient.

MOTION CARRIED

6-0-0

Commissioner Glenn noted a workshop scheduled for January 2nd in Rindge, NH at which people could log on right there and file intervener status as they are going over the process.

Councilor Vaillancourt informed the Commission the Town Council unanimously voted to file a Motion to Intervene. The letter is available for everybody to see.

Kinder Morgan has also submitted a Right-of-Way Permit request to the Town. John Proulx, Land Agent, Tennessee Gas Pipeline, in a phone conversation with the Town Manager, indicated the intent is to take photographs. In accordance with State RSA, Kinder Morgan must inform the Town where they would be doing work and provide details on the scope of work. According to the Town's counsel there is no requirement for a survey agreement for a Right-of-Way permit but it is necessary for the permit application to be complete. Once complete, they have the legal right to conduct the work outlined in the permit.

Chairman Tenhave questioned if that means, if his parcel were one they wanted to be on they could come to the Town's right-of-way and stand on the edge of his property and take pictures, scratch in the dirt, etc. Councilor Vaillancourt stated her belief they are not supposed to be scratching in the dirt, but there is nothing to stop them from taking pictures. She commented it is an interesting question, and one for which she did not have a clear answer. Chairman Tenhave commented the right-of-way is not always clearly defined. Commissioner Glenn questioned if the permit application is a means of getting around survey agreements. Chairman Tenhave questioned if the photos would be taken of the right-of-way area or if they would be standing in the right-of-way and taking photographs of other property.

Councilor Vaillancourt stated Jeff Strong, Public Works Department, Highway Division, has indicated in order for him to consider issuance of a right-of-way permit he would require insurance in the prescribed

amounts indicating the Town as additional insured and a detailed plan of their proposed activity to include specific streets and location of same areas to be surveyed.

- Update on getting a law firm to represent the Commission.

Commissioner Glenn stated the attorney she was hoping to bring to the discussion had fallen through. Councilor Vaillancourt questioned if the one that was recommended by counsel has a conflict, and was informed that is the case. Chairman Tenhave noted he spoke with the Town's attorney to see if she had any other recommendations to which she responded none beyond those which Commissioner Glenn had already identified. She did, however, note that one of the attorneys Commissioner Glenn had spoken of would be well qualified. Commissioner Glenn stated her intent to have solid candidates available for consideration at the Commission's January meeting.

{remainder of minutes omitted as un-related; entire minutes can be downloaded (151 KB) at: }

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14170426>

{quitclaim deed omitted; can be downloaded (759 KB) at: }

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14170427>

{end of 20160314-5274}

20160315-0008

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }

Arlene A. King

PO Box 95

Pelham, NH 03076

20160315-0009

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }

Virginia Notter

PO Box 96

New Ipswich, NH 03071

20160315-0010

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }

Judith Reid

9 Appaloosa Ave

Pelham, NH 03076

20160315-0014

FEDERAL ENERGY REGULATORY COMMISSION

WASHINGTON,DC 20426

March 11, 2016

OFFICE OF THE CHAIRMAN

The Honorable Bradley H. Jones, Jr.
The Commonwealth of Massachusetts
House of Representatives
State House, Room 124
Boston, MA 02133

Dear Minority Leader Jones:

Thank you for your January 15, 2016 letter regarding Tennessee Gas' Proposed Northeast Energy Direct Project (Docket No. CP16-21-000). Specifically, you request that the Commission consider Massachusetts' climate and clean energy goals, as well as, emission reduction policies in its analysis. In addition, you state concern regarding impacts on your constituents within the Twentieth Middlesex District, including impacts on streams and wetlands from the project's Lynnfield Lateral, public health and safety risks, and impacts on Article 97 conservation land.

The purpose of our analysis under the National Environmental Protection Act (NEPA) is to ensure that

the Commission takes meaningful consideration of all the potential environmental impacts. These impacts include the proposed pipeline's impacts on wetlands and waterbodies, public health and safety, as well as the various types of conservation land, including Article 97 conservation lands. I assure you that the environmental impact statement (EIS) for this project will not be issued without the Commission having all of the necessary information to determine the potential impacts associated with constructing and operating the project. As required by NEPA, the EIS will consider all reasonable alternatives to the project in accordance with the Commission's jurisdiction.

Regarding the state of physical integrity of existing pipeline facilities, I note that matters of interstate pipeline safety and integrity fall under the jurisdiction of the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA). All pipelines subject to the Commission's jurisdiction are required to comply with PHMSA regulations, and PHMSA is the entity that conducts inspections, compels specific maintenance and repair activities, and enforces such compliance on existing pipelines. Intrastate pipelines in Massachusetts are subject to the jurisdiction of the Pipeline Engineering and Safety Division of the Massachusetts Department of Public Utilities.

As in any Commission matter, please be assured that we strive to make our review of proposals both accessible and transparent to the public. If I can be of any further assistance in this or any other Commission matter, please let me know.

Sincerely,

Norman C. Bay
Chairman

20160315-0019

RESOLUTION # 11 OF THE YEAR 2016

RESOLUTION OPPOSING THE KINDER MORGAN NATURAL GAS PIPELINE PROPOSED TO RUN THROUGH SOUTHERN RENSSELAER COUNTY

WHEREAS, Kinder Morgan, by its subsidiary Tennessee Gas Pipeline LLC, is proposing a large natural gas pipeline to run through southern Rensselaer County, referenced as the Northeast Energy Direct (NED) pipeline project; and

WHEREAS, Kinder Morgan is seeking approval from the federal Energy Regulatory Commission (FERC) for federal eminent domain status, to allow the project to proceed; and

WHEREAS, while the proposed pipeline is not presently planned to run through the Village of Castleton, but will be close enough to the Village that its harsh and damaging environmental problems will impact the Village; and

WHEREAS, the citizens of the Village of Castleton and the Village Board of Trustees have expressed strong opposition to this project, based upon a series of concerns:

1. The proposed NED pipeline would be large (36 inches in diameter) with a high pressure (1460psi), which in turn would result in major public safety issues in the Town of Schodack;
2. The public safety issues will result in strains to fire departments and other emergency responders in the Village;
3. The public safety concerns will reduce property values in the Village of Castleton along the route of the proposed pipeline;
4. The project would create the risk of substantial damage to the health, safety, and environment of the Village of Castleton;
5. The project includes the siting of a compressor station, presently to be located in the Town of Nassau. The industrial size of this proposed compressor station would result in significant noise and other environmental impacts to residents near the compressor site, including residents of the Village; and

WHEREAS, the Board of Trustees of the Village of Castleton shares the concerns expressed by many residents, and wishes to give formal expression of this opposition to Kinder- Morgan, FERC, and more particularly to our federal representatives in Congress;

NOW, THEREFORE, BE IT

RESOLVED, That the Board of Trustees of the Village of Castleton hereby goes on record to express its strong opposition to the siting of this pipeline and the compressor station; and it is further

RESOLVED, that the Village Clerk is hereby directed to send a certified copy of this resolution to the representatives of the village in Congress, to wit, Hon. Charles Schumer, Hon. Kirsten Gillibrand, and Hon. Chris Gibson and Hon. Paul Tonko, to the Federal Energy Regulator Commission, and to Tennessee Gas Pipeline Company, LLC

Moved by: Trustee Ryan

Seconded by: Trustee Carner

Resolution ADOPTED by the following vote:

Ayes: 5

Nays: 0

Abstentions: 0

Dated 3/7/16

I hereby certify that this resolution was adopted on 3/7/16 and is recorded in the Meeting Minutes of the Village of Castleton-on-Hudson Village Board.

Joanne DeVito, Village Clerk

20160316-0007

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }

Susan Wyatt

221 Morgan Rd

Richmond, NH 03478

20160316-0008

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }

Robin Babin

10 Goen Road

New Ipswich, NH 03071

20160316-0009

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }

David R. Babin

10 Goen Road

New Ipswich, NH 03071

20160316-0010

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }

Michelle Houle

9 Thomas Ave

Pelham, NH 03076

20160316-0011

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }

Alma Healer

6 Tina Avenue

Pelham, NH 03076

20160317-0007

Town of Nassau, N.Y.

OFFICE OF THE TOWN SUPERVISOR

David F. Flaming, Jr.

March 10, 2016

Hon. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, D.C. 20426

**Re: Matter of Tennessee Gas Pipeline Co., Northeast Direct Project
FERC Docket CP16-21-000**

Dear Secretary Bose:

You have recently received communication from United States Senators Schumer and Gillibrand of New York stating opposition to the above-referenced project. Every level of government from the United States Congress to our town and village officials have written you in opposition to this project as proposed. Representatives of both parties elected at every level of government have provided the factual negative impacts of this project and its very clear failures to protect residents and the environment.

In light of this opposition and the significant factual concerns documented to FERC, I respectfully call for the immediate suspension of the review of this application for a redundant high pressure gas pipeline corridor through our community.

I would note that all alternative compressor site locations in our community have been documented to you as unacceptable as they would place an industrial facility in areas zoned residential and/or in sensitive habitat areas. Additionally, the already well documented impacts on property rights, economic development, habitat, water resources and health and safety of our communities, generally demand a suspension of the review of a project.

This project, as documented, is designed to provide export of energy to other countries and will provide no energy and economic benefit to the residents of Rensselaer County. It would however, require that our taxpayers assume all the risk.

The burden of evidence is already dear. The political support for this project is gone. The redundancy of this project has been made obvious at every level of government. The immediate suspension of the review of this project is therefore required.

Thank you in advance for your consideration.

Very truly yours,

David Fleming, Jr.
Nassau Town Supervisor

cc: Hon. Chuck Schumer, United States Senate
Hon. Kirsten Gillibrand, United States Senate
Hon. Chris Gibson, United States House of Representatives
Hon. Kathy Jimino, Rensselaer County Executive
Hon. Kathy Marchione, New York State Senate
Hon. Steve McLaughlin, New York State Assembly
Rensselaer County Legislature
Nassau Town Board
Nassau Natural Resources Committee

20160317-0022

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}
Richard Husband 10 Mallard Court Litchfield, NH 03052

20160317-0026

March 9, 2016

To: Federal Energy Regulatory Commission
(Attn: Kimberly Bose, Secretary and Nathaniel Davis, Deputy Secretary)
888 First Street NE, Washington, District of Columbia

From: Social Concerns Commission, Church of the Covenant,
P.O. Box 306, Averill Park, New York 12018

We are writing to raise an ethical (or perhaps constitutional) question regarding consequences of possible approval by the Federal Energy Regulatory Commission of plans for natural-gas pipelines. We are particularly aware of the proposal by Kinder Morgan/ Tennessee Gas Pipeline Company for the Northeast Energy Direct pipeline in eastern New York; we realize that the deadline for public comments on that proposal has passed, and apologize for not being prepared to submit this letter earlier. However, our comments pertain just as well to other proposals for new natural-gas pipelines from gas-well fields in Pennsylvania or elsewhere to the coast of the United States.

It is our understanding that FERC must evaluate proposals for such pipelines, and will issue a certificate of approval if a proposal is judged to be technically sound and “in the national interest” — also that issuance of such a certificate conveys sovereign power of eminent domain to the company submitting the proposal, such that the company can confiscate any property specified in their proposal (including property protected by a conservation easement or dedicated as a public park). A handout by Iroquois Gas Transmission System states that a certificate from FERC pre-empts local planning/zoning regulations and allows the company to legally challenge attempts by State or local agencies to prohibit or delay construction or impose terms at odds with the certificate.

If there be well-documented need for more natural gas on the East Coast, perhaps to accommodate anticipated increase in population or to replace other fossil fuels that cause more pollution and global warming, a new pipeline would probably be in the national interest. However, to the extent that a pipeline would supply gas for export, or would hinder prompt development of renewable solar/wind/tidal etc. energy sources, the pipeline would probably not be in the national interest. The government should not be conveying sovereign power to private companies to enhance their profits. We urge FERC to carefully consider these concerns, and particularly to consider prohibiting export of gas transmitted along pipelines sited by eminent domain.

Russell Patton, Jr., Chairman
Social Concerns Commission

20160317-0056

Court of Common Council
CITY OF HARTFORD
550 MAIN STREET
HARTFORD CONNECTICUT 06103

Thomas J. Clarke II, Council President
Julio A. Concepcion, Majority Leader
John Q. Gale, Assistant Majority Leader
Wildaliz Bermudez, Minority Leader

Lany Deutsch, Councilman
Cynthia R. Jennings, Councilwoman
James Soinchez, Councilman
Glendowlyn L. H. Thames, Councilwoman
rJo Winch, Councilwoman

John V. Bazzano, Town and City Clerk

February 24, 2016

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE, Room IA
Washington, DC 20426

Re: **PROTEST** Hartford City Council Resolution in Opposition to the Construction of a Proposed Gas

Pipeline through the Connecticut River/ Park River Watershed by Tennessee Gas Pipeline L.L.C/ Kinder Morgan (FERC Docket No. PF14-22-000)

Dear Secretary Bose,

Please be advised that on Wednesday, February 3, 2016 the Parks and Recreation, Environment and Public Works Committee held a Special Meeting at 5:30 p.m. in the City of Hartford's Court of Common Council Chambers to hear presentations by MDC and take public testimony from Hartford residents and environmental stakeholders regarding the proposed Gas Pipeline Construction Project referenced above. The City of Hartford is the largest user town of MDC Reservoir 6. More than 123,000 Hartford residents obtain their drinking water from the Connecticut River/Park River Watershed.

Several months ago, ending on October 7, 2015, public hearings and public meetings were held in the cities outside of Hartford. White residents were given the opportunity to express their views and concerns about the proposed project in a public forum with representatives from Kinder Morgan, Metropolitan District Commission (owners and custodians of the watershed) and elected officials. At no time did any of the concerned parties notify Hartford residents, Hartford environmental leaders, or Hartford elected or appointed officials about the hearings or request our input into the process. We believe that Hartford, Connecticut, the Capital City of the state, was excluded from these discussions because we are perceived to be a largely Black and Latino city. We are the largest user city, and we were not invited to provide public comments regarding our drinking water. This is exactly the same type of exclusion that Flint, Michigan African American residents, faced when their residents, who are predominantly Black, were left out of the decision to change their drinking water source from the Detroit water system to the heavily polluted Flint River in order to save five million dollars.

Secretary Bose, I am including with this letter a video disk of the Special Meeting held on February 3, 2016 and the Committee's report to the Hartford City Council recommending that it adopt the Resolution in Opposition to the Construction of a proposed Gas Pipeline through the Connecticut River/ Park River Watershed. I am also enclosing for your review the attendance records of those residents, environmental agencies and environmentalists who participated in the Special Meeting as speakers and or concerned citizens. I believe you will find that there was not one individual or environmental organization at the meeting that was in favor of this proposed project.

I urge you Secretary Bose. and the Federal Energy Regulatory Commission to review the information enclosed and that you make your final decision in favor the people of this region and not grant Kinder Morgan/Tennessee Gas Pipeline L.L.C. authorization to go forward with their proposed project, through heavily protected watershed lands.

I personally met with numerous elected and appointed individuals in Flint Michigan this week, as well as seniors, single parents, public housing residents and prison officials, to determine what type of issues they were forced to deal with in order to provide an entire city with bottled water on a daily basis.

This type of a massive threat to our drinking water is entirely preventable. It requires the development of an alternative plan to relocate this gas pipeline to a location where our drinking water is not threatened.

In the event that FERC approves this pipeline, I would like to ask to see copies of all environmental impact assessments, disaster plans, disaster recovery plans, insurance certificates and other documentation to demonstrate the pipeline owner's ability to replace our entire water system with no cost to the affected residents or rate payers.

In Flint, Michigan, even though the President of the United States attempted to intervene, federal intervention was largely inappropriate, because this was a "manmade" disaster, and FEMA and other federal agencies were not authorized to intervene if the disaster was "man made." This left the entire cost of millions of bottles of drinking water, hundreds of thousands of water filters, thousands of water testing units, and the cost in the millions of delivering drinking water on a daily basis to more than 100,000 Flint residents, including door to door delivery for seniors, and single parents who were not able to lift the large pallets of water to their apartments and public housing units.

In addition, hospitals on the public water system, were impacted in that their equipment was rusting from the corrosive nature of the water, and to date, nine people have died as a direct result of Legionnaire's Disease, which was associated with the water crisis in Flint.

Please feel free to contact me at 860.883.6947 (cell) or 860.757.9572, should you have additional questions, concerns, or require additional information.

Cynhia R. Jennings, Councilwoman
Chairperson fo the Parks and Recreation,
Environment and Public Works Committee

ENCLOSURES (omitted, see below)

Parks and Recreation, Environment and Public Works Committee Meeting
Wednesday, February 3, 2016
Special Meeting Agenda and Proposed Resolution
1. Resolution in Opposition to the Construction of a Proposed Gas Pipeline through the Connecticut River/ Park River Watershed.

February 22, 2016, report to City Council

Correspondence from Park Watershed to FERC, October 15, 2015

Testimony to Parks and Recreation, Environment and Public Works Committee Meeting

Correspondence to City Council

{ Enclosures omitted; entire submission can be downloaded (TIFF image, 32 pages, 6,585 KB) at: }

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14173678>

20160317-5169

{ 52 pages, skip to end of 20160317-5169 }

**Tennessee Gas Pipeline
Company, L.L.C.**
a Kinder Morgan company

March 17, 2016
Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Room 1A
Washington, DC 20426

Re: Tennessee Gas Pipeline Company, L.L.C.
Northeast Energy Direct Project; Docket No. CP16-21-000

Response to Environmental Information Request No. 2

Dear Ms. Bose:

On November 20, 2015, Tennessee Gas Pipeline Company, L.L.C. ("Tennessee") filed with the Federal Energy Regulatory Commission an application for a certificate of public convenience and necessity ("Application") for the proposed Northeast Energy Direct Project ("Project") in the above-referenced docket.

On February 26, 2016, the Commission issued Environmental Information Request No. 2 ("EIR-2") to Ten-

nessee in the above-referenced docket. Responses to certain of the requests included in EIR-2 are provided with this transmittal letter. Where applicable, attachments to certain responses are also provided.

As noted in the response to EIR-2, Resource Report 1, Request 2, and as previously communicated to the Commission, Tennessee intends to submit a supplemental filing to the Commission by the end of April 2016. The response to EIR-2, Resource Report 1, Request 2 provided with this filing includes a summary of the information that will be included in the April 2016 supplemental filing. To the extent that certain information requested in EIR-2 will be included in the April 2016 supplemental filing, Tennessee has included a notation in the applicable responses included with this filing.

For the remaining requests in EIR-2, Tennessee is continuing to gather the information necessary to respond to them, including ongoing consultations with federal and state regulatory agencies. Tennessee will determine a schedule for providing the remaining information in a subsequent supplemental filing and will communicate that schedule to the Commission after submission of the April 2016 supplemental filing.

In accordance with the Commission's filing requirements, Tennessee is submitting this filing with the Commission's Secretary through the eFiling system. Copies of this filing are being served on all parties on the official service list for the above-referenced docket. Any questions concerning this filing should be addressed to Ms. Jacquelyne Rocan at (713) 420-4544 or to Ms. Shannon Miller at (713) 420-4038.

Respectfully submitted,

TENNESSEE GAS PIPELINE COMPANY, L.L.C.

By: J. Curtis Moffatt

Deputy General Counsel and Vice President Gas Group Legal

Enclosures

cc: Mr. Terry Turpin (Commission Staff)
Mr. John Wood (Commission Staff)
Mr. Rich McGuire (Commission Staff)
Mr. Eric Tomasi (Commission Staff)
Mr. Wayne Kicklighter (Cardno)
Official Service List

{Enclosure #1: Responses, 125 pages, text included but maps, charts, etc., omitted}

{full enclosures can be downloaded from links at end; skip to end of 20160317-5169}

Tennessee Gas Pipeline Company, L.L.C.

Northeast Energy Direct Project ("Project"), Docket No. CP16-21-000 Environmental Data Request No.2, issued February 26,2016

<i>{ Direct links to Resource Report sections:</i>	<i>}</i>
<i>{ Resource Report 1 - Project Description (see below)</i>	<i>}</i>
<i>{ Resource Report 2 - Water Use and Quality</i>	<i>}</i>
<i>{ Resource Report 3 - Fisheries, Wildlife, and Vegetation</i>	<i>}</i>
<i>{ Resource Report 4 - Cultural Resources</i>	<i>}</i>
<i>{ Resource Report 5 - Socioeconomics</i>	<i>}</i>
<i>{ Resource Report 6 - Geological Resources</i>	<i>}</i>
<i>{ Resource Report 7 - Soils</i>	<i>}</i>
<i>{ Resource Report 8 - Land Use, Recreation, and Aesthetics}</i>	<i>}</i>
<i>{ Resource Report 10 - Alternatives</i>	<i>}</i>
<i>{ Resource Report 11 - Reliability & Safety</i>	<i>}</i>

Resource Report 1- Project Description

1. General - Provide all information listed in Resource Report (RR) 1 (or in the Responses to Comments on Draft Resource Reports matrix) that Tennessee Gas Pipeline Company, LLC (Tennessee Gas) has identified would be provided to the Federal Energy Regulatory Commission (FERC), or include a schedule for submittal, which includes, but is not necessarily limited to:

- m. updated status of landowner access and associated survey status (including updated tables 1.2-6 and 1.2-7);

Response:

Tennessee does not have updated information for Table 1.2-6. An updated Table 1.2-7 will be provided in the supplemental filing that Tennessee anticipates submitting by the end of April 2016.

Respondent: James D. Hartman Title: Agent - Right of Way Sr. II Phone: 860-763-6033

Resource Report 1- Project Description

1. General - Provide all information listed in Resource Report (RR) 1 (or in the Responses to Comments on Draft Resource Reports matrix) that Tennessee Gas Pipeline Company, LLC (Tennessee Gas) has identified would be provided to the Federal Energy Regulatory Commission (FERC), or include a schedule for submittal, which includes, but is not necessarily limited to:

- r. provide all major tabular summaries in a Word, Excel, or comparable format (e.g., more than 10 rows or 10 columns).

Response:

Tennessee will submit the requested tables from Resource Report 1 as part of the supplemental filing that is anticipated to be filed by the end of April 2016.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 1- Project Description

2. Provide a comprehensive inventory of the information that Tennessee Gas intends to file with the FERC in its anticipated April 2016 submittal.

Response:

Tennessee intends to include the following information in the anticipated April 2016 supplemental filing for the Project:

1. Project Scope Additions, Modifications, and Reduction

The supplemental filing will include additions, modifications, and one reduction to the Project scope that have been adopted since the November 20, 2015 certificate application. A description of each addition, modification, and reduction will be provided in the supplemental filing, as well as updates to supporting information, including, but not limited to, tables, maps, figures, and alignment sheets, to reflect the change to Project scope.

Project additions include a new meter station (the Mendon Meter Station), and upgrades to existing Compressor Station 266A.

Project modifications include relocation of the Maritimes Meter Station, and a pig launcher to be installed at the proposed Market Tail Compressor Station. The following reroutes to the mainline pipeline and laterals will be reflected in the supplemental filing as well:

1. Mainline Pipeline

- Segment G: Re-route to avoid the future expansion area of the Eversource Berkshire Substation.

- Segment I: Re-route to increase the distance from Camp Wiyaka, residences, and Sandy Pond. This re-route will reflect moving from the Goss Woods conservation land.
- Segment J: Re-route to cross the Souhegan River, Highway 31, and Mason Railroad Trail at a more favorable spot with a horizontal directional drill (“HDD”), including the avoidance of certain known vernal pools.
- Segment J: Re-route to avoid congestion within a commercial business area between MP 21.1 and MP 21.9.
- Segment J: Further information will be provided regarding the re-route from MP 22.7 to MP 26.1 that had been identified in the November 20, 2015 certificate application.

2. Laterals

- 300 Line, Connecticut Loop: Re-route to adjust the distance from the Project to the Metropolitan District water supply land areas.
- Haverhill Lateral: Minor adjustments to route, as well as additional landowner impact information, as result of additional civil surveys completed between MP 0.0 and MP 4.9
- Haverhill Lateral: Addition of an aboveground tap to accommodate back-flow of gas to Tennessee’s existing meter 20722.
- Peabody Lateral: Re-route between MP 0.8 and MP 2.45 to avoid Lynnfield Center Water District current and future water wells.
- Maritimes Delivery Line: A re-route to support the Maritimes Meter Station relocation.

The North Adams Regulator station will be removed from the Project scope.

2. Updates to Environmental Report Submitted with November 20, 2015 Certificate Application

To reflect the Project scope additions, modifications, and one reduction identified above, Tennessee will provide updated information to the following resource reports:

- Resource Report 1
- Resource Report 2
- Resource Report 4
- Resource Report 5
- Resource Report 6
- Resource Report 7
- Resource Report 8
- Resource Report 9
- Resource Report 10

Updated information will include language additions to certain sections of these resource reports and updates to certain tables in these resource reports. In addition, the cumulative impacts assessment will be updated to reflect the revised Project scope. Relevant sections of the Public Participation Plan (Appendix D) will also be updated.

Updated alignment sheets, maps (USGS 7.5-minute quadrangle maps and National Wetlands Inventory maps), compressor station plot plans, meter station drawings, and figures to reflect the identified revisions to Project scope will also be provided in the April 2016 supplemental filing.

An updated landowner list that reflects the changes in Project scope will also be provided.

Updates to agency correspondence received from October 1, 2015 through April 1, 2016 will be included in the April 2016 supplemental filing.

3. Updates to Reports

The following reports and plans will be included in the April supplemental filing: made part of Tennessee’s

April supplemental filing to the November 20,2015 certificate application:

- Bald Eagle Winter Roosting Report Update
- Bog Turtle Survey Report Update
- Bat Surveys Summer 2015 Phase I Report Update
- Bat Surveys Summer 2015 Phase II Report Update
- Bat Survey Winter 2015 Phase I Report Update
- New York DOT 1-88 Alternatives Analysis Report

4. Updated to Commission Staff Comment and Scoping Comment Matrices, and Data Responses

Updates to Tennessee's response matrices for Commission Staff comments and scoping comments will be provided in the April 2016 supplemental filing. Tennessee will also provide responses to certain requests from the Commission's December 8, 2015 Environmental Information Request, as well as to the Commission's February 26, 2016 Environmental Information Request.

5. Miscellaneous Items

The following information will also be included with the April 2016 supplemental filing:

- Update to on-line interactive map web-link information.
- Additional Precedent Agreements executed since the November 20,2015 certificate application.
- The New Hampshire Economic Impact Report and the Connecticut Economic Impact Report.

Respondent: J. Peter Jensen Title: Project Manager Phone: (713) 420-5613

Resource Report 1- Project Description

3. Confirm whether Tennessee Gas is proposing 29 meter stations as identified throughout the November 20, 2015 RRs or 27 meter stations as identified in some portions of its November 20, 2015 Application. As warranted, provide updated descriptions and tables that reflect the correct number, location, descriptions, configurations, and associated impacts and mitigation measures.

Response:

Tennessee is proposing a total of 29 new and modified meter stations (15 new and 14 modified) as part of the Project.

The references to a total of 27 new and modified meter stations in the November 20, 2015 certificate application reflected only those new and modified meter stations for the Project's Market Path Component (13 new and 14 modified). There are two new meter stations proposed for the Project's Supply Path Component, which results in the total of 29 new and modified meter stations for the Project.

The descriptions in the resource reports and tables included in the Environmental Report reflect the correct total of 29 new and modified meter stations for the Project, so no updated descriptions or tables are required.

Respondent: Steve Gassman Title: Project Manager Phone: (719) 520-4475

Resource Report 1- Project Description

4. Provide an explanation why the interconnect between the NED mainline and the Maritimes & Northeast pipeline system is not directly from the NED Mainline Segment L, milepost (MP) 1.7 where the two pipelines would cross instead of constructing the Maritimes Delivery Line from the Market Path Tail Station immediately adjacent to the proposed NED mainline back to the Maritimes & Northeast pipeline (thus installing two 30-inch pipelines within the same right-of-way for 0.75 miles, which would require both wider construction and permanent rights-of-way).

Response:

While Tennessee did evaluate locating the Market Path Tail Station as close as possible, and preferably adjacent, to the Maritimes meter and thereby minimize or avoid the additional impact and cost of constructing the Maritimes Delivery Line (Segment L), it was unable to identify a preferable site for the Market Path Tail Station. The Maritimes Delivery Line will transport gas that will be compressed at the Market Path Tail Station to the Maritimes and Northeast pipeline (1460 psig maximum allowable operating pressure (“MAOP”). Segment K, on the other hand, will transport gas which will bypass the Market Path Tail Station for delivery into two of Tennessee’s existing systems with MAOPs at or below 750 psig.

Respondent: Michael A. Stokdyk Title: Staff Engineer, System Design Phone: (713) 420-2415

Resource Report 1- Project Description

5. Section 1.0 (page 1-2) - Clarify the meaning of the text on the Amherst re-route(s) as it relates to:
- whether there are one or two Amherst re-routes;
 - if there is only one Amherst re-route, explicitly identify what specific portions of the November 20,2015 submittal (text, tables, and maps) reflect it;
 - if there is an additional Amherst re-route as stated in the text, explicitly identify what portions of the November 20,2015 submittal (text, tables, and maps) reflect no Amherst re-routes, one Amherst re-route, or two Amherst re-routes; and
 - if there is a delay in providing comprehensive text, tables and maps that incorporate the appropriate Amherst re-route(s), provide U.S. Geological Survey (USGS) 7.5 minute topographic maps, aerial alignment sheets, and National Wetlands Inventory (NWI) maps that correspond to the proposed Project described in the text and tables of the November 20,2015 submittal.

Response:

a As reflected in Section 10.3.2.4 of Resource Report 10, provided in the second draft Environmental Report submitted in the Project’s pre-filing proceeding on July 24, 2015 (Docket No. PFI4-22-000), Alternative 1 was the selected re-route for what at that time was referred to as the Amherst New Hampshire Alternatives to replace the originally proposed route from the March 2015 Pre-filing. Although the alternatives considered re-routes that would affect Amherst, as well as Milford, and Hollis, and Merrimack. Alternative 1 routing includes the towns of Amherst, Hollis and Merrimack.

Since the July 24,2015 submission, Tennessee received feedback on additional alternatives for the routing in Merrimack from interested stakeholders through letters submitted to the Commission in the Project’s pre-filing and certificate dockets, and direct discussions with landowners. Based on this feedback, three other alternative routes were identified and evaluated for the Merrimack portion of the re-route. The November 20, 2015 certificate application did not reflect any changes to the route in Amherst or Hollis, but did reflect a change in routing in Merrimack, as discussed under Alternative 6 below.

b. The Table 10.3-15 in Resource Report No. 10, , included with the November 20, 2015 certificate application, reflects the Alternatives evaluated, however the final selection option, which is a variation of Alternative 6 was not updated in time for the November 20, 2015 filing. Alternative 6 (discussed below) is reflected in the Resource Report 1 and 10 text, the applicable alignment sheets, NWI and USGS quadrangle maps, but not in all the tables in the Environmental Reports that were filed as part of the November 20, 2015 certificate application.

c. No new routing in Amherst or Hollis was proposed in the November 20, 2015 certificate application. Alternative 6 was selected as the preferred option for the Project. For the November 20,2015 certificate application, all re-routes in the towns of Amherst, Hollis, and Merrimack are reflected in Alternative 6 in Resource Report 10, Section 10.3.2.5 (Amherst, Milford, Hollis, and Merrimack, New Hampshire Alternatives).

d. The associated resource report tables, which were not updated for the Alternative 6 in the November 20,

2015 certificate application, will be provided in the supplemental filing anticipated to be submitted by the end of April 2016.

Respondent: Barry C. Duff Title: Principal Project Manager Phone: (713) 420-6027

Resource Report 1- Project Description

6. Section 1.1.1 (page 1-11) - Provide any updates since the November 20, 2015 submittal on the possible uses of the Project's end-users/customers for the gas capacity created in the mainline and each lateral. If possible, break down (by delivery point) the current known customer and/or use (e.g., electric generation, residential use/consumption, local distribution, industrial/manufacturing, manufacturing precursors).

Response:

Since the November 20, 2015 certificate application, Tennessee has executed three new precedent agreements for capacity on the Project with Nantucket Electric Company ("Nantucket Electric"), Massachusetts Electric Company ("Massachusetts Electric"), and Liberty Utilities (EnergyNorth Natural Gas) Corp. ("Liberty").

Nantucket Electric and Massachusetts Electric are Electric Distribution Companies ("EDCs") in Massachusetts owned by National Grid, and the commitment to capacity on the Project by these companies is part of the regional effort underway in New England for EDCs to secure new natural gas pipeline expansion capacity into the region to benefit electric ratepayers in the form of lower electricity prices and increased reliability. The EDCs will effectively release the contracted capacity to gas-fired electric generators or into the market in accordance with EDC guidelines and Commission approved tariff mechanisms. Massachusetts Electric executed a precedent agreement for 100,000 Dth/day on the Market Path Component of the Project and for 60,400 Dth/day on the Supply Path Component of the Project. Nantucket Electric executed a precedent agreement for 500 Dth/day on the Market Path Component of the Project and 302 Dth/day on the Supply Path Component of the Project. The Nantucket Electric and Massachusetts Electric precedent agreements have been submitted to the Massachusetts Department of Public Utilities for approval, and those proceedings are ongoing.

Liberty, a regulated natural gas local distribution utility serving New Hampshire customers, executed a precedent agreement for capacity on the Supply Path Component of the Project for 78,000 Dth/day. This Supply Path Component precedent agreement complements Liberty's Market Path Component precedent agreement for 115,000 Dth/day by allowing Liberty to access storage and the Marcellus supply basin to feed their Project Market Path Component firm transportation agreement. The Liberty Supply Path Component precedent agreement has been submitted to the New Hampshire Public Utilities Commission for approval, and that proceeding

..

IS ongoing.

These executed Precedent Agreements will be filed as part of Tennessee's supplemental filing anticipated to be submitted by the end of April 2016.

Respondent: Rebecca Mack Title: Manager, Business Development Phone: (713) 420-4656

Resource Report 1- Project Description

7. Section 1.3.1.1 (page 1-83) - Provide additional detail on the special measures that would be employed to prevent post-restoration slips and landslides in steep terrain, and how Tennessee Gas would ensure their success.

Response:

Certain areas along the pipeline may require site-specific restoration designs due to steep slopes, soil types,

and depth to bedrock in the area in order to prevent post-construction slips and landslides in steep terrain. All of this information is currently being assessed by Tennessee in the geologic hazard study for use in the preparation of stormwater pollution prevention plans, soil erosion and sediment control plans, and post-construction stormwater management plans. These plans will be provided to the Commission when prepared.

Respondent: Angela R. Williamson Title: Project Manager - Engineering Phone: (713) 420.2093

Resource Report 1- Project Description

8. Section 1.3.1.2 (page 1-96) - Regarding temporary erosion control measures occurring within 24 hours of each 0.5 inch of rainfall, identify how and where rainfall would be measured and monitored in relation to the Project work areas, and what would be the maximum distance between the proposed route and the closest rainfall monitoring station.

Response:

Tennessee intends to use manual rain gauges located at the Project's contractor yards for each construction spread to measure precipitation events. Rain gauges will be monitored by the environmental inspectors ("Els") as necessary to maintain compliance with the Tennessee's Plan and Procedures, which incorporate the Commission's Plan and Procedures. If a contractor yard is not centrally located within a spread, a second rain gauge will be installed at a central location on the Project right-of-way for that spread. The maximum distance between rain gauges, on any individual spread, will be 30 miles. At this time, the maximum distance between the proposed route and the closest rain gauge cannot be determined, as Tennessee has not made a final determination of which of the proposed contractor yards will be utilized during construction. If a contractor yard is greater than 15 miles from the Project right-of-way, the rain gauges for that spread will be installed equal distance apart on the right-of-way.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 1- Project Description

9. Section 1.3.1.3 (page 1-96) - Confirm landowners' roles in determining how trees would be removed including if/how timber would be sold, provided for personal use (e.g., firewood), and/or disposed (e.g., chipped, onsite, offsite).

Response:

Tennessee will enter into good faith negotiations with each directly affected landowner to acquire needed permanent and temporary easement rights and negotiate construction-related damages associated with the proposed Project. As applicable, these negotiations will address the removal of timber within the proposed Project permanent easement and temporary workspaces. While it is Tennessee's preference to have its construction contractor remove or chip all timber from the construction corridor when it is felled, Tennessee understands that many landowners may prefer to retain the timber removed from their property for their personal use. Since the properties along the construction corridor are unique, Tennessee will address this issue with each affected landowner through individual negotiations. The negotiations will include the following: timber compensation, timber removal (by Tennessee's contractor or the landowner), or appropriate timber stockpile locations that will allow for the landowner to remove timber within a specific timeframe. Tennessee notes that any timber left within the construction corridor at the landowner's request but which is not removed by that landowner prior to restoration will be removed by Tennessee's contractor.

Respondent: James D. Hartman Title: Agent - Right of Way Sr. II Phone: (860) 763-6033

Resource Report 1- Project Description

10. Section 1.3.1.4 (page 1-97) - Clarify whether Tennessee Gas is proposing that the minimum depth of cover be 36 inches in actively cultivated agricultural lands as stated in the text, or 48 inches in all ag-

gricultural lands as stated in the corresponding table (table 1.3-1). Confirm whether or not Tennessee Gas has different definitions and construction methods for ‘land in agriculture’ and ‘actively cultivated agricultural lands.’

Response:

Tennessee clarifies that the text in Section 1.3.1.4 should read as follows: “In actively cultivated agricultural lands, Tennessee plans to install the pipeline with 48 inches of cover, except where rock prevents this depth.” Tennessee defines “land in agriculture” as lands that are currently, or within recent history, actively used for the purposes of agriculture where plowing activities have been, or may be conducted. Tennessee will utilize publicly available aerial photography to identify historical uses of land regardless of existing zoning. In these areas, Tennessee will install pipe with a cover of 48 inches in normal soils, and 24 inches in consolidated rock.

Respondent: David L. Penning Title: Principal Project Manager Phone: (713) 420-6560

Resource Report 1- Project Description

11. Section 1.3.1.13 (page 1-100) - As requested in our May 15,2015 and October 8,2015 Environmental Information Requests (EIRs), describe the source or type of source of imported soils during restoration, and measures that would be implemented to address the spread of invasive plant species, soil type compatibility, and rock content.

Response:

Tennessee has yet to identify the sources, or types, of imported soils that will be necessary during construction and/or restoration. The decision to import soil will be made in consultation with the construction contractor, and consider factors such as topography, quantities needed, sensitive nearby resources, and existing soil conditions. In any event, the import of soils will be from an approved vendor. During the negotiation with the vendor, Tennessee will assess the potential for invasive plant species, and follow the approved Invasive Species Plan for the applicable state. Tennessee will also consult with local regulatory agencies to determine appropriate soil vendors.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 1- Project Description

12. Section 1.3.1.14 (page 1-101) - Provide methods for discharging hydrostatic test waters into waterbodies in the event it may be allowed by regulatory agencies and may be pursued by Tennessee Gas. Update the information on whether the hydrostatic discharges in each state would be covered under a General Permit of individual permits.

Response:

There are various methods used to discharge hydrostatic water directly into waterbodies, subject to approval by regulatory agencies. One method is a direct discharge of the hydrostatic water to the waterbody using an energy dissipation device such as a pipe pup (commonly referred to as a “splash pup”). The splash pup is installed perpendicular to the discharge pipe and is elevated above the receiving waterbody. The hydrostatic water is sent through the discharge pipe, hits the splash pup, and falls directly into the receiving waterbody. The splash pup, as well as the free fall of the water to the receiving waterbody, dissipates the energy of the discharge, and, to some extent, oxygenates the discharge water. During the use of this method, there is no filtering of the hydrostatic water prior to entry into the receiving water and there is no regulation on the flow rate of the discharge.

Another discharge method employs a hay bale filter structure, in which the splash pup is placed. Plastic, or sheets of plywood, are spread on the ground surface within the filter structure, the hydrostatic water is sent through the discharge pipe, hits the splash pup, and is then allowed to filter via gravity through the filter

structure directly into the waterbody. The plastic, the sheets of plywood, and the splash pup act as energy dissipation devices that lessen the possibility of erosion and sedimentation to the receiving water body. As with the other method discussed above, there is no regulation of the water discharge rate or pressure.

Tennessee continues to coordinate with the applicable state agencies to determine the permitting requirements for hydrostatic discharge. All applicable permits will be obtained prior to discharge.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 1- Project Description

13. Section 1.3.2.2 (page 1-103) - For pipeline installation near residences:

- a. where residential access would be temporarily blocked, provide the typical and maximum duration that would be anticipated that local residents would not have access to/from their homes during active pipeline installation;
- b. clarify whether trenches immediately adjacent to residences would be backfilled or covered daily, or left open for up to 10 days;
- c. provide the source of imported topsoil for lawns (or identify the process for determining the source);
- d. clarify whether Tennessee Gas would test all water wells and springs used as a drinking water supply (humans or livestock) within 200 feet of construction workspace;
- e. clarify whether Tennessee Gas would conduct pre-construction water testing for all drinking water wells and springs within 200 feet of the construction workspace prior to construction even if the landowners have not offered survey access to Tennessee Gas prior to any FERC Certificate; and
- f. clarify how Tennessee Gas would ensure that all conditions of landowner agreements have been met and the landowner has been appropriately compensated for damage to the satisfaction of the landowner.

Response:

- a. Tennessee does not intend to block access to homes during construction. However, if necessary due to construction constraints or landowner requests, Tennessee anticipates that access would be limited for less than 8 hours. If it is determined to be necessary to block residential access, Tennessee will work with the affected landowners to provide alternative access to the residence, such as access along the right of way, OSHA approved walkways and bus stops, and alternative safe parking areas.
- b. Trenchlines immediately adjacent to a residence, i.e., within 25 feet, will be covered daily with either steel plates or with soil. Unless there are unique construction issues, Tennessee does not intend to leave a trench open immediately adjacent to a residence for more than 10 days. This would only occur with approval of the affected landowners. It is Tennessee's intent to complete construction near residential areas as quickly and efficiently as possible.
- c. Tennessee has not yet identified the sources, or types, of imported soils that will be necessary during construction and/or restoration. The decision to import soil will be made in consultation with the construction contractor, and will take into account factors such as topography, quantities needed, sensitive nearby resources, and existing soil conditions. In any event, the import of soils will be from an approved vendor. During the negotiation with the vendor, Tennessee will assess the potential for invasive plant species, and follow the approved

Tennessee Invasive Species Plans, which are part of the individual state ECPs. Tennessee will also consult with local regulatory agencies to determine appropriate soil vendors.

- d. Tennessee will conduct pre- and post-construction water well and drinking water springs testing within 200 feet of the workspace.
- e. Tennessee will only sample water wells and springs with landowner permission and with approved access

to these wells and springs. Tennessee will request permission to conduct pre and post-construction testing of water wells and drinking water springs within 200 feet of the workspace prior to construction from the applicable landowners, including from landowners that had previously denied survey permission, but, as noted above, will only conduct such testing if granted permission by the landowner.

- f. Once construction and operation of the pipeline is complete, Tennessee will ask affected landowners to sign a release form that indicates that all conditions of the landowner agreement have been met.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 1- Project Description

14. Section 1.3.2.2 (page 1-104) - In regard to assessing potential damage of Project-related traffic on roads, confirm whether Tennessee Gas would video document all pre- and postconstruction road conditions (public and private). Provide further detail on how Projectrelated responsibility would be determined for potential road damage to public and private roads, and how it would be corrected.

Response:

Tennessee will in good faith work with applicable states, counties, cities, local townships, and communities, as well as private landowners, to establish agreements for the use of the road including haul routes, general traffic flow, and construction access, prior to the start of Project construction. As part of this process, Tennessee will video record all roads and access points to be used to document conditions prior to the start of use for Project construction.

During the course of construction, Tennessee will continue to monitor the condition of the roads and access points to proactively address any detrimental impacts to those roads or access points, including but not limited to, temporary repairs or ceasing usage of that road or access point for the Project.

Once Project construction has been completed in that area” in cooperation with local authorities and/or landowner, Tennessee will assess the condition of the road or access point and compare it to the pre-construction documented condition. Following that assessment, Tennessee’s representative will work with the local authorities and/or landowner to determine any repairs that may be needed and the timing to complete those repairs.

Respondent: David L. Penning, PMP Title: Principal Project Manager Phone: (713) 420-6560

Resource Report 1- Project Description

15. Section 1.3.2.5.2 (page 1-106) - As requested in our May 15, 2015 and October 8, 2015 EIRs, discuss whether Tennessee Gas, in certain circumstances, may be able to pull back an HDD section in sub-sections, thereby increasing flexibility, minimizing the false right-of-way, and precluding the requirement of pulling one continuous section. If feasible, identify the specific crossings where this method would be employed.

Response:

Tennessee evaluates planned HDDs with respect to technically feasible measures to reduce environmental impacts at each location. The current HDD configurations as presented in the November 20, 2015 certificate application are reflective of those measures where section-by-section pull-back areas have been incorporated. As stated in Section 2.2.11.4 of Resource Report 2, pulling the pipe string in one piece greatly increases the probability of a successful HDD and a single pipe string may be required due to alignment or if difficult geologic conditions exist. Preliminary HDD drawings for all 15 crossings were provided in the Environmental Report in Volume II, Appendix O. If design changes are required and additional HDD locations are found to necessitate reduced section by section pull areas, such modifications will be provided.

The requested additional information has been added to Table 1.3-2 from Resource Report 1 (see below; additional information shown in red). This table lists the proposed HDDs for the Project, how many pipe

strings are expected to be staged, and whether staging would be along the proposed mainline construction corridor or if false ROW would be required. This information will be provided for any additional HDDs proposed for the Project.

Respondent: Angela R. Williamson Title: Project Manager - Engineering Phone: (713) 240-2093

{large table (pages 21-26 in original) omitted, see links at end to download entire submission}

Resource Report 1- Project Description

17. Section 1.8 (table 1.8-1) - Confirm the actual libraries and/or other locations where the public can access hard copies of the November 2015 application, supplemental filings, and responses to data requests. Provide hours of public access, and ensure that you have at least one location per county. In addition provide details where and how affected landowners (those with Project components on their land, those that abut properties with Project components, and those landowners within Y2 mile of the compressor stations) can access detailed maps of where the pipeline, or other project components would cross on or near their property.

Response:

Attached to this response is a table that confirms the libraries, the location of each library, and available library hours where the public can access an electronic public version of the November 20, 2015 certificate application, as required under Section 157.10(c) of the Commission's regulations, 18 C.F.R. § 157.10(c)(2015). Tennessee also confirms that there is at least one library location per county where the public can access Tennessee's an electronic public version of the certificate application. All public versions of filings submitted to the Commission in Docket No. CPI6-21-000 may be accessed through the Commission's website (eLibrary, located at <http://www.ferc.gov/docs-filing/elibrary.asp>), and on Tennessee's Project website, (http://www.kindermorgan.com/pages/business/gas_pipelines/eastineenergydirectiferc.aspx).

Public versions of all filings submitted by Tennessee to the Commission in Docket No. CP 16-21- 000 are served on all parties on the official service list for the docket.

Affected landowners may contact Tennessee's land representatives to set up a time to review maps showing the location of proposed Project facilities on their property. Any interested person, including affected landowners, can view the online Project interactive map for further information, which is located at <http://north-eastenergyfuture.com>

Respondent: James D. Hartman Title: Agent - Right of Way Sr. II Phone: (860) 763-6033

Resource Report 2 - Water Use and Quality

8. Section 2.1.1 (pages 2-2 through 2-15) - Figure 2.1-1a depicts the Project crossing an aquifer identified as "other rocks." Provide a description of this aquifer.

Response:

Rocks identified as "other" include large-to-small areas that are designated "minor aquifer," "not a principal aquifer," or "confining unit" in the Principal Aquifers map document source, "Ground Water Atlas of the United States". Such areas are underlain by low-permeability deposits and rocks, unsaturated materials, or aquifers that supply little water because they are of local extent, poorly permeable, or both (USGS 2015).

Source: http://water.usgs.gov/ogw/aquiferbasics/other_rocks.html

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 2 - Water Use and Quality

12. Section 2.1.1.2.1 (pages 2-3 to 2-4) - In regards to SSAs, identify the agency(ies) in which consultation

has been initiated on this topic. Provide the anticipated timeline for completion of the consultation.

Response:

The only Sole Source Aquifer (“SSA”) crossed by the Project is the Clinton Street Ballpark SSA in Broome County, New York. This SSA is described in detail at Section 2.1.1.2.1 of Resource Report 2. U.S. Environmental Protection Agency (“USEPA”) Region 2 conducts review of proposed projects located in a SSA in New York State. Tennessee will consult with USEPA Region 2 regarding mitigative measures to protect the SSA during construction and operation of the Project. Tennessee will provide this information when consultation with the USEPA is completed.

Respondent: Debi McCartney Title: Specialist-EHS Sr. II Phone: 713/420-6723

Resource Report 2 - Water Use and Quality

18. Section 2.1.6 (pages 2-25 to 2-27) - Provide a discussion of the potential impacts to French drains and the potential for home flooding, resulting from damage to French drains.

Response:

During landowner discussions/negotiations, Tennessee will identify existing/known home French drains. During construction, French drains will be located by the survey crew using any landowner information provided and will either be avoided if possible, or measures put in place (such as a temporary French drain) to lessen the possibility of home flooding during construction. After construction, any impacted French drain will be repaired to the landowner satisfaction by either the construction contractor or an independent French drain expert. If a French drain was not identified during the pre-construction discussions/negotiations, and then impacted during construction, Tennessee, in consultation with the landowner and the contractor, will take the necessary steps (such as a temporary French drain) to lessen the possibility of home flooding. As with identified French drains, all drains will be repaired to pre-construction conditions by the contractor or an independent French drain expert.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 2 - Water Use and Quality

20. Section 2.1.6 (pages 2-25 to 2-27) - Provide a discussion of potential long-term groundwater impacts resulting from construction and operation of the Project. The discussion should describe how the Project (in operation) would permanently affect groundwater flow.

Response:

Tennessee does not anticipate any long-term groundwater impacts resulting from the construction or operation of the Project. Tennessee will follow strict hazardous waste protocols to ensure that any spills that may occur are remediated to regulatory standards. Furthermore, Tennessee does not anticipate using additives during hydrostatic testing or any other pipeline operations that have the potential to reach groundwater. At aboveground facilities, such as compressor stations, Tennessee will ensure proper compliance with hazardous wastes handling and storage both during construction and operation. During construction, environmental inspectors will regularly inspect the pipeline right-of-way, contractor yards, and compressor stations to ensure compliance with the SPCC Plan.

Tennessee does not anticipate any impact to groundwater flow as a result of construction and operation of the Project pipeline. Considering the diameter of the pipeline, Tennessee does not believe that the pipeline would be an impediment to groundwater flow in deep HDD areas. Groundwater will find pathways around the pipeline to continue in an unimpeded flow. Furthermore, in most areas, the pipeline will be buried to a depth of cover of 3 to-5 feet, which, in most areas, would likely not be within the groundwater flow area.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 2 - Water Use and Quality

25. Section 2.2 (pages 2-27 to 2-70) - Provide evaluations (including details of ongoing discussions with regulatory agencies) regarding the potential for using HDDs or Direct Pipe at all waterbodies and sites where waterbody crossings would be greater than 30- feet-wide, as well as at all waterbodies listed as sensitive or high quality. Provide updated tables of proposed crossing methods for each waterbody based on updated agency consultation and evaluation (e.g., table 1.3-2, attachment 2B tables).

Response:

Tennessee continues to meet with federal and state regulatory agencies to discuss sensitive features along the pipeline route and at aboveground facilities. It is not until Tennessee concludes the discussions that decisions as to whether or not to use HDD or Direct Pipe at a waterbody or sensitive feature will be made. Tennessee, once it has made determinations of whether to proceed with HDD or Direct Pipe use at crossing after discussions with applicable agencies, will notify the Commission and make any necessary changes to construction documents.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 2 - Water Use and Quality

32. Section 2.2.9 (pages 2-52 to 2-61) - Provide a discussion on designated flood zones crossed by the Project (e.g., Zone A, Zone AE).

Response:

In Section 2.2.9, Sensitive Surface Waters, Tennessee identified Special Flood Hazard Areas (“SFHAs”) as part of the breakdown for Project pipeline facilities in each state (Sections 2.2.9.1 through 2.2.9.5) and for Project aboveground and appurtenant facilities (Section 2.2.9.6). SFHAs are those areas with one percent annual chance of flood, or 100-year flood, and include all areas designated as Zone A or Zone V (coastal flooding) by the National Flood Insurance Program. As discussed in Section 2.2.9, Tennessee is committed to restoring the construction workspace to preconstruction contours and to siting aboveground facilities outside of SFHAs to avoid encroachment within floodways or increased flood elevations.

Respondent: Debi McCartney Title: Specialist-EHS Sr. II Phone: (713) 420-6723

Resource Report 2 - Water Use and Quality

34. Section 2.2.9.2 (pages 2-55 to 2-56) - Provide a discussion regarding agency consultation, and any additional impacts or proposed mitigation associated with waterbody crossing techniques for Class AA waters.

Response:

Tennessee will utilize dry crossing techniques for the majority of the waterbodies crossed by the Project that have flowing water present at the time of crossing. The pipeline will be buried with a minimum cover of 5 feet over the pipe, unless it is in consolidated rock where the minimum cover depth may decrease.

New York State-designated Class AA or A waterbodies will not be crossed, whether flowing water is present or not, until a stable equipment crossing has been constructed. All other waterbodies may be crossed once by the clearing crews if the stream is not flowing, prior to installing equipment crossings. These crews may construct temporary crossings with equipment mats or equivalent. Temporary crossings may only be used by clearing crews. The subsequent crews will be responsible for removing the temporary equipment crossing and constructing the long-term equipment crossing.

Withdrawing water from either state-designated Class AA or A waterbodies, waterbodies which provide habitat for federal-listed threatened or endangered species, or waterbodies designated as public water supplies for testing procedures, will not occur unless written permission is obtained from the applicable regulatory agency.

Discharging water into state-designated Class AA or A waterbodies, waterbodies which provide habitat for federally-listed threatened or endangered species, or waterbodies designated as public water supplies will only occur if written permission from the appropriate applicable regulatory agency is obtained.

Mitigation of impacts to Class AA waters and crossing techniques will be further coordinated throughout the Clean Water Act Section 401/404 permitting process as well as applicable New York permitting processes.

Respondent: Matt Nowak Title: Specialist-EHS Senior II Phone: (860) 763-6024

Resource Report 2 - Water Use and Quality

35. Section 2.2.9.3 (pages 2-57) - Provide clarification regarding how vernal pools and their conditions will be identified and characterized in areas not available for survey by Tennessee Gas.

Response:

In areas with no landowner access, Tennessee identified the approximate boundaries of potential vernal pools using aerial photography. The aerial photography interpretation was used by Tennessee to calculate preliminary impacts and as a planning tool to assess potential impacts to vernal pools. Once Tennessee has full access to the properties, Tennessee will be able to fully characterize and confirm identification of vernal pools.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 2 - Water Use and Quality

36. Section 2.2.10 (pages 2-62 to 2-63) - Provide a discussion regarding potential impacts on water resources from potential perchlorate residue resulting from blasting activities.

Response:

Residual perchlorate from ledge blasting is primarily the result of two activities. First, the practice of bulk-loading unpackaged, free flowing types of blasting media into the drill holes increases the possibility of media spillage during blast hole loading. Second, unpackaged bulk loaded media have the potential to form voids or pockets of media in the drill hole, or for the blasting media to migrate into fissures or cracks before detonation. Both of these activities can result in less than 100% detonation of blasting media, which could potentially infiltrate nearby water resources. Other potential sources of perchlorate contamination include improper storage of blasting media and dissolution of loaded blasting media into groundwater prior to detonation.

Tennessee addresses these primary causes of perchlorate contamination by eliminating the use of bulk loaded and/or free flowing blasting media altogether. Furthermore, safe handling and loading practices for the prepackaged media that are proposed to be used are detailed in the Project-specific Environmental Construction Plans for each state, including the Blasting Management Plans, located in Appendices J, K, L, M, and N to the Environmental Report. Tennessee will employ blasting inspectors to ensure contractor compliance with all conditions of the applicable Blasting Management Plan for each state.

Respondent: Stephen Holmes Title: Project Manager Phone: (205) 325-7420

Resource Report 2 - Water Use and Quality

37. Section 2.2.10 (pages 2-62 to 2-63) - Address public concerns regarding the potential for herbicides to become incorporated into stormwater runoff, groundwater, and surface waters. Provide a discussion on how impacts on water resources resulting from herbicide use would be minimized or avoided. Provide a detailed plan on how and when herbicides would be used and confirm that all herbicide use would be approved by U.S. Fish and Wildlife Service (USFWS), U.S. Environmental Protection Agency (EPA), and applicable state agencies.

Response:

Pursuant to the Natural Gas Act, the Natural Gas Pipeline Safety Act, and the Hazardous Materials Transportation Act, and applicable regulations, Tennessee is required to adopt and implement an ongoing operations and maintenance plan for purposes of maintaining the integrity and safety of its pipeline facilities. Tennessee must also comply with other applicable federal statutes including, but not limited to, the Endangered Species Act and the Migratory Bird Treaty Act, as well as applicable Commission standards and guidelines, Occupational Safety and Health Act regulations, USDOT regulations, and Environmental Protection Agency regulations. In particular, Tennessee must maintain its pipeline ROWs free of encroaching vegetation that may impede visual and physical access to the pipeline.

In compliance with U.S. Department of Transportation (“USDOT”) regulations, 49 CFR Part 192, Subpart L (Operations), Tennessee must maintain its pipeline easement to allow for aerial surveillance of pipeline conditions; to enhance its Damage Prevention Program; to facilitate planned cathodic protection surveys, and to allow access for both routine pipeline maintenance and emergency repairs. In compliance with the USDOT regulations, Tennessee conducts periodic maintenance mowing of its permanent easement on an average three to five year cycle, mechanical side trimming on a 10-15 year cycle, and limited herbicide applications as necessary.

Tennessee’s herbicide use is limited to specific circumstances, including:

- To treat weeds within compressor stations, meter stations, valve yards or other areas typically maintained as permanent stone/gravel.
- Significant infestations of poison ivy or other hazardous plants for safety concerns.
- Agency approved or permitted invasive species programs.

All herbicides are approved by the applicable federal and state agencies, including the USFWS and EPA, and applied by a licensed contractor. As applicable, a vegetation management plan is submitted and approved by agencies. This plan addresses the different types of vegetation control and strategies when applying these methods to sensitive areas.

Chemical control methods (e.g., foliar, pre-emergent, basal and Cut Stump Treatment) consist of herbicides applied as mixtures consisting of herbicide(s), adjuvants, carriers and additives. The following guidelines are observed in all herbicide applications:

- Herbicide applications are restricted within 100 feet of a wetland or waterbody, except as allowed by the appropriate land management or state agency.
- All herbicide applications are performed by experienced, trained vegetation management personnel with applicable pesticide applicator licenses or personnel working under the direct supervision of an appropriately certified pesticide applicator.
- The contractor is responsible for the proper disposal of all excess materials and solutions in accordance with all applicable federal and state laws, regulations and guidelines.
- The contractor is responsible for the proper calibration of equipment and/or herbicide application mixes.
- Mixing will take place according to all restrictions in applicable guidelines/regulation and/or according to the chemical labels.
- Herbicide applications will follow the target vegetation restrictions in the Commission’s Wetland and Waterbody Construction Mitigation Procedures.
- Herbicides are not applied to active pasture land unless permission is granted from the owner of the livestock. With permission, the only herbicides that may be used must be appropriately labeled for use in active pasture land.

Respondent: Matt Nowak

Title: Specialist-EHS Sr. II Phone: (860) 763-6024

Resource Report 2 - Water Use and Quality

38. Section 2.2.11 (pages 2-63 to 2-70) - Provide a discussion regarding blasting impacts on surface waters.

Response:

Blasting is a standard component of construction, including within and around waterways. Because of the small scale of the charges that will be used during pipeline construction, Tennessee does not expect blasting activities to alter the containment or flow of nearby lakes streams or rivers. Rock fracture resulting from blasting will be limited to the immediate area of the bore holes by the use of millisecond delays between charges: therefore, no dewatering or flow alteration is expected. It is possible that the seismic waves generated by the blast can temporarily increase turbidity and sedimentation in nearby waterbodies. If this occurs, suspended or loose particles are expected to settle out naturally near the construction work area. However, in some instances, turbidity and sedimentation may continue some distance downstream depending on the flow velocity at the time of the blast. However, Tennessee anticipates the increases in turbidity and sedimentation will be localized and no greater than naturally occurring increases in turbidity and sedimentation noted during precipitation or melt events.

Blasting will have temporary impacts to instream wildlife. Impacts may include temporary displacement from the work area, mortality, and temporary behavioral impacts such as breathing, breeding, and foraging. However, Tennessee anticipates the impacts to be very temporary and limited to the work area. Tennessee anticipates that wildlife will migrate from the construction work area to nearby available habitats during the drilling of the blast holes, and return to the work area immediately after stream restoration. Mortality to nonmobile species such as invertebrates and smaller fish may occur, but should be limited to directly within the work area and the mortality will be comparable to conventional pipeline installation without blasting.

Respondent: Stephen Holmes Title: Project Manager Phone: (205) 325-7420

Resource Report 2 - Water Use and Quality

39. Section 2.2.11 (page 2-63) - Clarify whether or not Tennessee Gas is currently proposing to cross all waterbodies with discernible flow via dry crossing methods. For example, the identified crossing methods for Towanda Creek (147-foot wide), Wyalusing Creek (81-foot wide), and Starrucca Creek (59-foot-wide trout stream) are wet open-cut methods. Correct these crossing methods or provide detailed rationale for why a dry crossing of each of these waterbodies is not feasible.

Response:

Tennessee is currently proposing to cross all waterbodies with discernible flow at the time of construction via a dry crossing method. However, since Tennessee has not yet had the opportunity to access each waterbody to assess constructability issues (due to landowner access issues), and Tennessee has not yet concluded consultations with all applicable federal and state agencies with regulatory authority over waterbody crossings, the decision to cross select waterbodies using a wet method may be determined the best option in the future. Should a crossing method be changed as a result of assessments and agency consultations, Tennessee will notify the Commission and make appropriate changes to the Project construction documents.

Towanda Creek and Wyalusing Creek were crossed using wet crossing methods during Tennessee's 300 Line Project and the Northeast Upgrade Project, respectively. During planning for both projects, Tennessee determined the best way to cross each stream was using a wet crossing, and those decisions were approved by the applicable federal and state regulatory authorities. Considering that the proposed Project crossing of Towanda Creek and Wyalusing Creek are at the same location as the previous two projects, Tennessee again has concluded that the crossing method should be an open cut wet crossing. This decision will again be submitted for approval by applicable regulatory agencies during the permitting process.

Tennessee has examined Starrucca Creek to determine the appropriate crossing method and has determined that a wet crossing is the preferred crossing method. Tennessee has considered other dry crossing methods, such as HDDs and flume, but those options have been determined to have a relatively low success rate as

compared to the open cut wet crossing. Tennessee is coordinating with the PADEP to conduct a site visit to Starrucca Creek in spring/summer 2016 to discuss the limitations of the crossing.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 2 - Water Use and Quality

41. Section 2.2.11 (pages 2-63 to 2-70) - Provide a discussion of mitigation measures for construction and operation impacts on reservoirs crossed by the Project.

Response:

Crossings of reservoirs will be constructed in a manner consistent with crossings of ponds and other large waterbodies. A discussion of waterbody construction and mitigation measures is included in Resource Report 2, Section 2.2.1.1. Crossing procedures will be selected based upon the site-specific conditions, as well as consultation with applicable regulatory agencies. Potential impacts will be mitigated through adherence to Tennessee's Project-specific Environmental Construction Plans ("ECPs") for each state and applicable permit conditions. In order to minimize impacts, construction will be expedited to the extent practicable, and equipment and activities occurring within the waterbody will be limited to that required to construct the crossing. Mobilization of construction equipment, trench excavation, and backfilling will be performed in a manner that will minimize the potential for erosion and sedimentation within the waterbody. Erosion control devices will be installed immediately after initial clearing of the workspace adjacent to the waterbody and will be properly maintained throughout construction and reinstalled as necessary until replaced by permanent erosion controls or until restoration of adjacent upland areas is complete. Appropriate setbacks will be implemented during construction activities, including restrictions on refueling, storage of hazardous materials, and concrete coating activities. Waterbody substrates, banks, and riparian zones will be restored to pre-construction contours immediately following completion of construction. Following construction, the right-of-way will be inspected in order to assess revegetation efforts, repair any erosion controls and/or perform restoration, as needed, in a timely manner.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 2 - Water Use and Quality

42. Section 2.2.11 (pages 2-63 to 2-70) - Provide a discussion regarding mitigation measures and permits that may be required for crossing Outstanding Resource Waters.

Response:

Outstanding Resource Waters ("ORWs") are defined in the Massachusetts Department of Environmental Protection ("MADEP") regulations, 314 CMR 4.00: Massachusetts Surface Water Quality Standards.

Mitigation measures for ORWs include avoidance of ORWs to the greatest extent. Any impact to an ORW will require the MADEP to grant a variance to the 401 Water Quality Certificate. In requesting a variance, Tennessee would be required to demonstrate that all alternatives to impacting the ORW have been explored, impacts have been minimized to the greatest extent possible, and mitigative measures are proposed to compensate for any loss of value of the ORW.

Respondent: Debi McCartney Title: Specialist-EHS Sr. II Phone: (713) 420-6723

Resource Report 2 - Water Use and Quality

44. Section 2.3.5.1 (page 2-88) - Provide discussion regarding the potential impacts of pipeline construction on wetland functions including, but not limited to, impact of hydraulic alteration during construction in forested wetlands, higher bulk density, lower depth of refusal, variations in soil moisture post-construction, and wetland drainage due to tree removal.

Response:

Tennessee does not anticipate any change in wetland function or value because of construction or operation of the Project. The only long-term impact would be the conversion of PFO wetlands to PSSIPEM wetlands within the permanent easement.

Considering that all wetlands, regardless of type, will be returned to pre-construction contours, and that there will be no crowning of the trenchline, or other surface soil alterations that impact wetland topography, Tennessee anticipates no surface hydraulic alteration in wetlands. Furthermore, the pipeline trench will be sealed with trench breakers at the wetland/upland interface, further lessening the chance of subsurface alteration of groundwater movement through the wetland.

During construction, Tennessee will utilize surface stabilization, such as timber mats, in the travel lane to lessen the possibility of compaction along the travel lane, and thus reducing the possibility of increasing the bulk density along the travel lane. During construction within a wetland, the only surface and subsurface disturbances will be directly in the trenchline and the removal of select tree stumps in the travel lane. The removal of select tree stumps is necessary to create a level working space on which the timber mats are placed. If the stumps remain, the work surface is uneven and creates a safety hazard for workers and equipment. During construction, the pipeline trenchline will likely exhibit a lower bulk density as compared to the rest of the wetland for a short time period until the interstitial spaces fill over time and the trench line soils have had a chance to settle. However, considering the fact that only herbaceous plants will be allowed to revegetate the trenchline during the operation of the pipeline, and the remainder of the wetland is undisturbed, Tennessee does not see this change in bulk density as having a negative impact on a PFO wetland function.

Depth of refusal will only change directly over the trench line in any wetland. Depth of refusal will change from that limited only by soil type, to a refusal at approximately 3 feet, for a linear length of approximate 3 feet directly over the pipeline, which corresponds to the top of the pipeline. However, again, considering that only herbaceous plants will be allowed over the trenchline, and that the refusal is limited to the trenchline, Tennessee does not see this as a factor that would change the function of a PFO wetland.

Soil moisture may change resulting from the removal of trees in PFO wetlands. Soil moisture will be impacted not only by direct evaporation, but also from transpiration resulting from a decrease in the number of trees in the wetlands. However, transpiration occurs with any vegetation type, herbaceous or trees, and all plants. Therefore, Tennessee believes that there will be a minimal impact to soil moisture as a result of the loss of transpiration in a PFO because the right-of-way will be revegetated with natural vegetation, including trees in temporary work areas, as required by regulatory agencies. Furthermore, Tennessee is required to ensure that wetland restoration is complete through annual monitoring required by the Commission and monitoring reports that will be filed with the Commission. If a problem exists, Tennessee is required to remediate it.

Tennessee will return all wetlands to pre-construction contours, thus eliminating the possibility of draining wetlands.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 2 - Water Use and Quality

47. Section 2.3.6.4 (page 2-90) - Provide a discussion regarding how bentonite waste would be handled during and after the drilling process, in and around waterbodies and wetlands. Discuss management plans and mitigation processes in the event of a spill.

Response:

Tennessee notes that Section 2.3.6.4 of Resource Report 2 included a reference that additional information regarding HDD crossing methodology can be found in Section 2.2.10.1.3 of Resource Report 2. Tennessee clarifies that the reference should have been to Section 2.2.11.4, Method 4: Horizontal Directional Drilling, of Resource Report 2.

Section 2.2.11.4 of Resource Report 2 generally discusses drilling fluid and its uses. Additional information regarding drilling fluid can be found in the Horizontal Directional Drilling Contingency Plan included as an attachment to each Project-specific Environmental Construction Plan. Each state-specific HDD Contingency Plan discusses topics such as general fluid composition, drilling fluid management plans, monitoring, minimization of environmental impact, mitigation processes in the event of a spill and disposal of excess drilling fluid.

Respondent: Angela Williamson Title: Project Manager - Engineering Phone: (713) 420-2093

Resource Report 2 - Water Use and Quality

58. Spill Prevention and Response Plans (SPRP) - Clarify the following information in the state-specific SPRPs:

- a. section 2.1 of each SPRP states: “spill prevention briefings with the construction crew will be scheduled and conducted by the Contractor to ensure adequate understanding of spill prevention measures.” Clarify how frequently briefings on spill prevention measures with the construction crew will occur; and
- b. section 3.0 of each SPRP states: “if a spill enters a body of water, the Contractor will immediately take samples upstream and downstream from point of entry and refrigerate samples. If advised, additional analysis will be completed and/or additional samples will be gathered.” Clarify:
 - i. the types of samples to be collected (e.g., water, streambank vegetation) in the event a spill enters a body of water;
 - ii. what analyses would be conducted; and
 - iii. which federal/state entity would advise whether additional analysis is required.

Response:

a: Tennessee will hold pre-construction environmental training for contractors and applicable construction personnel. This training will include instruction on the operation and maintenance of equipment to prevent the accidental discharge of fuel, oil, and lubricants. In addition, Tennessee contractors will hold daily “tail-gate” meetings to discuss safety, environmental compliance, spill prevention and/or other topics of importance. Preventative measures and lessons learned from past incidents will be discussed to instill Tennessee’s culture of safety and environmental compliance. Written records of pre-construction environmental training and all safety briefings will be maintained.

b(i): Tennessee will collect samples, such as water and soil, at the location of the spill or release. These samples may also be collected at shorelines, silt samples in shallow streams, and other similar locations, depending on the location and extent of the release or spill.

Tennessee will collect enough samples to adequately characterize the source, both vertically and horizontally, and the extent of impact. The number of samples will vary depending on each specific release and applicable sampling program needs.

When collecting soil and vegetation samples, it is often important to collect samples outside the impacted area. Such samples serve as controls and provide comparative background information. When spills occur to surface water sources, Tennessee will collect samples at:

- The point of greatest chemical or material concentration (some materials float on water, some materials sink).
- Several points at the apparent boundaries of impact.
- Points upstream or outside the apparent boundaries of impact.

b(ii): It is imperative to determine accurately the chemicals or materials involved in a spill, accurately estimate the quantity of the release, and compare it to the reportable quantity for a specific chemical or material.

Tennessee will collect and analyze environmental samples to:

- Determine the presence and extent of chemical or material impact.
- Guide cleanup activities during remediation programs.
- Determine if chemical concentrations are below regulatory levels.
- Characterize waste to determine proper handling and eventual disposal.

b(iii): Mandatory reporting requirements for releases into the environment are contained in the following federal statutes:

- The Clean Water Act (CWA)
- The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), referred to as Superfund
- The Emergency Planning and Community Right-to-Know Act (EPCRA)
- The Toxic Substance Control Act (TSCA)
- The Resource Conservation Recovery Act (RCRA)
- The Clean Air Act (CAA)
- The Hazardous Materials Transportation Act (HMTA)

Additional reporting requirements and notifications may be necessary to certain agencies depending on the nature and location of the release, as follows:

Location of Release	Agency Jurisdiction
Releases into coastal water	US Coast Guard
Releases during transportation	US Department of Transportation (USDOT)
Releases from pipelines	State Public Utilities Commission (pUC), the National Pipeline Safety Board, USDOT, Federal Energy Regulatory Commission (FERC)
Releases on federal leases or lands	Bureau of Land Management (BLM)
Releases on tribal lands	Bureau of Indian Affairs (BIA)

In general, releases greater than the federal or state-specific reportable quantity for a specific chemical or material must be reported to appropriate agencies immediately after discovery. Tennessee will work with the applicable federal and/or state agencies to determine if additional analysis is required and if required the extent of the additional analysis.

Respondent: Matt Nowak Title: Specialist-EHS Sr. II Phone: (860)763-6024

Resource Report 2 - Water Use and Quality

60. Responses to October Scoping Comments matrix (attachment A) - Explain why the potential risk of an inadvertent release of drilling muds justifies not using an HDD. Why is the potential risk at the Westfield River and Scott Pond greater than other proposed HDD crossings?

Response:

For an HDD installation to be successful, the HDD contractor must be able to control and manage the drilling fluid flow as these fluids are used to condition the ground, provide bore stability, and provide a means to remove the cuttings. For a typical HDD installation, control of drilling fluids is achieved by drilling a pilot bore at a depth of cover sufficient enough for the overlying earth to resist vertical fractures from requisite drilling fluid pressures. For typical HDD installations where an inadvertent release occurs, the HDD contractor can usually pull the drill pipe out of the bore, pump loss circulation material, and clean the bore to restore drilling fluid flow within the HDD bore. However, if sufficient depth of cover cannot be provided for

a waterbody crossing, the inadvertent return can be expected to produce all drilling fluids pumped down-hole at the point of overlying material integrity loss rather than at the HDD entry or exit location because the overlying geotechnical materials can no longer resist even the minimal required drilling fluid pressure. Conditions most likely to result in an inadvertent return include crossings with significantly steep and high slopes on either side of the crossing due to the elevation difference between the HDD entry/exit location and the waterbody crossing itself. Some inadvertent return flow pathways may not be able to be sealed by filling the void with heavier mud material. As a result, the drilling cuttings produced by the downhole tooling cannot be removed from the bore, and the fluid component will typically flow through the inadvertent return pathway until pressure equilibrium is reached. Inadvertent returns increase the risk of stuck drilling equipment, product pipe coating damage, high installation loads/stresses, stuck pipe conditions, and overall failed HDD. This is where the potential risk of an inadvertent release of drilling muds justifies not using an HDD.

Westfield River

The risk of an inadvertent release of drilling fluids to the Westfield River is significantly higher than observed at other river crossings due to the site topography (steep slopes) in the immediate area of the crossing. On the east side of the crossing, the ground surface slopes upwards at an angle of approximately 24 degrees and attains an elevation that is 250 feet higher than that of the river bottom within approximately 500 feet laterally away from the river's edge. On the west side of the crossing, the ground surface slopes upwards at an angle of 12 degrees and steadily climbs for at least 2,000 feet. A sufficient depth of cover is needed beneath the Westfield River to provide sufficient resistance to the required drilling fluid pressures necessary to facilitate the HDD installation. However, at the crossing location, the natural ground surface slopes are too steep and too high to allow for an HDD to attain sufficient depth of cover to resist the higher drilling fluid pressures. Locating the HDD entry and exit locations back from the river further in an attempt to increase the depth of cover actually increases the elevation difference between the HDD entry/exit locations and the river bottom. This increase in elevation difference results in greater drilling fluid pressures beneath the river, which in turn requires a greater depth of cover to avoid hydraulically fracturing the overlying geotechnical materials, leading to the higher inadvertent return risk at this crossing. Because of these conditions and the inability of the bore to achieve a sufficient depth beneath the waterbody to reduce the chances of experiencing an inadvertent return to the waterbody, the HDD construction method is not deemed to be feasible at this crossing location.

To validate Tennessee's assessment, this Westfield River crossing was discussed with an HDD contractor who commented that this crossing was not feasible as an HDD, due to the overwhelming risks associated with an inability to achieve sufficient depth of cover beneath the river, difficulties controlling and managing drilling fluids, and bore stability issues due to a lack of supporting drilling fluid column within the entire HDD bore.

Scott Pond

Tennessee provided a response to the following scoping comment with regard to Scott Pond:

Comments recommending that any lake crossings, such as Scott Pond in Fitzwilliam, not be subject to a dry crossing construction method.

Tennessee clarifies that the response inadvertently referred to the feasibility of the Cheshire Reservoir located in Cheshire, Massachusetts and now provides a corrected response below that relates to Scott Pond located in Fitzwilliam, New Hampshire:

Tennessee completed a crossing-unique review and analysis of watercourse crossing methods for various method feasibilities. A dry crossing method, cofferdam method, was selected for Scott Pond due to the shallow depth of water located at the crossing location. Dry crossing methods are well recognized throughout the industry and generally accepted crossing methods are designed with the highest practicable consideration for the biological, physical, and chemical integrity of the affected waterways.

Respondent: Angela Williamson Title: Project Manager, Engineering Phone: (713) 420-2093

Resource Report 3 - Fisheries, Wildlife, and Vegetation

1. General - Provide all information listed in RR3 (or in the Responses to Comments on Draft Resource Reports matrix; or the Responses to October Scoping Comments matrix) that Tennessee Gas has identified would be provided to the FERC (or include a schedule for submittal [unless already provided]), which includes, but is not necessarily limited to:
 - f. a list of common or representative plant species within the Project area;

Response:

Typical species compositions of vegetation natural communities normally found within the broad cover types and land use traversed by the Project are identified and discussed by state in Resource Report 3, Sections 3.3.1.1 to 3.3.1.5.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 3 - Fisheries, Wildlife, and Vegetation

1. General - Provide all information listed in RR3 (or in the Responses to Comments on Draft Resource Reports matrix; or the Responses to October Scoping Comments matrix) that Tennessee Gas has identified would be provided to the FERC (or include a schedule for submittal [unless already provided]), which includes, but is not necessarily limited to:
 - g. acreages of vegetative community types that would be crossed by the Project

Response:

Table 8.1-2 of Resource Report 8 summarizes land uses and acreage associated with the construction and operation of the Project.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 3 - Fisheries, Wildlife, and Vegetation

1. General - Provide all information listed in RR3 (or in the Responses to Comments on Draft Resource Reports matrix; or the Responses to October Scoping Comments matrix) that Tennessee Gas has identified would be provided to the FERC (or include a schedule for submittal [unless already provided]), which includes, but is not necessarily limited to:
 - j. a discussion of the measures that Tennessee Gas would implement to avoid, minimize, or mitigate impacts on eagle nests;

Response:

In 2015, Tennessee conducted aerial surveys for bald eagles and has not identified any nests within 660 feet of the proposed construction workspace. The nearest nest is located approximately 820 feet from the proposed construction workspace. Any necessary mitigation measures to avoid impacts to bald eagle nests will be determined in consultation with the USFWS. Tennessee will provide the Commission with the results of those consultations when complete.

Respondent: Mike Letson Title: Specialist EHS Lead Phone: (713) 420-5360

Resource Report 3 - Fisheries, Wildlife, and Vegetation

1. General - Provide all information listed in RR3 (or in the Responses to Comments on Draft Resource Reports matrix; or the Responses to October Scoping Comments matrix) that Tennessee Gas has identified would be provided to the FERC (or include a schedule for submittal [unless already provided]), which includes, but is not necessarily limited to:

- k. a discussion of measures that Tennessee Gas would take to avoid and minimize impacts on rare, sensitive, and federally and state-listed plants within the construction footprint

Response:

Tennessee has not completed agency consultations, or applicable listed species surveys, to adequately determine avoidance and minimization measures. When both the agency consultations and applicable surveys are complete, Tennessee will provide that information to the Commission.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 3 - Fisheries, Wildlife, and Vegetation

2. General- Describe how Tennessee Gas will survey/characterize specific fish, wildlife, and vegetation resources on parcels of land for which Tennessee Gas is not permitted survey permission by the landowner(s).

Response:

Tennessee would survey and characterize wildlife and vegetation resources in areas with no access following issuance of a certificate order in this proceeding. Once landowner access is obtained, Tennessee would conduct the biological and cultural surveys and provide the results of those surveys to the Commission and relevant regulatory agencies, as applicable. Tennessee notes that Resource Report 3 includes a description of the general assemblages of fish, wildlife, and vegetation resources in the Project area, which should serve as a good baseline for those resources on lands where no access is currently available.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 3 - Fisheries, Wildlife, and Vegetation

4. General - Expand the discussion of fisheries resources, as appropriate, to address the regulatory roles of the COE and applicable state agencies.

Response:

In Section 3.1.1 of Resource Report 3, Tennessee discussed fishery resources by state, describing the regulatory or managing agencies and their role in protecting, conserving, and managing fishery resources. In Section 3.1.2 of Resource Report 3, the federal and state agencies involved with protected fisheries of special concern and applicable regulatory requirements were identified.

Respondent: Debi McCartney Title: Specialist-EHS Sr. II Phone: (713) 420-6723

Resource Report 3 - Fisheries, Wildlife, and Vegetation

6. General - Discuss potential Project impacts on Massachusetts BioMap2 Species of Conservation Concern that do not meet the criteria for listing under the Massachusetts Endangered Species Act (MESA).

Response:

Massachusetts BioMap2 Species of Conservation Concern that do not meet the criteria for listing under the MESA do not have any regulatory protection unless the species or their habitat is otherwise protected through other legislation, such as the United States Endangered Species Act or the Massachusetts Wetlands Protection Act. If practicable, Tennessee will accommodate measures for avoiding or minimizing adverse impacts to Species of Conservation Concern that are not otherwise protected through legislation.

Respondent: Debi McCartney Title: Specialist-EHS SR. II Phone: (713) 420-6723

Resource Report 3 - Fisheries, Wildlife, and Vegetation

12. Section 3.1.3 (page 3-16) - As previously requested in our October 8, 2015 EIR, provide a discussion

about the potential effects of HDD crossing methods on riparian habitat at waterbody crossings. Potential effects include, but are not necessarily limited to, loss of habitat, increased erosion and sedimentation, and changes to water quality.

Response:

The intent of a HDD is to avoid impacts to sensitive features, such as wetlands, waterbodies, riparian habitats, and threatened and endangered species. During an HDD, the only direct impact to riparian habitat would be the hand cutting of select small shrub/brush to facilitate the guide wire, and, if permitted by the regulatory agencies, a small path to the waterbody for water withdrawal used for HDD activities and possibly hydrostatic testing. However, both of these activities usually do not involve the cutting of large trees. Tennessee does not anticipate any increased erosion/sedimentation as a result of an HDD, as there are no energy sources from the HDD that would contribute to these processes.

There would be no loss of riparian habitat, unless the HDD is located within the riparian area, which would need regulatory approval. If an HDD is located within a riparian area, the temporary workspace would be replanted with native vegetation, in coordination with the applicable regulatory agency. Thus, there would be only a temporary impact on habitat, and no loss of habitat.

Impacts to water quality within a riparian area are only possible if the riparian area is inundated at the time of construction, and then there are only a limited number of activities that could potentially impact water quality. An inadvertent return of drilling fluid within an inundated riparian area would temporarily increase turbidity and sedimentation. To eliminate the possibility of hydrocarbon impacts to inundated riparian areas, Tennessee would adhere to the Commission's Plan and Procedures, incorporated in the Project-specific Environmental Construction Plans for each state, which use general best management practice ("BMP") housekeeping measures, such as secondary containment, no unmonitored refueling, no storage of hydrocarbons within 100 feet of a wetland or waterbody. All of these BMPs would be closely monitored by the environmental inspector.

In the event of an inadvertent release of drilling fluids in a riparian buffer, whether the area is dry or inundated, it may be necessary to cut small vegetation to facilitate cleanup. However, every effort would be made to avoid vegetation clearing. The removal of drilling fluids would be conducted in a manner with the least amount of impact and in consultation with regulatory agencies. There have been instances where the cleanup of an inadvertent release of drilling fluids would cause more environmental impact than leaving the release in place and have it dissipate naturally, a decision that will be made in consultation with the applicable regulating agencies. In any event, since drilling fluids are a combination of bentonite clay (and inadvertent material) and water, there would be little impact to riparian areas.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713)420-5360

Resource Report 3 - Fisheries, Wildlife, and Vegetation

14. Section 3.1.3 (page 3-16) - Provide a discussion of potential construction impacts on fishery resources associated with blasting that includes:
- a. a description of the expected timing of blasting relative to pipeline installation within and adjacent to the waterbody;

Response:

Blasting activities will typically occur near the end of clearing and grading activities, but may precede trench excavation by several weeks. Within waterbodies, bedrock will typically be shot as close as practicable to excavation of the bedrock and installation of the pipeline to minimize disturbance of the waterbody. Blasting is a standard component of linear construction, including within waterways. Without comprehensive subsurface investigation, which would be invasive and impractical for a linear project in the planning and permitting phase, it is impossible to determine the locations where rock will be encountered in the trench in uplands, wetlands or waterbodies. Therefore, exact locations required to be blasted are not deter-

mined until the time of construction. Once clearing of the pipeline footprint has progressed, test drills are performed to determine where blasting will be required. These locations are then drilled and blasted prior to main line trenching operations. In this way, when trenching operations begin, the work can proceed quickly and efficiently, minimizing construction time.

In order to minimize potential impacts during blasting activities, Tennessee will implement measures as outlined in the Project-specific Environmental Construction Plans (“ECPs”) for each state, including the Blasting Management Plans, located in Appendices J, K, L, M, and N to the Environmental Report, and applicable permit requirements. It is not anticipated that in-stream blasting activities will take place outside of the timeframes outlined in Tennessee’s Projects specific ECPs. However, if any crossings are required to take place outside of the specified timeframes, Tennessee will consult with the applicable agencies to obtain concurrence to proceed with construction outside of the specified timeframes. Tennessee anticipates the immediate effects of the blasting procedures to be minimal and localized within the pipeline trench and right-of-way. Controlled charges would be placed adjacent and below stream beds with minimal disturbance to the stream channel. Mobile aquatic resources would be manually restricted from the blasting area as much as is possible immediately prior to blasting. Potential impacts to fish and other aquatic life would be limited to the area of the trench line and the right-of-way and may include temporary displacement of the fish and other mobile species, temporary disruption of aquatic habitat for both fish and invertebrates, and temporary interruptions to feeding. However, considering the localized nature of the blasting, and the availability of adjacent habitat surrounding the Project area, Tennessee believes that the aquatic habitat within the trench and right-of-way will return to pre-construction conditions quickly.

Respondent: Stephen Holmes Title: Project Manager Phone: (205) 325-7420

Resource Report 3 - Fisheries, Wildlife, and Vegetation

14. Section 3.1.3 (page 3-16) - Provide a discussion of potential construction impacts on fishery resources associated with blasting that includes:

- b) a discussion of the effects of streambed blasting on fish and wildlife species, including sensitive fisheries and state-listed threatened or endangered wildlife species; and

Response:

Blasting in waterbodies may have the following impacts on fish and wildlife, regardless if they are sensitive or listed species: mortality, displacement, interruption in feeding, interruption in spawning, and temporary behavioral impacts caused by turbidity such as breathing and foraging. However, these impacts from blasting are temporary and local to the trenchline. Generally, there is sufficient habitat in the stream for fish and wildlife species to migrate to during blasting and construction, and that the drilling of blast holes will effectively move these species from the area prior to blasting. Further, Tennessee is not aware of any sensitive or state-listed species within Project waterbodies as the field surveys are not complete. Once surveys and consultations with the applicable agencies are complete, Tennessee will be able to better assess the potential of blasting on listed species.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 3 - Fisheries, Wildlife, and Vegetation

14. Section 3.1.3 (page 3-16) - Provide a discussion of potential construction impacts on fishery resources associated with blasting that includes:

- c) a description of the applicable requirements and permit conditions for in-water blasting operations. Explain how Tennessee Gas would abide by these conditions.

Response:

Tennessee has not applied for blasting permits; therefore, permit conditions are not available. Blasting

permit applications will be submitted closer to the start of construction, after a blasting contractor has been selected. Tennessee will abide by permit conditions through contractor training, tailgate training, and tailgate meetings conducted prior to stream crossings where blasting is necessary. All permits will be incorporated in the construction contract.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 3 - Fisheries, Wildlife, and Vegetation

15. Section 3.1.3 (page 3-17) - Tennessee Gas states that they would limit vegetation maintenance of the permanent right-of-way to within a 25-foot riparian strip adjacent to the waterbody, as measured from the waterbody's mean high water mark. Clarify whether this measurement would be made laterally or topographically.

Response:

Tennessee clarifies that this measurement will be made topographically.

Respondent: Mike Letson Title: Specialist-EHS lead Phone: (713) 420-5360

Resource Report 3 - Fisheries, Wildlife, and Vegetation

19. Clarify whether or not Tennessee Gas would implement the NHFG's recommendations intended to minimize potential impacts on streams containing populations of wild brook trout in New Hampshire.

Response:

Tennessee will continue to consult with the NHFG to identify and determine appropriate mitigation in order to minimize potential impacts on streams containing wild brook trout in New Hampshire. At this time, Tennessee has not adopted all of the recommended measures.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-4360

Resource Report 3 - Fisheries, Wildlife, and Vegetation

20. Section 3.2 (page 3-20) - Define the criteria used to classify an area as 'sensitive wildlife habitat.'

Response:

The phrase "sensitive wildlife habitat" is defined in the Commission's Guidance Manual for Environmental Report Preparation ("Guidance Manual"). The Guidance Manual requires that an applicant identify and describe "significant or sensitive habitats" and notes that "these may include habitats that provide breeding, rearing, nesting, or calving areas, migrations routes, or overwhelming cover or forage areas." The Guidance Manual also requires that an applicant identify national wildlife refuges, state wildlife management areas ("WMAs"), or privately owned management areas or preserves. For the Project, Tennessee determined these sensitive habitat locations and locations of wildlife refuges IWMAs/preserves through consultations with federal and state agencies, comments filed in the pre-filing and certificate proceedings, and review of public GIS and state databases.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 3 - Fisheries, Wildlife, and Vegetation

26. Clarify whether or not the Rensselaer Plateau Alliance has requested consultations with Tennessee Gas regarding potential Project impacts on the Rensselaer Plateau. Provide documentation of this consultation if it has occurred.

Response:

Tennessee has not received any correspondence or consulted with the Rensselaer Plateau Alliance. Ten-

nessee did receive a comment from the Rensselaer County Department of Health regarding the Rensselaer Plateau. The comment from the Rensselaer County Department of Health and Tennessee's response to the comment is set forth below:

Comment from the Rensselaer County Department of Health --

Impact on the Rensselaer Plateau. As we all know Rensselaer County is blessed with this very rare and sensitive ecological system/area. There was a report by David Hunt concerning what he believes the potential impacts of this proposed pipeline (which currently traverses this area) will have on the ecosystems. I believe this is a topic best suited for the Environmental Management Council (EMC) to investigate and make recommendations on. There is additional concern that on small water crossing the use of open trench as opposed to directional bore. This is a much more impactful process and should be determined prior construction.

Tennessee's Response --

Tennessee is actively engaged with the New York State Department of Environmental Conservation (NYDEC) and understands the sensitive nature of this region. Tennessee will continue to consult with applicable agencies to minimize the impacts in this region. All waterbody crossings shall be assessed in a similar manner. Proposed crossing methods will be presented and will be selected on many factors including the level of impacts to the surrounding environment and safe constructability.

Respondent: James D. Hartman Title: Agent - Right of Way Sr. II Phone: (860) 763-6033

Resource Report 3 - Fisheries, Wildlife, and Vegetation

27. Section 3.2.2.3 (page 3-44) - A portion of the proposed pipeline right-of-way near Segment H, MP 12.7 is located adjacent to, and abutting, the Bitzer Area of the Montague Plains Wildlife Management Area (WMA). The Bitzer Area is a scrub-oak vegetative community that is actively treated with prescribed fire for both conservation and research purposes. In its response to the October 8, 2015 EIR, Tennessee Gas states that, "pipeline operation will not impact or be impacted by the use of prescribed fires for habitat management." Provide a discussion along with supporting documentation (if applicable) to support this statement. In addition, discuss potential impacts that prescribed burning in the vicinity of the Project could have on Project construction, as well as any impacts the Project construction could have on prescribed burning practices as previously requested in our October 8, 2015 EIR.

Response:

The Project is currently proposed to cross the Bitzer Area of the Montague Plains Wildlife Management while paralleling the southern side of the Eversource powerline corridor as it bisects the WMA to the northwesterly side of the Bitzer Area. The Fire Management Plan ("Plan") for the Montague Plain Wildlife Management Area (from July 2003) is located on the University of Massachusetts website (<http://www.massachusetts.edu>) that depicts the Bitzer Area. This Plan sets forth planned burn timing by month for each section of the Bitzer Area.

The Project's pipeline centerline and temporary workspace crosses through the prescribed burn area from approximately MP 12.6 to MP 12.7 where the burn area crosses Plains Road and extends northerly until it reaches the powerline corridor. The remainder of the pipeline centerline and construction footprint is outside of the WMA's prescribed burn area.

Tennessee, along with other pipeline operators, has extensive experience in operating and maintaining pipelines that cross prescribed burn and wild fire areas. Through this experience, Tennessee has found that fast moving fires, such as those encountered during controlled or prescribed burns, have negligible impacts to the buried pipeline because of the surrounding soils absorb the heat energy.

Tennessee will work with representatives from the WMA with regards to the timing of construction across this area so as to optimize the construction window versus the prescribed burn time frame, up to and including delaying or accelerating constructing in this area to work around the burn timing. Additionally, by the

nature of construction, the pipeline construction corridor will be removed of all vegetation down to bare soils in the early stages of the construction progress and will remain that way through completion of construction until cleanup and restoration activities commence.

Respondent: David L. Penning Title: Principal Project Manager Phone: (713) 420-6560

Resource Report 3 - Fisheries, Wildlife, and Vegetation

30. Section 3.2.2.4.6 (page 3-51) - Clarify whether or not Tennessee Gas has or will use publicly available online vernal pool location data provided by the Harris Center for Conservation Education as part of its impact assessment on vernal pools in New Hampshire.

Response:

Tennessee has not yet used the publicly available online Harris Center for Conservation Education data, but will use this data for future vernal pool assessments,

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 3 - Fisheries, Wildlife, and Vegetation

34. Section 3.2.2.7 (page 3-57) -Clarify whether or not mitigation measures would be used to minimize the impacts of 24-hour operational lighting in environmentally sensitive areas. If so, identify what measures would be used at each type of Project facility. Identify all sites classified as environmentally sensitive, and provide a justification for this classification.

Response:

Lighting will be installed at compressor stations. Compressor stations are monitored remotely, but the compressor stations do require, for security purposes, a certain amount of yard lighting at night. Tennessee is proposing to install special directional light fixtures at compressor stations. The low illuminating lighting will be installed above the doors and possibly at the building corners. These lights will remain on throughout the night. The directional lighting shields the bulb from view so that only indirect light will be visible outside the property line. Yard lighting will be installed as well. The yard lighting, for safety reasons, will be operational only when Tennessee personnel are present. These measures will be implemented at all proposed compressor stations, including those with environmentally sensitive features in the vicinity.

Respondent: Bill Thomas Title: Project Manager, Senior II Phone: (713) 420-6105

Resource Report 3 - Fisheries, Wildlife, and Vegetation

35. Section 3.2.2.7 (page 3-57) - Provide a discussion of the potential impacts on wildlife during Project operations due to the loss of native vegetation and plant diversity.

Response:

Tennessee does not anticipate impacts to native wildlife or plant assemblages during Project operations due to a loss of native vegetation or plant diversity that occurs during construction of the Project. Tennessee intends to obtain native plant seed mixture recommendations, and, if necessary, tree/shrub species recommendations, from the applicable state regulatory agencies, and use these seed mixtures and/or tree recommendations to revegetate the easement. These mixtures will include native vegetation found in the area, if possible, and provide for a diverse assemblage of plants along the pipeline easement. Once the easement is restored to agency satisfaction, normal pipeline operations will not impact the wildlife or vegetation assemblages.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 3 - Fisheries, Wildlife, and Vegetation

40. Section 3.2.2.8 (page 3-59) - State whether or not Tennessee Gas would conduct tree surveys prior to tree removal to assess presence of nesting sensitive and/or rare species.

Response:

Tennessee does not intend to conduct tree surveys for nesting sensitive and/or rare species prior to tree removal activities. Sensitive and rare species will be identified during the applicable survey windows prior to construction and in consultation with the applicable management agencies, and construction limitations will be developed in consultation with these agencies to avoid impacts to known species. Further, Tennessee will fell trees during the clearing windows prescribed by the U.S. Fish and Wildlife Service.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 3 - Fisheries, Wildlife, and Vegetation

44. Section 3.3.2.1 (page 3-74) - Clarify whether or not any Pennsylvania Wild Plant Sanctuaries would be crossed by the proposed Project. If applicable, provide any additional avoidance or minimization measures Tennessee Gas would implement in these areas.

Response:

Tennessee is not aware of any designated Pennsylvania Wild Plant Sanctuaries that may be crossed by the proposed Project. Tennessee will continue to consult with appropriate agencies in order to identify sensitive resources that may be located in the Project area. In the event that a designated Wild Plant Sanctuary is identified, Tennessee will consult with the Pennsylvania Department of Conservation and Natural Resources and other appropriate agencies in order to identify suitable avoidance or minimization measures.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713)420-5360

Resource Report 3 - Fisheries, Wildlife, and Vegetation

47. Section 3.3.2.4 (page 3-83) - Clarify whether or not the New Hampshire Natural Heritage Bureau (NHNHB) requested Tennessee Gas to implement impact minimization or avoidance measures at the proposed crossing of the Red Maple - Sensitive Fern Swamp in Hillsborough County, New Hampshire. Provide copies of all related agency correspondence.

Response:

A Rare Plant Survey Protocol was submitted to the NHNHB for review on July 27,2015, which included provisions for surveys of identified natural communities. The NHNHB provided comments on the survey protocol to Tennessee on October 14,2015. Within those comments, NHNHB requested that any Exemplary Natural Communities or Systems whose bounds occur within the proposed alignment or corridor should be surveyed and delineated. Results of the botanical surveys will be provided directly to the NHNHB. Based on the results of field surveys, Tennessee will consult with the NHNHB in order to develop appropriate avoidance or mitigation measures. At this time, site-specific minimization or avoidance measures have not been developed for the Project.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713)420-5360

Resource Report 3 - Fisheries, Wildlife, and Vegetation

48. Section 3.3.3 (page 3-86) - Provide a comprehensive list of herbicides that could potentially be used. Clarify whether or not the chemical metsulfuron-methyl would be used.

Response:

Tennessee currently uses the following herbicides, where authorized: 1) Garlon, Escort, 2, 4-D Peptoil or 2) Pramitol, Glyphosate, 2, 4-D Peptoil. Metsulfuron-methyl is not used. Tennessee may request additional herbicides on a case-by-case basis, all of which would be subject to approval by applicable regulatory

agencies.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 3 - Fisheries, Wildlife, and Vegetation

50. Section 3.3.3 (page 3-86) - Provide a discussion of the potential for the introduction and/or spread of invasive plant species associated with operational mowing activities.

Response:

There is a possibility of the introduction and/or spread of invasive plant species during operational mowing activities. Tennessee's Project team will coordinate with its operational staff to identify areas along the Project that were identified as having invasive plant species infestation, and manage the mowing activities to lessen the possibility of the spread of the invasive plants. Further, mowing contractors will be consulted to ensure they are not introducing exotic species from previous work.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 3 - Fisheries, Wildlife, and Vegetation

56. Section 3.3.3 (page 3-86) - In its Responses to Scoping Comments - June 30 through October 1, 2015, Tennessee Gas states that it would, "evaluate selectively leaving some trees on a case-by-case basis." Provide a discussion that includes the following:

- a. a description of the methods and criteria that would be used for these evaluations, taking into consideration the trees' ecological, aesthetic, health, economic, and cultural values in the area;
- b. a description of the specific types of situations in which Tennessee Gas would and would not conduct such evaluations; and
- c. clarification as to whether or not affected landowners would be included in all parts of the evaluation process. If the landowners would not be included in all parts of the evaluation, describe the extent to which landowners would participate in the process.

Response:

- a. Construction of the Project would require tree clearing activities within the entire construction ROW, which includes the temporary workspace/additional temporary workspace ("TWS/ATWS"). During its construction design review, Tennessee will evaluate selectively leaving certain trees along the edge of cleared construction ROW, including TWS/ ATWS, on a case-by-case basis, as requested by affected landowners. Where the pipeline crosses forested areas, Tennessee would work with the affected landowner to determine if there are specific trees located along the edge of the construction ROW, including TWS/ ATWS, which can be maintained to minimize the linear effect of the ROW. In areas containing specific trees of cultural, economic, or residential value, Tennessee would work with the affected landowner to determine if specific, individual trees located along the edge of the construction ROW, including TWS/ATWS, can be maintained.
- b. Tennessee is proposing to clear the full construction ROW, including TWS/ATWS as follows: (1) in forested areas where the construction ROW traverses steep terrain, (2) in areas where the construction ROW traverses a side-slope, or (3) any areas where leaving trees would create a safety hazard for Tennessee's contractor. In other areas, Tennessee would evaluate requests from affected landowners to selectively leave certain trees along the edge of the construction ROW.
- c. Tennessee will first evaluate its construction requirements along the length of the Project ROW to determine where selectively leaving certain trees along the edge of the construction ROW which will not impact construction and where select trees could remain within the construction ROW as requested by affected landowners.

Respondent: John Jermyn Title: Project Manager-Engineering Principal Phone: (719) 667-

Resource Report 3 - Fisheries, Wildlife, and Vegetation

57. Section 3.3.4.3 (page 3-90) - Tennessee Gas states that it will, “ ... develop a plan for stabilization of construction areas with and/or without seed mixtures.” However, in its Responses to October 2015 Scoping Comments matrix, Tennessee Gas states that, “all TWS and ATWS areas will be reseeded and/or replanted during restoration activities.” Clarify this apparent discrepancy.

Response:

Tennessee intends to plant all disturbed areas of the construction right-of-way, including TWS and ATWS areas, during the restoration phase. Plantings may include native seed mixtures and/or native tree plantings, depending on the permitting requirements from the regulating agencies.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 3 - Fisheries, Wildlife, and Vegetation

63. Section 3.4.2 (page 3-105) - Provide a discussion of potential Project-related construction and operation impacts on the herd of sensitive Newfoundland Ponies located, “ ... more than 0.25 mile from the Project.” The discussion should include, but not necessarily be limited to, impacts associated with noise, air quality, light, vegetation, and safety (i.e., the ability to evacuate, if needed).

Response:

The Villi Poni Farm, which houses the Newfoundland Ponies, is located approximately 1.2 miles from the proposed Project pipeline and compressor station; thus there are no direct or indirect impacts to the farm or the ponies anticipated from construction and operation of the Project. Considering that Tennessee will comply with the Commission’s noise regulations regarding the proposed compressor station, Tennessee believes that it is highly unlikely, given the distance between the farm and the proposed compressor station, that noise will impact the farm or the ponies. Further, air quality will be in compliance with applicable federal and state requirements; therefore, no impacts from air emissions are expected to the farm or the ponies from Project construction and operation. The proposed compressor station is being designed to mitigate light pollution; therefore, no impacts to the farm or ponies are anticipated, especially considering the distance of the farm from the proposed compressor station.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 3 - Fisheries, Wildlife, and Vegetation

65. Section 3.4.2.1.7 (pages 3-110 and 3-111) - Clarify whether or not Tennessee Gas would adhere to all applicable recommendations and guidelines in the U.S. Fish and Wildlife Service’s 2007 National Federal Bald Eagle Management Guidelines.

Response:

Tennessee would commit to applicable recommendations and guidelines from the U.S. Fish and Wildlife Service’s (“USFWS”) 2007 National Federal Bald Eagle Management Guidelines after the consultations with the appropriate USFWS office are complete. To date, Tennessee has not identified any bald eagle nests within 660 feet of the pipeline right-of-way or aboveground facilities.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 3 - Fisheries, Wildlife, and Vegetation

70. Attachment 3B (table 3.4-8) - Discuss Tennessee Gas’ adherence with the following NHHB recommendations, if applicable:

- a. Move the proposed May survey dates for *Allium canadense* to late May to midJuly to ensure that the plants will have fully emerged at the time of surveys;
- b. Move the proposed October survey dates for *Solidago odora* to July to September to ensure that plants will not be senescing (or have already senesced) at the time of surveys;
- c. Conduct additional surveys between June and July for *Thalictrum revolutum* as this is now a New Hampshire state-listed endangered species.

Response:

- a. Tennessee will adhere to this NHHNB recommendation.
- b. Tennessee will adhere to this NHHNB recommendation.
- c. Tennessee will adhere to this NHHNB recommendation.

Respondent: Mike Letson Title: Specialist-EHS lead Phone: (713) 420-5360

Resource Report 4 - Cultural Resources

1. Address comments, such as one by Joe McGuire (20151016-4050) and the Town of Mason, New Hampshire (20151015-5110) that are concerned about how construction would impact property boundaries that are fieldstone walls built around agricultural fields and referenced in property deeds. Provide any information from coordination efforts with the appropriate state historic preservation offices on the mitigation and treatment plans.

Response:

In order to safely and efficiently install the pipeline, stone walls will have to be removed from the construction work area. The methods for removal of stone walls pre-construction and rebuilding post-construction will involve coordination between Tennessee and the affected landowner, and through consultations with the applicable SHPO office and the Commission Tennessee is in the process of evaluating stone wall/fences and will include that evaluation in Phase I Cultural Resource Reports to be filed with each state SHPO as well as the Commission. Ultimately, the applicable SHPO office will determine the significance of a stone wall, as well as the mitigation and treatment plans for each wall.

Respondent: Mike Letson Title: Specialist-EHS lead Phone: (713) 420-5360

Resource Report 4 - Cultural Resources

15. Provide copies of site forms for the three historic structures identified by map research that were relocated by Berger (sites HND-HA-2 in Hinsdale and PLF-HA-3 and PLFHA-6 in Plainfield) in Massachusetts, and assess if any of those sites are eligible for nomination to the NRHP.

Response:

The site forms for these three historic structures are not yet complete. The site forms will be completed when the Phase I Architectural survey report is completed and copies will be provided to the SHPO and the Commission.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 4 - Cultural Resources

16. Provide a schedule for when the “windshield” survey of historic architectural sites would be conducted in Massachusetts, and a report documenting results would be filed with the FERC and submitted to the SHPO. File the SHPO’s comments on the report with the FERC.

Response:

The historic architectural survey has been completed in Massachusetts in all areas where access is allowed.

Certain towns that have prohibited Tennessee's access: therefore, those areas have not been surveyed for historic structures. The historic architectural report is not anticipated to be finalized before the third quarter of 2016 and will be submitted when complete.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 5 - Socioeconomics

3. Section 5.7 (page 5-17) - File with the FERC the study commissioned by Tennessee Gas on property values entitled "A Study of Natural Gas Pipelines and Residential Property Values", by Steven R. Foster with LPC Commercial Services."

Response:

The report on property values entitled "A Study of Natural Gas Pipelines and Residential Property Values", by Steven R. Foster with LPC Commercial Services" is provided as Attachment 5-3 to this response.

Respondent: James D. Hartman Title: Agent - Right of Way Sr. II Phone: (860) 763-6033

Resource Report 5 - Socioeconomics

4. Section 5.7 (page 5-18) - Provide further discussion on the impact of compressor stations or other above-ground facilities on property values citing research or studies.

Response:

Tennessee commissioned Lincoln Property Company to review and prepared a report to evaluate the impact of compressor stations on the value of surrounding residential properties. This report entitled "A Study of Natural Gas Compressor Stations and Residential Property Values," conclude that proximity to a compressor station has no measurable, systematic impact on the value of residential property.

The report is based on a thorough review of more than 700 real estate transactions in Massachusetts and New Hampshire towns with existing compressor stations. The research included interviews with representatives from the assessor and building departments or other government representatives in each community to determine if the existing compressor station had an impact on property values and if any complaints had been registered by area residents for noise, vibrations, odors or other conditions that might impact the use and enjoyment of nearby residential properties. No issues were uncovered in these interviews. The conclusion of this study is that these compressor stations have no impact on residential property. A copy of the report is provided in Attachment 5-4 to this response.

Respondent: James D. Hartman Title: Agent - Right of Way Sr. II Phone: (860)763-6033

Resource Report 5 - Socioeconomics

5. Address the following Scoping Comments:

- a. Address public and agency concerns that local public services such as police and fire departments do not have the man power or necessary equipment to respond to pipeline or compressor station emergencies. Provide discussion on specific requirements of local emergency services in the case of a pipeline emergency. Discuss these requirements and the ability of various local communities to respond considering the information reported in table 5.3-1. Identify if Tennessee Gas plans to coordinate with local enforcement regarding security measures and the potential need for law enforcement to patrol near compressor stations or other aboveground facilities.

Response:

Tennessee has addressed public and agency concerns throughout the pre-filing (Docket No. PF 14-22-000) and certificate (Docket No. CPI6-21-000) processes of this Project. Tennessee has begun and will continue to discuss concerns such as man power, equipment, security measures, and increase of presence patrols with

local fire and police departments along the proposed Project route. In Section 5.3 of Resource Report 5, Tennessee stated that while there are short-term impacts on public services during construction, the anticipated demand for police, fire, and medical services is not expected to exceed the existing capability of the infrastructure in the Project area and that the Project area will sufficiently support these temporary increases in demand during construction. In the unlikely event of an incident, local emergency officials will be responsible for managing and protecting people (i.e., traffic control, handle injuries).

As described in Resource Report 11, Tennessee has established and maintains liaison with fire, police, and public officials in areas where it currently operates and will establish liaison in those areas where it currently does not have facilities.

Consistent with the provisions of Resource Report 5 and 11, Tennessee has begun to coordinate with first responders on steps on responding to a construction or gas pipeline emergency, and coordinating mutual assistance in responding to emergencies.

In addition, Tennessee held meetings in Keene, New Hampshire on February 3, 2016 and Hudson, New Hampshire on February 4, 2016 to discuss the concerns listed below. All towns along the proposed pipeline in New Hampshire, as well as towns that may provide mutual aid to the impacted towns, were invited to these meetings to discuss the following:

- How pipeline, gas system, and related infrastructure work.
- Planning for pipeline emergencies, and how to react to an incident.
- Mutual aid response to a pipeline community (what should the department expect).
- Future pipeline emergency and safety training (should the Project receive approval).

Tennessee will continue this communication effort with all towns along the Project route.

In addition, Tennessee provided the following information on security concerns in its responses to scoping comments that were submitted with the November 20, 2015 certificate application:

Tennessee's security program employs security measures consistent with the Transportation Security Administration's ("TSA") Pipeline Security Guidelines. Tennessee has established security plans in place to address numerous threat vectors. Details concerning specific security measures are protected against unauthorized disclosure. Security measures are designed to mitigate risks, threats and vulnerabilities at baselines and increased threat levels. Tennessee's security plan and assessment process is a risk-based approach designed to deter, detect, and delay potential threats to assets; reduce vulnerabilities; and to ensure resiliency to the maximum extent possible. Tennessee has an established incident reporting system involving security information and threats. Additionally, Tennessee incorporates the elements of the National Terrorism Advisory System within the process to communicate threatening situations. Compressor stations (as well as other above-ground facilities such as meter stations and remote controlled valves) will have security fences installed around the perimeter of each operating area with locked gates for entry. Compressor stations will have card readers and security cameras for entry control, and they will have intrusion alarms on key buildings that communicate to local area operations personnel, as well as TGP's gas control center. Additional security cameras may be installed based on design and security considerations; facilities needed at each site will be evaluated on a case-by-case basis.

Respondent: Samuel L. Johnson II Title: Project Management Specialist Phone: (713) 420-2254

Resource Report 6 - Geological Resources

3. Section 6.2 (page 6-31) - Provide a more detailed discussion on alternative methods to blasting. Include the methods that would be expected to be used to remove bedrock encountered by rock type (e.g., shales could be removed via methods A and B while weathered limestones and sand sandstone would be removed via method C and D). In addition, provide a discussion on bedrock removal methods that would

be used along the pipeline route in proximity to electrical transmission, cable, or pipeline corridors. Include a discussion of potential hazards to these types of facilities due to blasting and other rock removal methods and how Tennessee Gas would mitigate hazards to these facilities.

Response:

Rock removal methods from the pipeline right-of-way and trench are subject to rock’s hardness, continuity, cohesiveness, seismic velocity and degree of weathering, among other factors. Tennessee is not able to develop a definitive matrix of rock characteristics that will predict if a particular type of rock is rippable or removable by mechanical excavation until construction commences.

The table below provides various attributes of rock, and the effect the particular attribute has on the ability of rock to be effectively removed by mechanical excavation:

Attribute	Increased likelihood of effective mechanical removal	Decreased likelihood of effective mechanical removal
Hardness	Low	High
Continuity	Low	High
Cohesiveness	Low	High
Seismic Velocity	Low	High
Degree of Weathering	High	Low
Sheer Strength	Low	High
Sedimentary Rock	High	Low
Metamorphic Rock	Low	High
Igneous Rock	Low	High

Another factor for determining the rock removal method is the overall duration of the rock removal activity. For rock that is very difficult to remove by mechanical excavation (such as by ripping or hammering), blasting provides a safe, quick alternative that allows a construction spread to progress efficiently along the proposed pipeline corridor, reducing or minimizing the overall temporary environmental impacts of construction.

Tennessee will primarily use crawler mounted rotary wheel excavators to remove soil or easily rippable rock. If the rotary wheel excavator cannot efficiently remove the rock, an excavator or bull dozer may be used to help rip and fragment the rock ahead of the rotary wheel excavator.

Mechanical hammering or sawing may be used in certain cases where other mechanical excavation means fail, but both hammering and sawing are loud, slow, and generally inefficient, and would significantly prolong the temporary environmental impacts of construction.

Properly designed blasting charges can be safely implemented even in close proximity to other utility infrastructure, including other gas or liquid pipelines or electrical transmission equipment. When in close proximity to any structure, whether it be a building, pipeline or power pole, blasting charges will be designed in order to ensure the peak particle velocity (or “PPV”) does not exceed certain limits, as described in Attachments J8, K8, L8, M8 and N8 to Appendices J - N of the Environmental Report included with the November 20, 2015 certificate application. Peak particle velocities will be measured by blasting monitors in sensitive locations, as described in Attachments J8 - N8, to ensure that the calculated PPV does not exceed the actual PPV for any given set of charges. Dedicated third-party blasting inspectors will monitor contractor and blasting monitor compliance with the approved blasting planes). The greatest risk to any nearby structure is inadequate design to the blast charge and timing, resulting in higher than allowable peak particle velocities. During the routing and surveying phases of the Project, Tennessee locates the pipeline away from sensitive structures as much as practicable to further reduce the risk of impairment to nearby structures during construction. Tennessee has, in the past, safely conducted small scale blasting within fifteen feet of its existing high pressure natural gas pipeline. In the event a charge cannot be implemented that keeps the PPV below a

safe, allowable limit, mechanical excavation means will be used to remove the rock from the pipeline corridor, as necessary.

Respondent: Stephen Holmes Title: Project Manager Phone: (205) 325-7420

Resource Report 7 - Soils

7. Attachment 7B Tables 7.1-2 - All of the soils listed in this table have a Wind Erodibility Group of “#NA” which is not listed in the table notes and appears to be an error. Clarify this apparent discrepancy.

Response:

Footnote 5 of Table 7.1-2 includes the following note regarding the Wind Erodibility Group:

The potential wind erosion classification for each of the soils was determined by reviewing the physical soil properties data provided by the NRCS’s Web Soil Survey. The NRCS has grouped soils that have similar properties affecting their susceptibility to wind erosion. The soils assigned to group 1 are the most susceptible to wind erosion, and those assigned to group 8 are the least susceptible. N/A “Not Applicable” - referring to water crossings, urban soils and/or other no-soil features.

However, it appears the data for the Wind Erodibility Group column of Table 7.1-2 was inadvertently omitted from the table. This information will be updated and included in a supplemental filing.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 8 - Land Use, Recreation, and Aesthetics

9. Section 8.2.3 (page 8-49) - Provide updated information based on continued communications with landowners regarding modification to proposed workspaces.

Response:

As appropriate, Tennessee continues to communicate with affected landowners regarding the current survey phase of the Project. Since the referenced surveys are still ongoing, no formal update has been provided to landowner unless requested by the landowner.

During development of the Project, Tennessee requested survey permission from each landowner generally based on a 400-foot wide corridor. If the survey across their property stayed within the 400-foot wide corridor, landowners generally have not been updated. If workspace changes were identified that would extend outside the 400-foot corridor, then the landowner was contacted and permission was requested for areas outside the originally permitted survey corridor. When Tennessee begins its right-of-way acquisition phase, Tennessee will communicate further details regarding the permanent and temporary right-of-ways that are required to safely construction and maintain the proposed Project.

Respondent: James D. Hartman Title: Agent - Right of Way Sr. II Phone: (860) 763-6033

Resource Report 8 - Land Use, Recreation, and Aesthetics

10. Section 8.3.1.1.3 (page 8-68) - Clarify whether or not the information on Tewksbury town resources has been provided by Northern Middlesex Council of Governments. Provide the information or the anticipated schedule for providing it.

Response:

The Northern Middlesex Council of Governments provided maps of sensitive resources and planned development for the Town of Tewksbury to Tennessee via e-mail on April 10, 2015. A copy of that information is provided in Attachment 8-10 to this response.

Respondent: Debi McCartney Title: Specialist-EHS Sr. II Phone: (713) 420-6723

11. Section 8.3.1.1.3 (page 8-71) -Clarify what steps Tennessee Gas is taking to obtain records from the Town of Fitzwilliam and provide the information or the anticipated schedule for providing it.

Response:

Tennessee has obtained a copy of the document entitled, ‘‘Natural Resources Inventory Fitzwilliam, NH’’, The Natural Resources Inventory Committee, 2009. The table below summarizes the list of municipal conservation lands in Fitzwilliam, New Hampshire, identified on page 56 of the report.

Municipal Owned Lands in the Town of Fitzwilliam, New Hampshire

Property Name	Owned By	Acres
Gaseau Property	Town of Fitzwilliam	125.5
Katie Metzger Town Forest	Town of Fitzwilliam	244.0
Widow Gage Town Forest	Town of Fitzwilliam	59.0
Holman Meadow	Town of Fitzwilliam	9.5
Total	Town of Fitzwilliam	438.0

A summary of information regarding each of these municipally-owned lands and the proposed Project impact is set forth below:

Gaseau Property

The Gaseau Property lies in the easterly section of Fitzwilliam between Routes 12 and 119. This property consists of approximately 125.5 acres which border Scott Brook as it travels between the two highways. The land is mostly flat and is entirely wetland. Scott Brook is fairly deep here and winds through beautiful wildlife habitat. The brook is easily navigated by canoe and is a prime spot for viewing small wildlife and birds. In addition, the property offers a spectacular view of Mount Monadnock. The property was not suitable for building, and Mr. Gaseau donated it to the Town of Fitzwilliam in 1994.

The current proposed Project route crosses the Gaseau property. Tennessee has co-located the Project pipeline with an existing utility corridor through this property to minimize the impacts in this area. Any changes to the existing landscape will be minor and confined to minimal widening of the existing cleared ROW as necessary for safe construction and operation of the pipeline. Disturbed areas will be restored after construction is completed, as described in the Project-specific ECP for New Hampshire (Volume II, Appendix M to the Environmental Report). Tennessee will coordinate with the town regarding the proposed crossing of this area to assess any impacts to further avoid, minimize, or mitigate impacts.

Katie Metzger Town Forest

The Old Town Forest was given to the town by the Whitcomb family in 1977 and was officially designated as a town forest in 1992. That property consisted of approximately 69 acres which lie north of Route 119 and is entirely forested. The land is hilly and rocky with mostly hardwood and some hemlock.

The Katie Metzger Town Forest was purchased by the town in 2002. In 2008, it was officially established as a town forest. Much of that approximately 175 acre property was logged before the purchase.

This town forest now combines these two pieces of adjacent, town-owned conserved property, the Old Town Forest and the property originally called the Katie Metzger Town Forest. These forests were combined in 2005 and the combined forest is referred to the Katie Metzger Town Forest, totaling approximately 244 acres.

The Katie Metzger Town Forest is located approximately 1.7 miles from the Project. Since the Project will not cross this property, it will not result in any adverse impacts to this property.

Wilow Gage TownForest

This approximately 59 acre property lies in the northwest section of Fitzwilliam. The Widow Gage Road is a Class VI road that begins at the north end of Old Troy Road. The property lies on either side of this road. The land is very rocky and at one time was used for grazing sheep. Presently, hardwood dominates the property with a few apple trees near where the home site was located. The Metacomet-Monadnock Trail bisects the property 80 yards north of the home site. The beauty of this land lies in the secluded, peaceful setting and stone wall-lined hills.

The Fitzwilliam Hiking Trail Map ‘Little Monadnock-Widow Gage Loop,’ published by the Fitzwilliam Conservation Commission, charts a hiking trail that travels through this property.

The Widow Gage Town Forest is located approximately 1.2 miles from the Project. Since the Project will not cross this property, it will not result in any adverse impacts to this property.

Holman Meadow

This approximately 9.5 acre lot lies west of Royalston Road, south of Route 119 West. The land is mostly flat. This property was previously used for agriculture, but now is entirely wetlands. The Holman family used it as a hay field and grew corn for livestock. A brook running from Horseshoe or Boyce Pond on the easterly side of Royalston Road bisects the property. Beavers dammed the brook and caused extensive flooding which makes the land useless for agriculture. The Holman family donated the land to the town in 1989. The land could be used for nature studies.

The Holman Meadow is located approximately 3.2 miles from the Project. Since the Project will not cross this property, it will not result in any adverse impacts to this property.

Scenic Roads

The Fitzwilliam Master Plan suggests designating Templeton Turnpike, Rhododendron Road, and Old Troy Road as scenic roads in the future (page 57). These roads do not intersect the proposed Project pipeline route.

Respondent: Barry C. Duff Title: Principal Project Manager Phone: (713) 420-6027

Resource Report 8 - Land Use, Recreation, and Aesthetics

12. Section 8.3.1.1.3 (page 8-72) - Provide information regarding Town of Milford resources and results of consultation with NHDES.

Response:

Consultation letters were sent to the Town of Milford Health Department, in addition to the NHDES and appropriate county and local planning boards, requesting information on environmental resources, including, but not limited to: U.S. Environmental Protection Agency, state or municipal designated aquifers; state or municipal designated aquifer protection areas; surface waters that provide public drinking water supplies; state or municipal designated surface water protection areas; and any known existing or proposed public or private drinking water wells, reservoirs, or springs within 300 feet of the proposed Project alignment. The response received from the Town of Milford Health Department stated that the department does not have the personnel or financial resources to compile the requested town resource information and suggests contacting the NHDES. Tennessee has reviewed NHDES online information and continues consultation with the agency. Results of consultations and information obtained from online information regarding these resources were included in the discussion in Resource Report 2 (Sections 2.1.1.4, 2.1.5.1.4, and 2.2.6.1.4).

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 8 - Land Use, Recreation, and Aesthetics

13. Section 8.3.1.2 (page 8-81) - Provide further discussion of the impacts on Hanscom Air Force Base and

Camp Curtis Guild. Include updated information on the correspondence with the United States Air Force and the Army National Guard.

Response:

Camp Curtis Guild

The Project impacts to Camp Curtis Guild include the following:

- Installation of approximately 3,220 feet of 24-inch pipeline and the temporary workspace and permanent easement associated with the Lynnfield Lateral.
- Installation of approximately 1,419 feet of 24-inch pipeline and the temporary workspace and permanent easement associated with the Peabody Lateral.
- Take-up and relay approximately 1,100 feet of Tennessee’s existing 8-inch pipeline and replace with 24-inch pipeline associated with the Peabody Lateral.
- Installation of approximately 2,300 feet of workspace and permanent easement associated with cathodic protection facilities required for the Lynnfield Lateral and Peabody Lateral.
- Modifications to Tennessee’s existing meter station to measure gas flowing from the Lynnfield Lateral.

Representatives of Tennessee initiated contact with Camp Curtis Guild officials on March 3, 2014. Tennessee has requested survey access from Camp Curtis Guild officials, which was granted on May 5, 2014.

Hanscom Air Force Base

The Project impacts to Hanscom Air Force Base include upgrades to an existing meter station and required workspace.

Representatives of Tennessee met with representatives of Hanscom Air Force Base on September 9, 2015 to discuss the Project and Tennessee’s request for access to perform requested surveys. Tennessee continues to work with Hanscom Air Force Base officials to finalize a Right of Entry Agreement to perform the requested surveys.

Respondent: James D. Hartman Title: Agent - Right of Way Sr. II Phone: (860) 763-6033

Resource Report 8 - Land Use, Recreation, and Aesthetics

15. Section 8.3.2.2.2 (page 8-109) - Based on consultation with the New York State Department of Transportation, confirm whether any New York scenic byways would be crossed by the Project.

Response:

To date, consultations with the New York State Department of Transportation (“NYSDOT”) have not included discussion of effects on New York scenic byways. However, according to NYSDOT’s informational website regarding scenic byways, the Project will not be crossing through any New York scenic byways.

Respondent: Perry X. Luu, PE, PMP Title: Senior Project Manager Phone: (713) 420-7540

Resource Report 8 - Land Use, Recreation, and Aesthetics

17. Section 8.3.3.2.5 (page 8-120) - Clarify whether the statement that “Correspondence from Connecticut agencies has not identified particular easements on parcels in the Project area” means that they are not present or whether they just have not been identified. If the latter, explain how this information will be obtained. Clarify whether lands protected under Connecticut’s Farmland Protection Program are not present or just have not been identified. If the latter, explain how this information will be obtained.

Response:

Tennessee has determined, through title research, that no Connecticut agencies hold any type of conservation easement or deed restriction on any properties proposed to be crossed by the Project. Specifically, Ten-

Tennessee has determined that there are no properties protected by Connecticut's Farmland Protection Program on lands proposed to be crossed by the Project.

Tennessee has identified that two Connecticut agencies, the State of Connecticut Flood Control and the State of Connecticut Department of Energy and Environmental Protection, have fee ownership of properties proposed to be crossed by the Project. Tennessee has also identified that the Project will cross several tracts of land owned by the Metropolitan District, a public, nonprofit municipal corporation that provides drinking water and sewer systems in the Project area.

Respondent: James D. Hartman Title: Agent - Right of Way Sr. II Phone: (860) 763-6033

Resource Report 8 - Land Use, Recreation, and Aesthetics

18. Section 8.3.4.1.2 (page 8-121) - Provide updated information from discussions with the Church of Bethlehem regarding the types of impacts that might affect their property and the Elmwood Cemetery and discuss how these impacts would be avoided.

Response:

The proposed Project pipeline centerline is located approximately 1,500 feet from the physical church building. The proposed Project crosses a forested portion of the church property for approximately 1,650 feet.

Tennessee representatives have met or communicated with church representatives on five occasions, including a public meeting conducted by Tennessee in December 2015. The most recent correspondence from the Church is dated January 22, 2016, in which the church stated that its attorney would provide Tennessee information regarding the church's interpretation of the covenants and rules associated with the grant to the church by the Van Rensselaers dated 1763. Tennessee is awaiting receipt of the covenants and rules information from the church.

{map omitted, see links at end to download entire submission }

RR8-18 Elmwood Cemetery

The Elmwood Cemetery falls within the Project's 400 foot study corridor, but the Project does not cross the cemetery (see map below).

{map omitted, see links at end to download entire submission }

Respondent: James D. Hartman Title: Agent - Right of Way Sr. II Phone: (860) 763-6033

Resource Report 8 - Land Use, Recreation, and Aesthetics

19. Section 8.3.4.1.4 (page 8-122) - Specify how impacts on the Rindge Smallpox Cemetery would be avoided.

Response:

Tennessee's survey crews will quarantine the perimeter of the cemetery with extra flagging initially. Tennessee will have environmental and utility inspectors onsite during tree clearing, grubbing, and right-of-way grading and eventual clean-up to ensure there are no impacts to the cemetery.

Prior to starting construction, reinforced silt fence, backed up with straw and concrete jersey barricades, will be placed around the cemetery perimeter to protect it. A site-specific drawing will be created to identify the site and ensure it is protected. During weather events, inspectors would monitor the site as well.

Respondent: Barry C. Duff Title: Principal Project Manager Phone: (713) 420-6027

Resource Report 8 - Land Use, Recreation, and Aesthetics

22. Section 8.3.4.4 (page 8-130) - Clarify how the Villi Poni Farm "will be affected by the Project," but, "no impacts are expected."

Response:

The Villi Poni Farm, which houses the Newfoundland Ponies, is located approximately 1.2 miles from the proposed Project pipeline and compressor station; thus there are no direct or indirect impacts to the farm or the ponies anticipated from construction and operation of the Project. Considering that Tennessee will comply with the Commission's noise regulations regarding the proposed compressor station, Tennessee believes that it is highly unlikely, given the distance between the farm and the proposed compressor station, that noise will impact the farm or the ponies. Further, air quality at the compressor station will be in compliance with applicable federal and state requirements; therefore, no impacts from air emissions are expected to the farm or the ponies from Project construction and operation. The proposed compressor station is being designed to mitigate light pollution; therefore, no impacts to the farm or ponies are anticipated, especially considering the distance of the farm from the proposed compressor station.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 8 - Land Use, Recreation, and Aesthetics

23. Section 8.3.6 (page 8-131) - When discussing the coating on utility poles, clarify the specific distance meant by "minimal distance around the pole," and provide the estimated distances from the Project workspace to the utility poles during construction.

Response:

In most areas, the average minimal distance around a utility pole is 30 feet, and the estimated distance from the Project workspace to the utility pole is 30 feet as well; however, there may be areas where Project workspace is closer than 30 feet due to limited areas as a result of nearby structures and roads. In those cases, Tennessee shall ensure that there are no negative impacts on the coating of utility poles. Tennessee will consult with applicable power companies to determine those companies past experiences in mitigating and handling hazardous coating waste if encountered during construction and will comply with their best practices in working around the utility poles.

Respondent: Edwin Lobo Title: Principal Project Manager Phone: (713) 369_8313

Resource Report 8 - Land Use, Recreation, and Aesthetics

24. Section 8.3.6.2 (page 8-132) - Provide the results of contamination investigations by Tennessee Gas at the proposed Supply Path Mid Station, Supply Path Tail Station, and Market Path Head Station locations or a schedule of when they will be provided.

Response:

Supply Path Mid Station: A Phase I Environmental Site Assessment was performed on the proposed site for this compressor station, located off Sutton Road in New Milford, Susquehanna County, Pennsylvania, in general conformance with the scope and limitations of ASTM Practice E 1527-13. This assessment has revealed no evidence of Recognized Environmental Conditions or Controlled Recognized Environmental Conditions in connection with this property.

Supply Path Tail Station: A Phase I Environmental Site Assessment was performed on the proposed site for this compressor station, located off Terrace Mountain Road, Schoharie, Schoharie County, New York, in general conformance with the scope and limitations of ASTM Practice E 1527-13. As part of the assessment, a pile of partially buried debris, including an empty AST, wheels/axle from a piece of machinery, scrap wood and metal, and tires in a thicket in the southeastern portion of the property, was observed. No visual evidence of a hazardous materials release, staining or chemical odors were observed inside or in the immediate vicinity of the debris. However, due to the extensive nature of the type of materials, this debris is considered a Recognized Environmental Condition.

Market Path Head Station: A Phase I Environmental Site Assessment was performed on the proposed

site for this compressor station, located off Westfall Road, Wright, Schoharie County, New York, in general conformance with the scope and limitations of ASTM Practice E 1527-13. This assessment has revealed no evidence of Recognized Environmental Conditions or Controlled Recognized Environmental Conditions in connection with this property.

Respondent: Christine Snitkin Title: Project Manager Phone: (713) 420-3091

Resource Report 8 - Land Use, Recreation, and Aesthetics

25. Section 8.3.6.3 (page 8-133) - Provide results of contamination investigations by Tennessee Gas at the Market Path Tail Station or a schedule of when they will be provided. Provide information on the site investigations from MADEP or other sources.

Response:

The proposed location for the Market Path Tail Station in Dracut, Massachusetts is comprised of three separate lots (950, 960, and 970 Broadway Drive, Dracut, Massachusetts). The properties at 950 and 970 Broadway Drive both contain closed Massachusetts Contingency Plan (“MCP”) sites. Review of the closure reports for each property in the MADEP files revealed that these MCP site properties contain petroleum impacts in subsurface soil and groundwater from past uses of the properties, and assessment and remediation measures under the MCP have been conducted.

950 Broadway Drive is assigned release tracking number (“RTN”) 3-1070. RTN 3-1070 was closed with a Class A2 Response Action Outcome (“RAO”) in 1996. There appears to be no Notice of Activity and Use Limitation (“AUL”) associated with the property. Based on RTN 3- 1070, the contamination appears to be adjacent to Broadway Street and does not appear to extend to the area of the proposed Market Path Tail Station.

970 Broadway Drive has two RTNs assigned to the property:

- a. RTN 3-20281 - Closed with a RAO-Class B1 due to the discovery of a potable supply well at the adjacent 950 Broadway Drive property. The well was subsequently abandoned and the RTN closed with an RAO-Class B1 (i.e., risk based closure); and
- b. RTN 3-307 - Closed with a RAO-Class A3 and AUL (i.e., remedial actions conducted) in 2002.
- c.

Class-A3 RAO is a site where a permanent solution has been achieved; the level of oil and hazardous material in the environment has not been reduced to background, and an AUL is required to maintain a level of No Significant Risk.

Petroleum hydrocarbons have been detected in soil and groundwater in the past at the site, with the highest levels at the former loading rack area and pressure release tank area of the site (see Attachment 8-25 to this response [Geologic Services Corporation 1999]). Site investigation and remedial activities were completed at the site in the 1980s and 1990s. Release Abatement Measure (“RAM”) activities were completed in 1997, which consisted of the removal of approximately 415 cubic yards of soil impacted with petroleum hydrocarbons within those areas. Attachment 8-25 shows the petroleum impacted soil and the excavation areas. The contaminated areas are mostly located to the south, almost adjacent to Broadway Road within the Loading Rack area; there is another area of impacts south of the pressure release area for the tanks.

A Massachusetts Contingency Plan Method 3 Risk Assessment was completed for the site which indicated that a condition of No Significant Risk was achieved as long as an AUL was in place. The site was subsequently closed with a RAO-Class A3, which identifies the site as a site where a permanent solution has been achieved, the level of oil and hazardous material in the environment has not been reduced to background, and one or more AULs are required to maintain a level of No Significant Risk. An AUL for the site was recorded with the registry of deeds (book 13955, page 77) in November 5,2002.

The AUL has the following restrictions:

- The use of the property as a residence, school, nursery, daycare, recreational area, and/or other such use at which a child's presence is likely on a frequent basis is prohibited.
- Use for agricultural purposes is prohibited.
- Restrictions on excavations associated with emergency, short term (three months or less), or long term (greater than three months) underground utility and/or construction work which is likely to disturb the soil without a Soil Management Plan or Health and Safety Plan.
- Relocation of soil currently located on the site to another property, unless such activity is evaluated by an LSP who renders an Opinion which states that such relocation is consistent with maintaining a condition of No Significant risk.

The proposed development and operations of the Market Path Tail Station is consistent with the conditions of this AUL. The AUL area encompasses most of the property, although the majority of the impacts are in the southern portion of the property near Broadway Road. For this reason, additional environmental investigations are proposed to confirm the extent of contamination and if applicable, request to adjust the area of the AUL.

Some of the planned additional environmental investigations (i.e., soil sampling) are located within 100 feet of wetlands. A Request for Determination of Applicability was filed with the Dracut Conservation Commission in November 2015 and the Dracut Conservation Commission voted on December 2, 2015 to conditionally issue a Negative Determination to conduct the environmental investigations. Winter conditions set in prior to Tennessee satisfying all of the conditions for commencing the investigations. Tennessee will resume progress toward satisfying the conditions of the permit after winter 2015/2016.

References

MassDEP. 2013. Release Amendment Form for RTN 3 -307. June 28, 2013.

GEI Consultants, Inc. 1994. Phase 11 Comprehensive Site Investigation Report. December 29, 1994.

Geologic Services Corporation. 1999. Phase II-Comprehensive Site Assessment-Addendum and Method 1 Risk Characterization Report; Phase III-Identification, Evaluation, and Selection of Comprehensive Remedial Action Alternatives; and Class C Response Action Outcome Statement for RTN 3 -307. April 1999.

Exxon Mobil Corporation. 2002. Notice of Activity and Use Limitation for RTN 3 -307. November 5, 2002.

Respondent: Bill Thomas Title: Project Manager, Senior II Phone: (713) 420-6105

Resource Report 8 _ Land Use, Recreation, and Aesthetics

29. Address the following Scoping Comments:

- d. provide a discussion of impacts on Capital Region Career and Technical School, located at 174 State Route 30A in Schoharie, New York.

Response:

Tennessee plans to parallel the certificated Constitution Pipeline through the parcel located at 174 State Route 30A in Schoharie, New York. The proposed Project pipeline will be located approximately 50 feet south of the Constitution Pipeline and is proposed to use Constitution's workspace. Impacts on this parcel would include a 50-foot wide permanent easement for the pipeline. The permanent easement area encompasses approximately 51,000 square feet of land. Temporary workspace would encompass approximately 51,000 square feet of land and additional temporary workspace for the property would encompass approximately 31,000 square feet of land.

Respondent: Perry X. Luu, PE, PMP Title: Senior Project Manager Phone: (713) 420-7540

29. Address the following Scoping Comments:

- e. address concerns that the pipeline would destroy two ski trails that are necessary for beginner skiers to access the rest of the trails at the Windblown Cross Country Ski Area in New Ipswich, New Hampshire. Provide a discussion of impacts associated with the ski area's certification as a Tree Farm with the American Tree Farm System.

Response:

Based upon a review of the Windblown Cross Country Skiing and Snowshoeing area's website and the scoping comment, including a map of the trail systems, filed with the Commission on October 5, 2015, the proposed pipeline would cross the two trails perpendicularly. However, disruption of trail use would be limited to the duration of site preparation and construction activities. Tennessee will work with the landowner to minimize disruption to trail use by maintaining access during construction to the extent practicable, based upon the construction activity occurring. Further, Tennessee has co-located the Project with an existing utility corridor through this property, which will minimize impacts to the area. Any changes to the existing landscape will be minor and confined to minimal widening of the existing cleared right-of-way as necessary for safe construction and operation of the pipeline. After constructing the pipeline, Tennessee will make every reasonable effort to restore the right-of-way to its pre-existing original ground contours based on pre-construction survey data, photo/video data, and as required by, and in accordance with, the conditions imposed by the Commission in the certificate order, as well as other applicable agency permits and approvals. There will be no restrictions on skiing or snowshoeing across the pipeline once it is installed. As a result, the trails would not be permanently impacted by Project activities.

As discussed above, the proposed pipeline alignment for the Project pipeline in this area is along utility corridors and would be generally located five (5) feet outside the existing utility easement. Tennessee's permanent easement will generally be centered on the proposed pipeline. Postconstruction, the temporary workspaces will be allowed to return to their previous state. Trees will not be permitted to grow in the permanent right-of-way, however.

The American Forest Foundation's 2015-2020 Standards of Sustainability for Forest Certification ("Standards") promote the health and sustainability of America's family forests. Based on its review of the Standards, it is Tennessee's understanding that the Project will not have a negative impact on the certification if the Standards are adhered to during construction and operations. Tennessee notes that the ski area's operation has already been certified with the existing powerline right-of-way.

Respondent: Barry C. Duff Title: Principal Project Manager Phone: (713) 420-6027

Resource Report 8 - Land Use, Recreation, and Aesthetics

31. Appendices J through N (section 9.4) - Tennessee Gas states that in residential areas it would replace ornamental shrubs that have been impacted by Project construction 'where possible.' Identify the situation(s) in which Tennessee Gas would not replace ornamental shrubs. Clarify what types of plants would and would not be characterized as ornamental shrubs. Further, discuss the possibility of replacing other landscaped vegetation (other shrubs, perennial plants, and trees) damaged or destroyed by construction in residential areas.

Response:

Tennessee will not replace ornamental shrubs within the permanent easement areas. In general, ornamental shrubs are shrubs that were planted by the landowner, likely grown in a nursery, and serve as a lawn ornament to enhance the aesthetic value of the home. Native trees/shrubs that were not planted are not considered ornamental. During the landowner negotiations, Tennessee will work with each affected landowner to determine which plants need to be replaced within residential areas, such as within maintained lawn space. Tennessee will not replace ornamental shrubs, or plant trees or other shrubs in the permanent easement be-

cause of the need to monitor and mow the permanent easement.

Respondent: Mike Letson Title: Specialist-EHS Lead Phone: (713) 420-5360

Resource Report 8 - Land Use, Recreation, and Aesthetics

29. Address the following Scoping Comments:

g. provide a discussion of impacts on Woolman Hill Quaker Retreat Center in Deerfield, Massachusetts.

Response:

The Woolman Hill Quaker Retreat Center property is located at approximate MP 10 of Segment H of the Project.

The Project first impacts the retreat property at approximate MP 10 with the southernmost edge of permanent easement for the pipeline, as well as temporary work space (“TWS”) and additional temporary work space (“ATWS”) to the south of the permanent easement. The pipeline continues easterly along the retreat property boundary for approximately 1,000 feet where it crosses an un-named creek. Just west of that creek crossing, Tennessee is requesting a parcel of ATWS to allow for construction of the creek crossing. Following the creek crossing, the pipeline continues on its easterly path until exiting the retreat property near MP 10.3. A summary of the acreage proposed to impacted is set forth below.

The pipeline centerline, as filed in the November 20, 2015 certificate application, is not currently designed to be located on the retreat property. However, due to the designed layout of permanent easement, TWS, and ATWS, the retreat property will be impacted by the Project.

There is a small grove of trees (approximately 12 to 15 trees) that are located between the existing powerline corridor and the cleared area of the retreat property for approximately 200 feet next to the entry off Keets Road that will be removed to accommodate the permanent easement, TWS, and ATWS associated with the Keets Road crossing. Once construction is completed, only the permanent easement will be maintained. All TWS and A TWS will be restored and allowed to return to the pre-construction status.

Total Estimated Impacts on the Woolman Hill Quaker Retreat Center:

Estimated Permanent Easement	0.35 Acres
Estimated TWS	0.84 Acres
Estimated ATWS	0.30 Acres
Total Estimated Acreage Impacted	1.62 Acres

Respondent: David L. Penning, PMP Title: Principal Project Manager Phone: (713) 420-6560

Resource Report 8 - Land Use, Recreation, and Aesthetics

33. We have received numerous comments indicating that Tennessee Gas and/or its contractors have trespassed on private property. Provide an assessment of how frequently this may have occurred and a detailed outline of the steps Tennessee Gas is implementing to ensure that it will not happen in the future.

Response:

Tennessee has a strict policy against accessing private property without appropriate permission. Tennessee and its contractors strive for 100 percent compliance with this policy.

Tennessee is aware of the following access issues raised by landowners:

- On a property in the Town of Nassau, Rensselaer County New York where survey permission was granted for a 400 foot study corridor, a wetland delineation crew flagged outside the authorized survey corridor and a subsequent civil survey crew collected data on those wetland flags that were set outside the approved survey corridor. The landowner then rescinded permission for Tennessee to access all areas of this property.

- After survey began, Tennessee was informed that portions of a road located in Milford County, Hillsborough, which were originally believed to be public, were actually public and private. The proposed Project crosses a public portion of this road. Landowners raised concerns that survey crews were parked and/or driving on the private portions of the road. Given the uncertainty of the status of the road, Tennessee restricted the survey access to this road following a consultation with the Milford Town Manager.
- A landowner in Nassau, Rensselaer County, New York initially granted Tennessee survey access, but rescinded permission at a later time alleging that Tennessee had accessed the property without giving sufficient notice. Tennessee had informed its contractor about the change in survey permission, but this information was not immediately provided to the survey crew in the field.
- A discrepancy between the Town of Milford, New Hampshire tax maps and a subdivision plan placed the survey crews on a parcel where Tennessee did not have survey permission. The surveyors subsequently incorporated the subdivision plan into their data.
- In Nassau, Rensselaer County, New York, a survey crew mistakenly crossed onto a landowner's property where Tennessee did not have survey permission while making preparations to survey land along the proposed route. The mistake occurred because the property had been inadvertently mis-identified on that survey crews' permission chart.

In all but the last two of the instances noted above, Tennessee and its contractors have not accessed private property without permission from the landowner. As noted above, Tennessee strives for 100% compliance with the policy against accessing private property without appropriate permission. In the rare instances where errors have occurred, Tennessee has addressed each landowner individually. These errors were unintentional, inadvertent, rare, and promptly addressed. Tennessee has apologized to the landowners where access issues have occurred, and has investigated and identified factors leading to the inadvertent access. Tennessee has taken the following steps to ensure that such errors are not repeated:

- Re-training survey crews regarding survey access and procedures.
- Interviewing individual employees or agents involved in the incidents to understand and help correct future mistakes.
- Written communication to provide survey access requirements to all relevant employees and agents.
- Hold briefing meetings when survey crews are in the field to ensure awareness of current issues and landowner concerns, and adherence to Tennessee's policies and procedures.

In the vast majority of cases where a landowner has initially complained that Tennessee or its contractors had accessed property without permission, there was, in fact, no unauthorized access. For example, landowners have been mistaken as to where their property boundary fell. In other circumstances, Tennessee has survey access on certain lands owned in fee by a power company. These lands border private property in many instances and these landowners often are not aware of the boundaries between their property and that of the power company. Further, in certain cases landowners have contacted Tennessee or town officials after learning from a third party that surveyors may have been on those landowners' properties in their absence. There also have been complaints to Tennessee or its contractor where survey vehicles were parked on the side of the road in public space, which does not constitute unauthorized access.

In cases where Tennessee's survey crews have been confronted by a landowner and accused of unauthorized access while surveying, the crews are instructed to leave the property at once and then contact the Tennessee land representative for that area. The land representative then contacts the landowner that raised the concern to understand the landowner's concern regarding Tennessee's survey activities and work to resolve the concerns.

Respondent: James D. Hartman Title: Agent - Right of Way Sr. II Phone: (860) 763-6033

Resource Report 10 - Alternatives

5. Section 10.2.2.4 (page 10-21) - Provide an analysis of the potential viability for the transport of a Project-equivalent volume of compressed natural gas via railway (in addition to liquefied natural gas via railway).

Response:

The Project-equivalent volume of liquefied natural gas (“LNG”) is approximately 14,527,000 gallons per day for the Project’s Supply Path Component and 15,738,000 gallons per day for the Project’s Market Path Component. This equates to nearly 440 and 476 rail cars per day, respectively, of LNG. The existing rail infrastructure across the Project area is not sufficient to handle the amount of rail traffic necessary to meet the proposed Project volumes, as more than triple the amount of aforementioned rail cars would have to be continuously handled on existing rail infrastructure in order to load, transport, and unload the Project-equivalent volumes reliably.

In order to reliably handle this volume of rail cars, an entirely new mainline rail infrastructure would have to be constructed across the Project area. To deliver natural gas at the various proposed delivery points across the Project, additional rail infrastructure would have to be constructed to each proposed delivery point, along with a facility that could convert the LNG back into natural gas; or one very large LNG-natural gas conversion facility would have to be centrally constructed with new natural gas pipeline infrastructure from the conversion facility to each of the delivery points.

Transportation of natural gas is much safer by pipeline than it is by rail. According to a 2013 Manhattan Institute study¹ that uses PHMSA statistics, comparing the number of incidents (from property damage to injuries to fatalities) per Billion Ton-Miles², rail incidents occurred 2.08 times per Billion Ton-Mile and natural gas pipeline incidents occurred .89 times per Billion TonMile.

Transportation of Project-equivalent volumes of LNG is not feasible currently because existing rail infrastructure cannot support the proposed volumes and construction of rail infrastructure sufficient to handle the proposed Project volumes, in addition to the facilities required to liquefy and gasify the natural gas, would result in more permanent disturbance than the proposed Project facilities. In addition, the proposed Project facilities would provide safer transportation than transporting the natural gas by rail. Because compressed natural gas would require substantially more rail cars per day than LNG would require, transportation of Project-equivalent volumes of compressed natural gas via is also not feasible for the reasons discussed above.

1 The study is found at: http://www.manhattan-institute.org/lhtmlmlib_23.htm#.VgF-ZNNiko.

2 One “ton-mile” refers to moving one ton of freight one mile.

Respondent: Stephen Holmes Title: Project Manager Phone: (205)325-7420

Resource Report 10 - Alternatives

6. Section 10.3 (page 10-22) _ Include assessment and information where applicable for alternatives facilitating avoidance or minimization of impacts on lands associated with the Land and Water Conservation Fund (L WCF) program. Refer to the letter dated December 2, 2015 from the State of New Hampshire, Department of Resources and Economic Development that provides additional detail on the collection of accurate and officially confirmed L WCF Section 6(f) property information as well as identifying L WCF Section 6(f) areas that may be impacted by the proposed Project. Include the number of L WCF lands crossed as well as the total length of these lands crossed in each alternatives comparison table where applicable.

Response:

The State of New Hampshire, Department of Resources and Economic Development (“NH DRED”) sent a letter to Tennessee, dated December 2,2015. The letter identified five potential parcels, acquired with LWCF funds, that they felt may be impacted by the Project. On January 28, 2016, Tennessee met with NH DRED officials to review Tennessee’s proposed alignment and to discuss the location of public lands, specifically

those lands that may have been acquired with L WCF funds. After the meeting with NH DRED officials, Tennessee was able to confirm that only two L WCF parcels will be affected by the Project. One parcel is crossed twice and located in the Town of Mason and the other parcel is located in Londonderry.

LWCF Project #	Pipeline	Line List #	Fee Owner	Linear Feet
33-00551 & 33-00613	NH WD	Do Not Cross	Do Not Cross	Do Not Cross
33-00501	NH WD	265	Town of Mason	143'
33-00501	NH FLE	45	Town of Mason	90'
33-00620 & 33-00638	NH WD	478	Town of Londonderry	1136'

Summary of Alternatives Investigated:

LWCF 33-00501 (1st Crossing NH WD, Mason, New Hampshire)

A re-route was evaluated for this parcel in conjunction with avoiding the Russell State Forest, the Spaulding Conservation Area, and the underlying stratified drift aquifer.

To avoid these areas, Tennessee evaluated a new greenfield route as an alternative. After review and consideration, Tennessee has determined that the alternative route would have resulted in significant impacts in comparison with the currently proposed power line corridor.

LWCF 33-00501 (2st Crossing NH FLE, Mason, New Hampshire)

Tennessee evaluated an alternative to avoid this parcel along with the Town of Mason.

This alternative would co-locate with Highway 31 (leaving the proposed route Segment Q at MP 8.24 and returning to Segment J at MP 7.49). This alternative was rejected since it would add approximately 2.15 miles to the Project, add constraints associated with construction in heavily developed areas, and increase impacts to an Area of Critical Environmental Concern and Critical Natural Landscape.

L WCF 33-00620 & 33-00638 (NH WD Londonderry, New Hampshire)

The Londonderry Conservation Commission suggested an alternative to this L WCF parcel in a letter to the Commission, dated July 28,2015. This alternative would follow an existing power line corridor through Litchfield and Hudson before rejoining the Project’s proposed alignment. This alternative was rejected since it would add approximately three miles to the Project resulting in additional resource impacts.

Respondent: James D. Hartman Title: Agent - Right of Way Sr. II Telephone: (860)763-6033

Resource Report 10 - Alternatives

18. Response to the December 8, 2015 Environmental Information Request #1 - Where applicable, explain why a longer access road for compressor station site alternatives is proposed where shorter access roads appear to be feasible based on mapping by Tennessee Gas. For example, the aerial photography provided for Market Mid Station 2 Alternative 1 shows a relatively long access road from the alternative site extending northeast to an existing road; however, it appears that a much shorter access road could be constructed from the existing road on the southwest quadrant of this figure extending northeast to the site. Similarly, it appears that a shorter access road could be used at an alternative site for the Market Mid Station 1 (specifically the FERC Alternative IB) extending from the existing road at the southwest quadrant of the figure and generally following the existing utility right-of-way to the southwest corner of the alternative site.

Response:

Preliminary routing of access roads for alternative locations was based on high level desktop analyses. Tennessee consulted aerial photos, National Wetlands Inventory maps, and various governmental databases to determine preliminary layouts, operational footprints, and access routes to the proposed operational areas.

These preliminary, high level designs would be further refined and changed as needed should further investigation be required.

When laying out the operational area for a proposed alternative, efforts were made to keep all proposed facilities (including access roads) within the property boundary of the main property parcel. In most cases, a single parcel for a compressor station site was chosen based on its proximity to a given public access road as well as the pipeline corridor; ideally, the single parcel would allow access to both. This approach minimizes the number of landowners impacted by construction and ongoing operation of the facilities.

In some cases, aerial photos indicate existing access trails within the powerline corridor that appear, initially, to provide clear access routes from the powerline corridor to the compressor station site. However, many of these existing trails traverse wetlands and streams, and involve significant changes in slope and topography. Converting these dirt trails to permanent access roads for the compressor station sites would be a significant challenge. As a general rule, the compressor station layouts minimize the amount of access through the powerline corridor. Where the access road must cross the corridor, it is preferred to cross as close as perpendicular as possible.

Longer access roads are shown on the following alternative sites:

- 1. Supply Head Station, Alternative 4** - Access into the station site is shown through a 1,500 foot access road connected to Route 492 on the eastern portion of the parcel. The route follows an existing dirt road and gently slopes downward from Route 492 to the proposed station area with slopes ranging from 10% to 20%. A shorter access route could be achieved from Route 492 across the same parcel from the southern end, but the road would have to cross a creek and negotiate slopes from 5% to 30% on both sides of the creek crossing.
- 2. Supply Head Station, Alternative 5** - Access into the station site is shown through a 2,000 foot access road connected to Hall Road on the southeastern portion of the parcel. The route has gentle downhill and uphill slopes and crosses the pipeline corridor. A shorter access road could be achieved from East Lake Road (Highway 1012) west of this parcel, but an additional 600 foot easement (or property purchase) would have to be acquired across a separate property. Slopes along this shorter route approach 20%.
- 3. Market Mid 1, Alternative 3** - Access to the station is shown through a 2,500 foot access road connected to Burden Lake Road north of the proposed site. This access road would cross a separately owned parcel of land that would require its own easement (or property purchase). The access road traverses over a hill top with 5-20% slopes on the northern side and 15%-30% slopes on the southern side. Alternatively, access could be achieved by connecting with Hoags Corners Road south of the proposed property and running the access road in a northeasterly direction approximately 2,000 feet to the proposed site. The terrain covers multiple hilltops of varying degrees of slope up to 20%. The property that this alternative access route would cross is owned by the same landowner that owns the property on which the compressor station would be located.
- 4. Market Mid 1, Alternative 5** - Access to the station is shown through a 2,300 foot access road connected to Mead Road south of the proposed site. This access road would cross a separately owned, additional parcel of land that would require its own easement (or property purchase). The access road would traverse uphill from Mead Road to the proposed station site with slopes ranging from 10% to 40%. Alternatively, access could be achieved by connecting with Slivko Road north the station site and running the access road south 1,400 feet to the station site. Slopes generally vary from 10% to 20% along this route but increase to 50%-60% in the valley where the power line is located. Additionally, some degree of improvement would be required for Slivko Road (such as widening and base improvements). Both the Mead Road and Slivko Road access road routes would require easements (or property purchases) across separate property parcels to get to the proposed station site.
- 5. Market Mid 1, FERC Alternative IB** - Access to the station is shown through a 900 foot access road connected to Route 66 on the northwest corner of the proposed station site. The route traverses two

hilltops of varying degrees of slope from 10% to 40% with an elevation difference of 130 feet from Route 66 uphill to the proposed site. Alternatively, access could be achieved by connecting with Route 66 on the southwest corner of the parcel where Route 66 crosses the powerline corridor and follow the dirt road within the powerline corridor to the proposed station site. Running the access road within and parallel to the powerline corridor, though, is not desirable due to the reasons mentioned above.

6. Market Mid 2, Alternative 1 - Access to the station is shown through a 3,400 foot access road connected to East Windsor Road on the northeastern side of the proposed station site. The route slopes gently uphill from East Windsor Road to the station site with slopes ranging from 5% to 15%. Alternatively, access could be achieved by connecting with Peru Road southwest of the station site, but two additional parcels of property would have to be crossed that would require their own easements (or property purchases). The length of this alternative access road would be approximately 1,600 feet, and the route would cross one hilltop ranging in slope from 5% to 15%. Access down the powerline corridor, though, is not desirable due to the reasons mentioned above.

7. Market Mid 2, Alternative 3 - Access to the station is shown through a 2,500 foot access road connected to Peru Road along the west side of the proposed site. The terrain gently slopes downward from Peru Road to the proposed compressor station area with slopes ranging from 5% to 10% and an elevation difference of 150 feet. Three creeks and multiple wetland areas would have to be crossed to reach the facility area. An existing dirt trail located within the powerline corridor travels the same distance from Peru Road to the facility area, but its use as a permanent access road is not desirable due to the reasons mentioned above.

Respondent: Bill Thomas Title: Engineering Project Manager, Sr II Phone: (713) 420-6105

Resource Report 11 - Reliability & Safety

{misabeled as "Alternatives" in original}

1. Tennessee Gas states in multiple places in RRII that it "will meet or exceed" the applicable safety requirements. Specifically list and describe any instances where Tennessee Gas intends to exceed regulatory safety requirements.

Response:

Tennessee meets or exceeds applicable safety requirements in the design and operation of its facilities. Some examples of Tennessee exceeding U.S. Department of Transportation ("US DOT") requirements set forth in 49 CFR Part 192 include, but are not limited to the following:

1. Tennessee uses a pipe specification which requires a pipe mill hydrostatic test of each joint to 100% of the specified minimum yield strength ("SMYS") of the pipe material, which is 10% higher than the standard API 5L criteria. This more stringent test provides a greater margin of safety in proving the integrity of the material.
2. The line pipe specified for the Project is referred to as API 5L, Product Specification Level ("PSL") 2. This specification exceeds the requirements of 49 CFR Part 192, which require only the use of API 5L PSL 1. While PSL 1 yields pipe that is safe for gas transmission service, PSL 2 has more stringent requirements for chemistry of the steel used to make pipe, which provides greater assurance of the pipe strength and ductility. PSL 2 also requires testing for fracture resistance (~, Charpy Impact Testing). Manufacture of the Project pipe to PSL 2 criteria results in greater mechanical strength of the pipe material, thereby increasing the operating safety factor of the pipeline.

The line pipe specification provides additional requirements that go beyond API 5L and 49 CFR Part 192. For example, the Tennessee line pipe specification includes a more stringent out of roundness requirement than API 5L. This specification applies to pipe ends and is done to ensure better fit up and therefore higher quality of welds to connect pipe joints during construction (referred to as girth welds).

3. Tennessee will nondestructively test 100% of field butt welds, which exceeds requirements under 49 CFR § 192.242.
4. Tennessee will install valve actuators on mainline valves to reduce the time required to open or close the valve. These actuators are not required under 49 CFR § 192.179.
5. Tennessee's Gas Control Center in Houston, Texas will remotely monitor pipeline conditions, and will be able to remotely close mainline valves if necessary using the telemetry and SCADA equipment installed at mainline valve settings. This is not required under 49 CFR Part 192.
6. In addition to having the ability to remotely close mainline valves, the mainline valves shall also be equipped with control instrumentation to locally close the valves automatically based on a specified decline in the operating pressure of the mainline. This is not required under 49 CFR Part 192.
7. Tennessee will hydrostatically test Class 1 and 2 pipe to 90% of SMYS, which exceeds requirements under 49 CFR § 192.619
8. Tennessee will install warning tape on top of pipe in the ditch to warn excavators of the pipe below to reduce the risk of damage to the pipeline. This is not required under 49 CFR Part 192.
9. In addition to fire and gas detection, Tennessee will install heat detection in compressor buildings, which exceeds requirements under 49 CFR § 192.167.
10. Tennessee will install monitoring cameras at compressor stations to provide more direct feedback regarding onsite conditions. Cameras may also be installed at other critical locations. This is not required under 49 CFR Part 192.
11. Tennessee's operations and maintenance procedures specify minimum aerial patrol requirements, which comply with 49 CFR § 192.705. However, Tennessee's standard practice is to perform aerial patrols more frequently than what is required under 49 CFR § 192.705. Currently, aerial patrols are performed approximately every two weeks during the spring, summer, and early fall and monthly during the winter months. This practice will also be utilized for the Project.
12. Tennessee has utilized In-Line-Inspection to assess significant pipeline mileage outside of High Consequence Areas ("HCA") that is not required under 49 CFR 192, Subpart 0- Gas Transmission Pipeline Integrity Management. This practice will also be utilized for the Project.
13. Tennessee's remediation criterion for metal loss anomalies located both within and outside of HCAs exceeds requirements in 49 CFR § 192.933. This criterion will also be utilized for the Project.
14. Tennessee's damage prevention procedures exceed 49 CFR § 192.614. Tennessee requirements include:
 - Excavations within 50-25 feet of a pipeline - Periodic Monitoring
 - Excavations within 25-10 feet of a pipeline - Onsite Monitoring
 - Excavations within 10 feet of a pipeline - Excavation Observation

This procedure will also be implemented for the Project.

Respondent: Gregory R Ford Title: Principal Project Manager Phone: (713)420-4849

Resource Report 11- Alternatives

6. As described on page 37 of the Responses to Comments on Draft Resource Reports, October 8,2015, provide the conclusion regarding Tennessee Gas' consideration of the feasibility of incorporating natural gas recapture (the recapture of natural gas at compressor stations instead of venting it) into the Project's compressor stations for both planned blowdowns as well as emergency blowdowns.

Response:

Regarding emergency station blowdowns at natural gas compressor stations, Tennessee does not use flare or vapor recovery systems because of the added time these systems would introduce to the blow down process.

Tennessee's engineering specifications require emergency shut down ("ESD") systems to evacuate station piping from line pressure to 50 psig in 3 minutes or less. Vapor recovery systems would require additional compressor equipment to inject the gas back into the pipeline which would, in turn, add time to the blow-down process. Likewise, flare systems utilize orifice restriction plates to limit the amount of pressure to the flare which, in turn, adds time to the blowdown process.

Regarding emergency unit shut downs, Tennessee does not use flare or vapor recovery systems for the same reasons mentioned above for station ESDs. Emergency unit shut downs, or "fast stops," are designed to immediately remove the discharge head from the compressor equipment to avoid damage to the equipment. Introduction of vapor recovery systems or flare equipment would retard this process which would, in turn, increase the risk of damage to the compressors.

Regarding normal unit shut downs, Tennessee will use best management practices that include the following:

- 1. Minimizing the amount of unit piping** - Engineering design will minimize, to the extent practical, the amount of piping between the compressor and the suction and discharge unit valves. This will minimize the volume of gas vented after a unit shut down.
- 2. Maximizing compressor pressurization hold time** - Modern compressor equipment allows the unit to maintain line pressure for 4-7 days after a normal stop. At any time during this 4-7 day pressure hold, the unit can be re-started without blowing down the equipment. If the unit remains out of service beyond this hold period, the compressor (and the associated unit suction and discharge piping) must be blown down to protect the dry seals. Old style units must be blown down after every normal stop.

Additionally, station emergency shut down systems will be tested in a closed loop on an annual basis, but system blow down valves will remain shut during the process. Thus the ESD system will be tested with minimal emissions

During the detailed design phase of the Project, Tennessee will evaluate the use of "fuel savers" at multiple unit compressor stations. Fuel savers dump gas from a unit that has been shut down into the fuel gas system of the unit that remains online. Thus, the gas that is normally vented after a unit shut down is, instead, burned in the fuel gas system of the online unit. There are, however, limitations to this system. The fuel saver system will only work when multiple units are running and one is shut down. Gas from the piping of the unit that is shut down is fed into the fuel gas system of the online unit, and the online unit burns the gas as fuel. Once pressures between the systems equalize (usually around 300-400 psig), the remaining gas from the unit that is shut down is vented.

Respondent: Bill Thomas Title: Project Manager, Senior II Phone: (713) 420-6105

{ ENCLOSURES omitted, see following list for download links: }

{Responses (text above, but some graphics omitted), 125 pages, can be downloaded (PDF, 1,360 KB) at: }

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14173310>

{ List of Public Libraries, can be downloaded (Excel, 28 KB) at: }

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14173311>

*{ "A Study of Natural Gas Pipelines and Residential Property Values", November 12, 2015 }
{ by LPC Commercial Services, Inc.; can be downloaded (PDF, 218 pages, 21,147 KB) at: }*

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14173311>

*{ "A Study of Natural Gas Compressor Stations and Residential Property Values", January 5, 2016 }
{ by LPC Commercial Services, Inc.; can be downloaded (PDF, 141 pages, 12,073 KB) at: }*

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14173314>

*{environmental resource maps for the Towns of Dracut and Tewksbury, from NMCOG via AECOM }
{can be downloaded (PDF, 8 pages, 21,223 KB) at: }*

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14173315>

*{Map: Estimated Extent of Petroleum Impacted Soils, former Exxon Terminal 3040, }
{ 970 Broadway St, Dracut, MA , can be downloaded (PDF, 53 KB) }*

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14173316>

{ Respondent affidavits, can be downloaded (PDF, 19 pages, 302 KB) at: }

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14173317>

{ end of 20160318-5169 }

20160318-5029

William Marrapese, South Deerfield, MA.

Dear Sir or Madame--

I am writing to express my opposition to the proposed Northeast Energy Direct pipeline project. I am a citizen within the town of Deerfield, MA, a place with a rich history of farming along the Connecticut river. The construction of a pipeline through this land has the potential to cause harm which will greatly surpass any projected benefits to this region.

Primarily, I propose that FERC deny or delay the application for this project until the citizens of the commonwealth of Massachusetts have studied both the potential environmental impacts of fracking and the benefits of choosing alternative energy projects such as solar or wind energy. The use of alternative energies is proving to be cost effective and profit generative to both the consumer and the companies within the commonwealth.

Conversely, the frightening events within the states of California and Pennsylvania provide the real risk. Due to fracking, the erosion of soil and the pipeline materials are poisoning water supplies and potential for gas explosions has become real. Whole communities of people are affected by these outcomes. I ask the commission to review who benefits from this pipeline development. Is it really the consumer or is it the shareholder?

Finally, I wish to make known that the process followed by the Tennessee Gas Pipeline company and one of it's subsidiaries, Berkshire Gas Company, has been far from transparent and wholly unethical. Berkshire Gas executed a moratorium for new gas customers in the region until this project is approved. This moratorium is wholly in favor of their parent company gaining the riches, and utilizes scare tactics and not consumer education. For comparison, this is similar to the argument used in the 1970s for rerouting the Connecticut River to Boston to solve a water shortage in a growing region. It is a short sighted, money driven initiative which ignores the risk of injury, forgoes the desire to review other non-invasive opportunities, and prays upon the citizens to accept the least common denominator.

I look forward to reading that this project has been denied and/or at least delayed pending further discovery.

Sincerely

William Marrapese

20160318-5156

Stephen Matthews, New Ipswich, NH.

Sir, I am writing to complain about the answers that TGP has submitted to FERC's request for further information on the NED pipeline proposal.

The answers seem as though TGP thinks they are running the show rather than FERC.

Their attitude is offhand and casually ignores the requests that FERC listed in their request.

Regards

S.A. Matthews

20160321-0065

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Room 1A
Washington, DC 20426

Date: 3-14-2016

Via Certified Mail, Return Receipt Requested

Re: Denying property access

As the owner of the property located at:

406 Methuen Rd. Dracut, Mass

I am denying permission to the Tennessee Gas Pipeline Company, LLC (a Kinder Morgan Company), its representatives, contractors, sub-contractors, or associates to enter my land to perform surveys, or for any other purpose. Any physical entry onto my property will be considered unauthorized, and treated as trespass.

Frank Kerepka, Francis Kerepka

20160321-0088

{same as 20160210-0011 (STOP THE NED PIPELINE! Protect NH land from Eminent Domain!), signed by:}

Hydee Portanova

17 Falcon Dr

Pelham, NH 03076

20160321-0089

Hand written card, Wendy Pree, 16 Bird Hill Rd, Ashfield, MA 01330: opposing

20160321-0091

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Jamie Cosb

61 Regency Dr

Dracut, MA 01826

20160321-0092

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Mary Eileen Indelicato

11 Stillwater Dr

Amherst, NH 03031

20160321-0095

{same as 20160210-0011 (STOP THE NED PIPELINE! Protect NH land from Eminent Domain!), signed by:}

Jennifer Marcoux

30 Brandy Ln

Pelham, NH 03076

20160321-0096

{same as 20160210-0011 (STOP THE NED PIPELINE! Protect NH land from Eminent Domain!), signed by:}

Sheila Marcoux

30 Brandy Ln

Pelham, NH 03076

20160321-0097

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by:}

Sheila Marcoux

30 Brandy Ln

Pelham, NH 03076

their residents along the proposed route far outweigh any stated benefit. It remains unclear if NYS rate payers will ever benefit from this proposal, but what is clear, the health, safety and quality of life of hundreds of New Yorkers could forever be altered.”

To add insult to injury, I have learned that in my home state the Massachusetts Department of Public Utilities (dockets: 16-15,16-07, and 15-181)is proposing an electric bill tariff on the general public to subsidize expenses Kinder Morgan will incur in building this largely unpopular project. In my view, it is outrageous to ask the citizenry to subsidize private enterprise in its quest for profit. Financial risk, as in all other cases of entrepreneurialism, must fall on the shoulders of investors, not on the general public it purports to serve.

I agree with the two Senators that Kinder Morgan has provided no convincing evidence to justify this pipeline. To my knowledge no definitive statistical data has been presented by Kinder Morgan or the States of Massachusetts and New York to argue the case that, locally, demand for natural gas is outstripping production. If such evidence exists, it is available neither through the NY or MA Departments of Public Utilities nor through the germane state political offices. In their dissenting statements Mr. Schumer and Ms. Gillibrand clearly underscore this perplexing vacuum of justification.

As a resident of Plainfield, MA, whose home is less than one quarter of a mile from the proposed pipeline route and whose well water is at risk of insidious underground contamination, I urge you of behalf of my family and the thousands of others whose lives will be negatively impacted to reject this project.

Sincerely,

Gordon Massman

20160322-0067

The Senate of the State of New Hampshire
107 North Main Street, Concord, NH 03301-4951

Charles W. Morse
President of the Senate

State House, Room 302
(603) 271-8472

March 15, 2016

Commissioner Martin Honigberg
Chairman, NH Public Utilities Commission
21 Fruit Street, Suite 10
Concord, New Hampshire 03301

Commissioner Tom Burack
NH Department of Environmental Services
29 Hazen Drive
Concord, New Hampshire 03301

Dear Commissioner Honigberg and Commissioner Burack:

I am writing to express my concerns with the Northeast Energy Direct (NED) project. Specifically the lack of outreach and unwillingness to address issues raised by landowners, municipalities, state regulatory agencies and the New Hampshire Legislature.

While I support the development of new energy supplies for the region as a way to address our current energy needs, these projects must be developed in a manner that ensures open dialog with stakeholders and a commitment to reasonably address impacts that inevitably arise. New Hampshire is currently considering other similar linear energy projects, and we have seen positive examples of these projects undertaking considerable outreach, project redesign and mitigation efforts to find an appropriate balance between impacts and benefits. Unfortunately, the NED project has not demonstrated a willingness to work with effected communities, landowners or the state to address the issues that have been raised.

This unwillingness to address concerns, and instead rely on Federal Energy Regulatory Commission pre-

emption, has resulted In numerous state-level efforts to develop new laws and regulations for pipeline development. Most recently, in response to New Hampshire Site Evaluation Committee rulemaking and New Hampshire legislative action, NED representatives again dismissed both the New Hampshire Legislature and the New Hampshire Site Evaluation Committee, and stated that only FERC could regulate pipeline development.

While I appreciate the role that FERC backstop authority provides in the development of linear pipeline projects, this authority should only be used as a last resort In those Instances where a developer has gone through great effort to address local and state concerns, and has made a good faith effort to meet state siting requirements. I do not believe the NED project meets this expectation •.

Further, counter to the developer’s statements, it is my understanding that the NED project does require several state permits for full approval. This includes air emissions and various water pollution permits, including erosion and sedimentation control and wetlands.

As with all large projects In our state, I have been open and accessible to both supporters and opponents of the NED project, and have been willing to use my office to facilitate constructive discussion regarding these projects. However, without that dialog or tangible evidence of economic benefits to the communities that are affected, I have not seen enough Information to justify the potential impacts resulting from the NED project. Given that there are pipeline projects being proposed In New England that provide similar benefits to New Hampshire with far less Impacts, I believe that the NED Pipeline, as currently proposed, is not the best project to address our current energy market problems, As state agencies with authority over this issue and oversight of relevant state permitting for this project, I ask you to undertake full consideration of these alternatives.

Thank you for your consideration of this letter and the concerns stated.

Sincerely,

Charles W. Morse
Senate District 22

CC:

Norman Bay, Chairman, FERC, 88 First Street, NE Washington, D.C. 20246

Mark Hamarlich, Project Manager, NED Energy Pipeline Project, 1001 Louisiana St. Suite 1000, Houston, TX 77002

Kinder Morgan: Federal regulations preempt state rules on proposed pipeline

By DAVE SOLOMON

New Hampshire Union Leader

CONCORD - New Hampshire regulators can make all the rules they want regarding natural gas pipelines, but in the end all that matters is what the Federal Energy Regulatory Commission (FERC) decides, according to the company trying to build a transmission pipe through the Granite State.

In a Feb. 29 filing with the state’s Site Evaluation Committee (SEC), an attorney for energy company Kinder Morgan suggested the state was wasting its time trying to develop rules of its own.

“The siting and approval of Interstate high-pressure gas pipelines proposed by private companies is governed by FERC, FERC alone approves the location and construction of interstate pipelines, related facilities and storage fields involving moving natural gas across state boundaries,” wrote Manchester attorney Scott O’Connell on behalf of Kinder Morgan and the Northeast Energy Direct pipeline project.

“In the event that any state or municipal law or ordinance conflicts with a FERC requirement, FERC’s requirement will prevail,” according to O’Connell. “We respectfully urge with respect to interstate pipelines that the SEC or its member agencies participate in the FERC process itself and avoid incorporating further requirements that are duplicative or, if not, likely preempted by federal law.”

The 30-inch-wide pipeline would span 80 miles across southern New Hampshire, through 17 communities, many of which have organized opposition to the proposal.

“It seems Mr. O’Connell doesn’t want any changes to be made in SEC rules, and he’s very much against anything that would raise the bar for Kinder Morgan in front of the SEC,” said Maryann Harper, co-chairman of the New Hampshire Pipeline Awareness Network, a coalition of pipeline opponents,

“But I think he’s really treading on risky ground by continuing to throw it in the face of the SEC that they really don’t have a role in this process,” she said,

A spokesman for Kinder Morgan says O’Connell’s letter was filed in response to a request from the SEC for comments on proposed rule changes, regarding such things as setbacks, decommissioning plans, property rights, sound impacts, construction and safety issues.

“The committee called for comments on proposed rules and we provided them,” said Tiffany Eddy. “The Information we provided dealt with federal preemption and merely sought to point out areas of duplication and/or clarification for the SEC record. These Interstate pipelines are developed under federal law, which preempts state law.”

State plows ahead

Such warnings are not likely to stop the SEC from developing its rules, or the state Legislature from continuing to review several bills aimed at the pipeline project.

After several pipeline-related bills went down to defeat, opponents finally scored a victory this week when the House Judiciary Committee on Tuesday voted 16-4 to recommend passage of a bill that would complicate efforts by the pipeline company to acquire property by eminent domain,

House Bill 1660 (http://gencourt.state.nh.us/bill_status/results.aspx?Isr=2955&sortoptlon=&txtsessionyear=2016&txtbillnumber=hb1660) requires that a pipeline company purchase an entire parcel, and not just the strip needed for the pipeline, at the property owner’s discretion.

Kinder Morgan officially applied to FERC for approval of the pipeline project in November, but has yet to apply for state approval, which it will have to do at some point.

Harper pointed to the Constitution Pipeline project in upstate New York as an example of how much power states can still wield in pipeline projects. Although the Constitution Pipeline has full FERC approval, New York Gov. Andrew Cuomo has refused to allow the state Department of Environmental Conservation to issue stream-crossing permits for the project.

“Regardless of what FERC does, the state still has a role in whether that pipe goes into the ground or not,” said Harper, “so they can say what they want, and try to dismiss the importance of the state role in the process, but the state will still have a very important role to play.”

dsolomon@unionleader.com

Last changed: March 02, 2016 11:35PM

20160322-0069

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Room 1A
Washington, DC 20426

Date: March 18, 2016

Via Certified Mail, Return Receipt Requested

Re: Denying property access

As the owner of the property located at:

22 Birch Lane, Pelham, NH 03076

I am denying permission to the Tennessee Gas Pipeline Company, LLC (a Kinder Morgan Company), its representatives, contractors, sub-contractors, or associates to enter my land to perform surveys, or for any other purpose. Any physical entry onto my property will be considered unauthorized, and treated as trespass.

Paul V. McLaughlin

20160322-5188

{20 pages, skip to end of 20160322-5188 }

UNITED STATES OF AMERICA BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Tennessee Gas Pipeline Company, L.L.C.

)

Docket No. CP16-21-000

**MOTION FOR LEAVE TO ANSWER AND ANSWER OF
TENNESSEE GAS PIPELINE COMPANY, L.L.C.
TO INTERVENTIONS, PROTESTS, COMMENTS, MOTION FOR STAY, AND
MOTION FOR SUMMARY DISPOSITION**

Tennessee Gas Pipeline Company, L.L.C. (“Tennessee”), pursuant to Rules 212 and 213 of the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) Rules of Practice and Procedure;[1] moves for leave to answer and submits this Answer to statements made in recent Motions to Intervene, Protests, Comments, Motion for Stay, and Motion for Summary Disposition (collectively “Interventions”) of several individuals and organizations.[2] The Interventions respond to Tennessee’s application for a certificate of public convenience and necessity authorizing it to (i) construct and operate certain pipeline and compression facilities to be located in Pennsylvania, New York, Massachusetts, New Hampshire, and Connecticut, and (ii) abandon certain facilities, as part of the Northeast Energy Direct Project (referred to herein as either the “NED Project” or simply the “Project”).

Tennessee is providing the Commission with the following additional information to correct the record regarding statements made in certain Interventions. As many of the Interventions raise similar issues, Tennessee notes that this Answer does not provide a response to all of the interventions, comments, and protests filed in the proceeding, rather it responds to all of the major issues raised by the Interventions. In addition, Tennessee stands ready to respond to any Commission-issued data requests seeking additional information, including the data request issued February 26, 2016, and to any other issues raised, as necessary.

With this Answer, together with the extensive materials provided by Tennessee in the NED Project certificate application filed on November 20, 2015[3] (as well as in responses to Commission Staff comments and scoping comments filed on December 21, 2015; data responses filed on December 28 and 31, 2015, January 7, 2016, February 24, 2016; and March 17, 2016; remaining data responses that will be filed in response to the February 26, 2016 data request; and responses to subsequent data requests issued by the Commission), the Commission should be able to find that Tennessee’s request for a certificate for the NED Project is consistent and compliant with Section 7 of the Natural Gas Act (“NGA”)[4] and the National Environmental Policy Act (“NEPA”).[5]

I.

MOTION FOR LEAVE TO ANSWER

Commission rules do not prohibit answers to interventions and comments. However, in an abundance of caution and to the extent some of the interventions were similar in form to protests, Tennessee requests waiver of Rule 213(a)(2) of the Commission’s Rules of Practice and Procedure.[6] This Answer will help to ensure a complete record upon which the Commission can base its decision on the merits and will aid the Commission in its disposition of issues raised.[7] For these reasons, Tennessee submits this Answer and respectfully requests that the Commission waive the prohibition in Rule 213(a)(2) to the extent necessary to

permit Tennessee to respond to certain inaccurate factual and adversarial statements made in the Interventions. Tennessee also requests waiver of Rule 213(d)[8] so that it can respond to certain of the Interventions in one document, thereby conserving the Commission's resources.

II.

BACKGROUND

On November 20, 2015, under Sections 7(b) and 7(c) of the NGA,[9] Tennessee filed its application for a certificate of public convenience and necessity for the NED Project. The NED Project, as more fully described in the Application, consists of the (i) construction, installation, modification, operation, and maintenance of certain pipeline and compression facilities to be located in Pennsylvania, New York, Massachusetts, New Hampshire, and Connecticut, and (ii) abandonment of certain facilities.

The NED Project is comprised of two components, the Supply Path Component and the Market Path Component. The Supply Path Component will have a maximum design capacity of 1.2 billion cubic feet ("Bcf") per day and consists of (i) approximately 133 miles of 30-inch diameter pipeline extending from Tennessee's existing 300 Line in northern Pennsylvania to an interconnect with Tennessee's 200 Line and Iroquois Gas Transmission System, L.P. ("Iroquois") at Wright, New York; and (ii) approximately 41 miles of 36-inch diameter looping pipeline along Tennessee's 300 Line in Bradford and Susquehanna counties, Pennsylvania. The Supply Path Component also will include the construction and operation of one modified and three new compressor stations, and two new meter stations.

The Market Path Component will have a maximum design capacity of 1.3 Bcf per day and consists of approximately 188 miles of 30-inch pipeline extending from Wright, New York to Dracut, Massachusetts, five delivery laterals in Massachusetts and New Hampshire, and one pipeline loop in Connecticut. In addition, the Market Path Component includes six new compressor stations and 27 new and modified meter and regulator stations.

The NED Project is designed to connect low-cost, domestic natural gas supplies from northern Pennsylvania to New York and New England markets. Despite being just a few hundred miles from the most abundant and low-cost natural gas production area in the country, New York and New England consumers pay some of the highest natural gas and electricity rates in the continental United States, due in part to the lack of pipeline infrastructure providing access to low-cost supplies. By providing consumers with access to these supplies, the NED Project will help to address regional high energy costs in a cost-effective, safe, and environmentally sound manner.

The NED Project has significant market support. Tennessee has executed precedent agreements with key New England local distribution companies ("LDCs") and other market participants for 751,650 dekatherms ("Dth") per day of firm transportation capacity on the Project's Supply Path Component, and with several of these same LDCs and other market participants for 552,262 Dth per day of firm transportation service on the Market Path Component.[10] The precedent agreements with Project shippers call for the Project to be placed in service on November 1, 2018. As discussed more fully in the Application, Tennessee is confident it will be able to secure additional contractual commitments for capacity on the NED Project.

To minimize the impact on the environment and surrounding communities, Tennessee plans to locate the NED Project pipeline in large part parallel and adjacent to existing utility easements. Tennessee has designed the Project to co-locate approximately 84 percent of the Supply Path Component mainline and looping pipeline with Tennessee's existing right-of-way ("ROW") other pipeline ROWs and approximately 86 percent of the Market Path Component facilities with Tennessee's existing ROW or other existing energy infrastructure ROWs. In order to reflect information gained from field surveys and landowner and stakeholder input, Tennessee has refined the NED Project's routing over the course of the pre-filing process, and will continue making such refinements as is necessary through the certificate process. For example, Tennessee modified the locations of two planned compressor stations during the pre-filing process to address stakeholder comments and to avoid environmental constraints, and also provided additional mitigation for

noise sensitive receptors and/or other environmental resources.[11] Tennessee has developed a significant and detailed record of environmental information regarding the Project that has been incorporated into the Environmental Report for the Project.

III.

ANSWER

A. Tennessee Has Fully Demonstrated that the Need for the NED Project Outweighs Any Adverse Effect.

A number of Interventions incorrectly assert that Tennessee has not demonstrated a need for the NED Project. These Interventions rely on arguments that are refuted by both materials submitted by Tennessee with its Application and through an examination of their claims. Rather than “vague assertions” of need alleged in the Interventions,[12] the NED Project has significant support from dedicated shippers and is needed to lower natural gas and electric prices caused by pipeline constraints in the Northeast.

The Commission is well aware that under its Certificate Policy Statement, once Tennessee shows that it is prepared financially to support the NED Project without relying on subsidization from its existing customers, Tennessee must demonstrate that it has made efforts to eliminate or minimize any adverse effects the project might have on Tennessee’s existing customers, existing pipelines in the market and their captive customers, and landowners and communities affected by the route of the new pipeline.[13] As the Commission has explained, “[t]his is essentially an economic test.”[14] If Tennessee’s Project has no adverse effect on the existing customers, existing pipelines in the market and their captive customers, or the economic interests of landowners and communities affected by the route of the new pipeline, “then no balancing of benefits against adverse effects would be necessary.”[15]

To the extent benefits must be balanced against adverse effects, the Commission recognizes that benefits can be “quite diverse” and can include “meeting unserved demand, eliminating bottlenecks, access to new supplies, lower costs to consumers, providing new pipeline interconnections that improve the interstate grid, providing competitive alternatives, increasing electric reliability, and advancing clean air objectives.”[16]

As explained in more detail in the Application, the NED Project has significant market support as evidenced by the precedent agreements Tennessee has executed representing 751,650 Dth per day of firm transportation capacity on the Project’s Supply Path Component and 552,262 Dth per day of firm transportation service on the Market Path Component.[17] Tennessee is currently marketing the available capacity and is confident that it will be able to secure additional contractual commitments as a result of the various initiatives underway with five of the six states in New England to facilitate the ability of electric distribution companies (“EDCs”) to contract for pipeline capacity and recover the costs in their rates. The Project is needed in the Northeast to both lower energy costs and improve electric reliability.

In the Application, Tennessee addressed each element of the Commission’s test, explaining that existing shippers will not be at risk for any unsubscribed capacity or subsidize the new capacity because Tennessee will only build capacity that customers have contracted for and will charge an incremental rate.[18] Tennessee further showed that shippers on other pipelines and other pipelines in the area are not economically harmed, but will benefit from “more liquid natural gas trading points” and reduced constraints in the northeastern U.S.[19] Tennessee also explained how its proposal minimized adverse effects on landowners and communities by, for example, choosing a route that did not entail extensive lift-and-lay in heavily populated urban areas traversed by its existing pipeline system.[20] Notwithstanding the lack of adverse effects, Tennessee also provided extensive, detailed analysis supported by voluminous evidentiary support showing that the public benefit and need for the NED Project easily outweighed any residual impacts.[21]

Commenters appear to largely ignore or conflate the elements of the Commission’s long-established policy statement. For example, NHMPC makes a vague assertion that Tennessee failed to show need because the area allegedly can be adequately served by increased use of renewable energy sources or a combination of renewable energy, existing generation, and LNG. Apart from the lack of supporting evidence, these claims

sidestep the documented need in Tennessee's Application, and ignore the fact that LDCs, producers, and other customers have executed binding commitments for long-term firm capacity on the NED Project. Indeed, the Commission recognizes that alternatives such as renewable energy or state conservation programs may have the potential to reduce some amount of additional pipeline capacity needed in the future, but they do not replace the need for substantial new pipeline capacity now. The studies filed by certain Intervenors meant to undercut Tennessee's demonstration of need are intentionally misleading and fail to show the whole picture of the need for pipeline infrastructure in New England. As explained below, these studies cannot be relied upon to refute Tennessee's showing that the Project is required by the present and future public convenience and necessity.

1. The Massachusetts Attorney General's Study Presents an Inaccurate and Incomplete Picture of the Need for the Project.

On November 18, 2015, the Massachusetts Attorney General's office released a study examining the question of whether the state needs additional natural gas capacity to ensure the reliability of New England's power grid. On the same day, the Massachusetts Attorney General's office submitted the study, *Power System Reliability in New England, Meeting Electric Resource Needs in an Era of Growing Dependence on Natural Gas* ("Massachusetts AG Study"), to the Commission, in Tennessee's pre-filing docket (PFI4-22-000) for the NED Project.[22] The Massachusetts Attorney General's office has now intervened in this Application docket and submitted the study for the Commission's consideration. The Massachusetts AG Study concluded that, in the near term, there was no need to expand natural gas capacity in Massachusetts to support electric reliability because the region could rely on dual-fuel generators burning oil during winter peak periods, and that proposals to do so, including Tennessee's NED Project, were therefore unnecessary. In the 2024-2025 timeframe, when reliability deficiencies emerge according to its study, the Massachusetts AG Study concluded that, rather than construct new infrastructure, the region could rely on energy efficiency and demand response programs, initiatives it claimed would "keep the lights on." [23] Adopting the study's recommendations, the Massachusetts Attorney General argued, would not only protect ratepayers but also significantly reduce greenhouse gas emissions. These conclusions, however, are based on a false premise and do nothing to relieve the significant energy costs burdening the New England region.

Even a cursory examination of the Massachusetts AG Study shows that its conclusions and recommendations are not grounded on sound analysis. Among the many studies to examine the region's stressed gas pipeline network, the Massachusetts AG Study is an outlier. This is especially true when the study is compared with the oft-cited publicly-funded study commissioned by Massachusetts Governor Deval Patrick and issued in January 2015, which found that Massachusetts needed substantial new gas pipeline transportation capacity.[24] In contrast to the Massachusetts AG Study, Exhibit Z-4 to Tennessee's Application listed no fewer than 37 separate studies and reports prepared by governmental entities, experts and consultants. These studies and reports collectively support the need for more natural gas infrastructure in New England in general and the benefits of the NED Project in particular. Because it is seriously flawed, the Massachusetts AG Study should not be relied upon by the Commission:

First, the Massachusetts AG Study was limited in its scope—apparently by design—which by itself renders it of questionable value and little use in assessing the regional need for the NED Project; the sole focus of the study was only the reliability and cost of potential infrastructure solutions for electric customers. Tennessee thoroughly demonstrated in its Application[25] that the need for the NED Project goes far beyond the need for pipeline capacity necessary to provide gas-fired generators reliable access to the fuel they need to run. The NED Project is also needed to serve increasing demand for non-electric generation uses and to lower energy costs. Despite this well-documented demand, the Massachusetts AG Study completely ignored the steady rise in requests for natural gas from residents and businesses seeking to switch from oil to gas, and the difficulties LDCs are experiencing serving prospective customers. Also missing from the study was any recognition of the economic and environmental benefits those conversions will provide. The chronic short- and long-term need for more natural gas pipeline capacity is clearly reflected in the substantial gas transportation precedent agreements that Tennessee has signed with LDCs in Massachusetts and New Hampshire,

and the Massachusetts Department of Public Utilities (“Massachusetts DPU”), New Hampshire Public Utilities Commission (“New Hampshire PUC”), Connecticut Public Utilities Regulatory Authority, and the Rhode Island PUC each gave its approval of the respective contracts.

The Massachusetts DPU, for example, in its order approving Tennessee’s contract with Berkshire Gas Company, noted that “there are no reasonable and viable alternatives to the NED project for the company ... and Tennessee’s existing pipeline capacity to the company’s Eastern Division is fully subscribed. Moreover, the company states that the NED project is the only pipeline project under development in the region that could conceivably address the company’s capacity.”[26] The Massachusetts DPU also supported Berkshire’s argument that “it has exhausted all available options to increase deliverability to its Eastern Division and has reached its limits with respect to providing safe, reliable, and least-cost service to customers.”[27] Moreover, the Massachusetts DPU found, the proposed agreement is “consistent with the company’s portfolio objectives and the state’s Global Warming Solutions Act ... compares favorably to the range of reasonable alternatives, and is therefore consistent with the public interest.”[28] The Massachusetts DPU and New Hampshire PUC reached similar conclusions in their orders covering the other LDCs that have executed transportation contracts with Tennessee. [29]

Again, nowhere in the Massachusetts AG Study is there any acknowledgement of the capacity constraints facing LDCs or the expanding demand for natural gas for non- electric uses among consumers, business and industry. Instead of surveying the entire energy landscape in the state, the study confined itself to one segment-reliability in electric power-concluding that no new pipelines were needed to provide adequate capacity to generate electricity and ensure reliable electric service and inaccurately implying that, therefore, no new pipelines were necessary for any reason.[30] By narrowing the focus of its study and willfully ignoring the other critical need for pipeline capacity, reflected in Tennessee’s executed binding precedent agreements, the Massachusetts AG Study discounted the critical need for more natural gas to meet current and future demands from LDCs and their customers.

Second, the Massachusetts AG Study ignored for the most part any consideration of how additional natural gas pipeline capacity would help lower high electricity costs for ratepayers, a critically important issue given that over the two winters that preceded the Massachusetts AG Study New England consumers had been forced to spend an estimated \$7 billion more for electricity than neighboring regions with access to low-cost domestic natural gas. Nor did the study reflect the situation confronting Massachusetts and the region as it continues to retire coal and oil electric generation facilities as part of a decade-long effort to reduce carbon emissions by replacing them with highly efficient natural gas-fired generators. Because of inadequate natural gas pipeline capacity, the state and the region have been forced in recent winters to rely upon coal and oil to manage shortages and ensure grid reliability, increasing carbon emissions and making it more difficult to comply with the state’s Global Warming Solutions Act.[31]

Yet despite this situation, the Massachusetts AG Study insisted that meeting the state’s energy demands-complicated further by the closing of the Pilgrim Nuclear Power Station in 2019 and loss of 680 megawatts of baseload electricity-requires no new pipelines to supply gas to power its growing fleet of natural gas generators or to lower electric costs for consumers and business. The study’s findings and conclusions on the need for incremental pipeline capacity to support electric reliability stand in stark contrast to the consistent findings of ISO New England-the independent, not-for-profit company authorized by the FERC to operate the New England electric grid and ensure its reliability-that New England needs more gas pipeline capacity to ensure the reliability of the electric grid.

For example, the recent “State of the Grid 2016” presentation by ISO-New England, amply demonstrates why the Massachusetts AG Study conclusions are not based on a clear view of conditions as they currently exist in Massachusetts and the region. Gordon van Welie, ISO-New England’s CEO, warned in his overview that “[t]he New England power system continues to be in a precarious position during extended periods of extreme cold,” adding that the region “will continue to be in this position until New England’s natural gas infrastructure is expanded to meet the demand for gas.”[32] Further, van Welie underscored that the use of natural gas to generate electricity is steadily growing, along with the retirement of coal, oil and nuclear

plants. He also noted that last year natural-gas-fired power plants produced 49% of the electricity generated in New England, and that natural gas is now the region's leading fuel source. [33]

As for electricity costs, van Welie emphasized that wholesale power in New England is "directly correlated to the price of natural gas." [34] When generators cannot get natural gas, particularly during high-demand periods, prices spike, but "[w]hen there's enough pipeline capacity to serve the region's power generators, New England's wholesale electricity prices can compete with the prices in regions where electricity is typically less costly." [35] Because of the region's pipeline constraints, van Welie said, "New England consumers cannot reap the year-round benefits of low-cost natural gas." [36]

Overall, "New England needs additional energy infrastructure," van Welie stated, including natural gas infrastructure "to meet growing demand for natural gas for both heating and power generation." [37] He also noted that the transition to greater levels of renewables will require "fast and flexible resources that can ramp their output up and down on command to balance the variable output of these weather-dependent resources." [38] The current technology that can best do that, he said, "is in natural-gas generators." [39] The Massachusetts AG Study falls far short of providing a comprehensive view of the state's energy needs and offering a candid appraisal of what it will take to alleviate the state's high energy costs, comply with the Global Warming Solution Act, and provide grid reliability by ensuring there is sufficient natural gas capacity to power gas generators, as well as meet the needs of the LDC market. Because the scope of the Massachusetts AG Study was so narrowly tailored and its conclusions detached from a comprehensive understanding regarding the impact of pipeline constraints in Massachusetts, it does not form an objective and rational basis for reliance by the Commission in its review of Tennessee's certificate application.

2. Studies that Focus Solely on the Need to Meet Peak Natural Gas Demand Ignore the Overall Need for the Project.

A number of Interventions also attached "studies," arguing that the NED Project is not needed. However, similar to the Massachusetts AG Study, these studies rely on false premises that do not show the whole picture of the need for the Project. The Conservation Law Foundation ("CLF") submitted an August 2015 study commissioned by the CLF and prepared by Skipping Stone. [40] According to the CLF, the study, *Solving New England's Deliverability Problem Using LNG Storage and Market Incentives* ("Skipping Stone Study"), drew similar conclusions as the Massachusetts AG Study, finding that any new "big pipeline" solution to the New England region's winter deliverability problem would result in dramatic underutilization of the pipeline during the majority of the year and would not be cost effective, and proposed the increased use of liquefied natural gas ("LNG") storage as a more cost-effective means to further ease the winter peak deliverability problem, while limiting the risk of stranded costs. [41] Similarly, ENGIE Gas & LNG LLC ("Engie"), as part of its January 15, 2016 comments, submitted a report commissioned by its parent company, entitled *Analysis of Alternative Winter Reliability Solutions for New England Energy Markets*, dated August 2015, prepared by Energyzt Advisors, LLC ("Energyzt Study"), which reached similar conclusions to the Skipping Stone Study. The Energyzt Study concluded that the lowest cost and lowest risk way to meet power generation demand and reduce natural gas markets in the New England region in the near to medium term is to contract with existing infrastructure, including LNG imports and dual-fuel capacity, which would provide peaking response at little to no capital cost and without ratepayer commitment, and then to consider alternatives, such as the construction of additional pipeline infrastructure, if the efforts set forth above fail. [42]

The Skipping Stone Study and the Energyzt Study commissioned by CLF and Engie, respectively, were based on incorrect assumptions and they paint an incomplete picture of the demand for natural gas in New England. The studies, therefore, reached the erroneous conclusion that the answer to solve the New England region's energy problems is reliance on expensive LNG imports and storage. These conclusions just do not stand up, especially when compared to the proposed NED Project, which will provide access to domestic, low-cost natural gas supplies near the New York and New England region,

The analyses in the Skipping Stone Study and the Energyzt Study were based on untested assumptions re-

garding the duration of the “deep winter” problem regarding deliverability of natural gas, load growth, costs of delivered LNG prices in New England, and available pipeline capacity in New England. For example, to highlight concerns regarding the assumptions, the Skipping Stone Study reflected certain load growth assumptions (i.e., growth from LDCs, industrial plants, and electric generation) from a 2014 ICF Study.[43] Since the 2014 ICF Study, however, there have been clear indications of load growth as documented by the LDCs that have supported the NED Project with the execution of long-term precedent agreements, as discussed in detail in the Application[44] (as well as other proposed projects for the expansion of natural gas pipeline infrastructure in the region). That additional load growth, however, was either ignored or disregarded in the load growth assumptions in the Skipping Stone Study analysis. The Energyzt Study projected “a gradual decline in natural gas consumption by the electricity sector over time ... and questioned the need for a new gas pipeline.”[45] But this projection focused on only one aspect of the natural gas market-electric generation-and ignored LDC load growth as reflected in the execution of the long-term precedent agreements referenced above. The utter failure to even consider this demand growth seriously taints the validity of these studies and certainly calls into question their conclusions.

The Skipping Stone Study assumed a price for LNG delivered to New England of \$9.59 per Dth (based on the forward National Balancing Point prices plus assumed transport costs as of May 15, 2015). However, delivered LNG prices have been significantly higher in the past few years (i.e., over \$20.00 per Dth in the winter of 2013- 2014) than the figure relied on in the Skipping Stone Study. The Skipping Stone Study also assumed approximately 4.1 Bcf per day of pipeline capacity serving New England.[46] but it is not clear how that figure was developed and it may be overstated as it is unclear whether it takes into account declining Atlantic Canadian production and the planned reversal of the Maritimes & Northeast Pipeline. If certain of these factors were understated (such as load growth assumptions or the delivered LNG prices) or overstated (such as the availability of existing pipeline capacity serving New England), those factors would significantly impact the conclusions of the Skipping Stone Study. The Skipping Stone Study analysis also assumed that 6,000 additional LNG trucks per winter over a 90-day deep winter period would be required in addition to the existing 1,000 to 1,200 trucks per winter that are required for refill.[47] This would represent a significant increase in the amount of truck traffic during the winter, which would present both safety and reliability concerns in the region.

The Massachusetts DPU also raised similar concerns with the approach presented in the two studies in its approval of Berkshire Gas’s precedent agreement with Tennessee for the NED Project. The Massachusetts DPU dismissed increased reliance on peak shaving capacity as a viable alternative to the NED Project capacity finding:

First, the evidence shows that an increased use of on-system peaking resources could not meet the Company’s identified design-day needs even with improvements to its LNG/LP facilities Second, an over-reliance on system peaking would lead to operational considerations such as gasmixing constraints, product and trucking availability, and reliance on mechanical facilities that affect reliability. Third, LNG costs are more expensive and subject to price volatility. Fourth, reliance on deliveries of LNG from tankers from around the world in lieu of the NED capacity, as CLF suggests, would disregard safety, scheduling restrictions, and reliability concerns.[48]

The New Hampshire PUC also dismissed the idea of imported LNG as an alternative to the NED Project, explaining that “[t]he LNG global market is unstable and may compromise the reliability of [Liberty Utilities Corporation’s] service to customers at the least cost, particularly on a design day or during a design-season.”[49]

The benefits of natural gas pipeline capacity as compared to LNG imports were underscored when LDCs in Massachusetts and New Hampshire signed long-term precedent agreements for a significant portion of the transportation capacity on the NED Project. As discussed above, both the Massachusetts DPU and the New Hampshire PUC found that the LDCs had entered to the precedent agreements based on a sound analysis of the issues surrounding reliance on LNG.

As explained in the Application, the Massachusetts DPU initiated “an investigation into the means by which new natural gas delivery capacity may be added to the New England market, including actions to be taken by the [EDCs],”[50] and concluded that it has the requisite statutory authority to review and approve long-term contracts for natural gas capacity filed by an EDC.[51] Implementing the Massachusetts DPU’s findings Eversource Energy and National Grid issued a joint request for proposals (“RFP”) for gas resources to supply their EDCs which in turn would make capacity available to gas-fired generators. Tennessee submitted a proposal in response to the RFP. National Grid submitted its contracts with Tennessee for pipeline capacity on the NED Project with the Massachusetts DPU on behalf of two of its subsidiary EDCs, Massachusetts Electric Company and Nantucket Electric Company, for approval.[52] In its request, National Grid stressed that any bids for LNG and storage were required to include transportation via interstate pipeline to generators in New England on a primary firm basis and that proposal would provide reliable delivery of natural gas on a primary firm basis to multiple generating facilities on critical peak days across multiple load zones.[53] None of the bids submitted by LNG companies passed muster under these requirements, and, therefore, were removed from consideration.[54] The only acceptable proposals were those submitted by Tennessee for pipeline capacity on the NED Project and by Algonquin Gas Transmission, LLC for its planned Access Northeast Project.[55] LNG was not deemed to be an acceptable option.

The two studies—the Skipping Stone Study and the Energyzst Study—fail to address the major concern with increased reliance on LNG, which is that it will do little, if anything, to reduce electricity costs in New England, which are among the highest in the nation. According to the Energy Information Administration (“EIA”), New England’s electricity prices were nearly 50 percent above the U.S. average in 2014 and were over 70 percent above the U.S. average in January and February of 2015.[56] During the past two winters, New England’s electric generators have had to rely on scarce (and thus high-priced) natural gas, expensive imported LNG, and costly fuel oil (in part through the Winter Reliability Program), to meet demand.

According to ISO New England, despite the close proximity to the nation’s largest growing source of natural gas, pipeline limitations into and within New England typically cause price separation between New England and nearby supply basins.[57] Also, since LNG is a globally priced commodity, the cost of imported LNG is much higher than the cost of domestic gas delivered to New England in an unconstrained market. Manifestly, the NED Project is the answer to relieving the pipeline constraints in New England and making the low-cost domestic gas supplies available to gas consumers across New England and New York.

In the Certificate Policy Statement, the Commission recognized that if an applicant has precedent agreements for most of the new capacity, then that would be strong evidence of market demand and public benefits which would outweigh the limited need to obtain new rights-of-way agreements.[58] As indicated by the executed long-term precedent agreements with the Project Shippers and the numerous studies indicating the great need for the NED Project which were submitted with the certificate application, there is demonstrable market demand for the Project. As discussed above, and in more detail in the Application, the NED Project meets the requirements of the Commission’s Certificate Policy Statement.

B. The Commission Is Not Required to Prepare a Programmatic EIS for the NED Project.

Some protestors incorrectly assert that the Commission is required to prepare a programmatic Environmental Impact Statement (“EIS”) including impacts of several different projects in the Northeast U.S. and New England. The CLF asserts[59] that the Commission should conduct a programmatic EIS or other comprehensive review that includes the NED Project, the Access Northeast Project,[60] and the Atlantic Bridge Project,[61] and further asserts that the programmatic EIS should take into account recently-approved projects, including Algonquin’s Incremental Market Project,[62] the Connecticut Expansion Project, [63] and the Constitution Pipeline.[64] The Natural Resources Defense Council (“NRDC”) goes farther, arguing the Commission should conduct a programmatic EIS covering “all pending new natural gas infrastructure proposals within the New York/New England Region,” and specifically mentions the Access Northeast Project and the Atlantic Bridge Project.[65] The Pipe Line Awareness Network for the Northeast, Inc. (“PLAN”) and NHMPC request a programmatic EIS for all proposed natural gas expansion projects throughout the

Northeast.[66]

Despite such assertions, the Commission is not required to prepare a region-wide programmatic EIS for pending pipeline projects, nor would such a study be helpful in assessing the NED Project's environmental impacts. The Commission has repeatedly and appropriately rejected arguments identical to those of CLF, NRDC, PLAN, NHMPC, and other intervenors that it should conduct a programmatic EIS for new pipeline projects being planned in a given region. [67]

Simply put, the Commission is not required to prepare a programmatic EIS under NEPA or the regulations of the Council on Environmental Quality ("CEQ").[68] The Commission's decision regarding "whether to prepare a programmatic EIS at all [is] initially committed to agency discretion." [69] The CEQ has stated, however, that such a review may be appropriate where an agency: (1) is adopting official policy; (2) is adopting a formal plan; (3) is adopting an agency program; or (4) is proceeding with multiple projects that are temporally and spatially connected.[70]

These criteria do not apply here. The Commission has repeatedly explained that there is no Commission policy, plan, or program for the development of natural gas infrastructure, including with specific respect to pipeline projects intended to transport gas produced in the Marcellus and Utica shale formations.[71] Rather, the Commission "considers individual proposed pipeline infrastructure projects on their own merits pursuant to its statutory obligation under [section 7(c) of the Natural Gas Act ("NGA")]" and "will issue a certificate to authorize a proposed pipeline project if it finds in accordance with section 7(e) of the NGA that the construction and operation of the proposed facilities 'is or will be required by the present or future public convenience and necessity.'"[72] Notably, Chairman Norman Bay recently addressed this issue directly in response to communications from public officials regarding whether a programmatic EIS would be conducted for projects proposed in West Virginia and Virginia.[73] Chairman Bay explained clearly that a programmatic EIS was unnecessary for those projects because the Commission does not direct the development of the natural gas industry's infrastructure, and does not engage in regional planning.[74]

The Commission has also explained that where there is no showing of an "interrelationship or connectedness between the various [proposed] pipeline projects ... beyond the fact that they might share a general regional proximity," the Commission is not required to prepare a programmatic EIS.[75] Aside from very general regional proximity, there is simply no geographic or other connection between the projects identified by the commenters and the NED Project that would require the use of a programmatic EIS.

Furthermore, no intervenor has shown that the NED Project is "functionally or financially dependent upon any other project" or that the NED Project is "dependent upon the timing of another project's approval or service date" that may require the combination of the projects into a single NEPA review.[76] Rather, the NED Project is a stand-alone project with its own customers and specific project purpose, independent from the other projects in the region, and will have limited environmental impacts that are separate and distinct from the other referenced projects. The Commission IS, therefore, not required to prepare a programmatic EIS that includes the NED Project.

C. A Programmatic EIS Would Not Assist the Commission's Decision-Making Process.

In contrast to the assertions of CLF, NRDC, PLAN, and NHMPC, a programmatic EIS would not further any Commission objectives. These intervenors make two related arguments in support of the Commission exercising its discretion to conduct a programmatic EIS: (1) that a programmatic EIS would allow the Commission to better account for "collective environmental impacts" of pending and recently- approved projects, and (2) that a programmatic EIS would allow the Commission to better assess the regional need for natural gas infrastructure. Neither of these arguments has merit, and both are, in fact, contrary to the purposes of NEPA and the NGA.

With regard to the first argument, the Commission has rejected assertions such as those made by CLF, NRDC, and NHMPC[77] that a programmatic EIS would assist its understanding of regional projects' "cumulative or synergistic" environmental impacts.[78] As the Commission noted in a recent order denying requests for rehearing of its approval of the Constitution Pipeline Project, CEQ Guidance provides that

a programmatic EIS can “add value and efficiency to the decision-making process when they inform the scope of decisions,” “facilitate decisions on agency actions that precede site- or project-specific decisions and actions,” or “provide information and analyses that can be incorporated by reference in future NEPA reviews.”[79] However, the Commission explained that these benefits cannot be realized by programmatic review of pipeline projects, because pipeline projects “do not share sufficient elements in common to narrow future alternatives or expedite the current detailed assessment of each particular project.”[80] Consistent with the Commission’s reasoning, the NED Project serves a different purpose, different customers, and different markets than the Access Northeast Project, and the Atlantic Bridge Project, and other regional projects that were recently approved, pending, or may be proposed in the future. Thus, a programmatic EIS would not add value or efficiency to the Commission’s environmental review process.[81]

With regard to the second argument suggesting that a programmatic EIS would assist the Commission in determining whether there is a need for the NED Project, the intervenors conflate the purposes of the NGA with those of NEPA. NRDC suggests that the Commission use its authority under NEPA to conduct a programmatic EIS to assess whether any projects, or project components, are unneeded.[82] CLF states that the Commission should, under the authority of NEPA, conduct a “comprehensive assessment” to “identify and evaluate alternatives to the NED Project, and to evaluate and better address the energy needs of the region.”[83] CLF asserts that by conducting a programmatic EIS, the Commission could “identify alternatives that minimize environmental impacts through elimination of projects or project-components that are simply unneeded.”[84] NHMPC similarly states that the Commission should conduct a “programmatic EIS, including a review of non-environmental factors,” to evaluate the region-wide demand for natural gas.[85] PLAN appears to recognize that an assessment of project need is not appropriate under NEPA, but nonetheless, without citing to any statutory authority or Commission precedent, calls for a “comprehensive review of the proposals in the region to address non-environmental issues.”[86]

The Commission should reject these arguments supporting a programmatic EIS, as they are inconsistent with the purposes of NEPA and the NGA. It is the Commission’s responsibility under section 7(c) of the NGA-not NEPA-to determine whether the NED Project “is or will be required by the present or future public convenience and necessity” and, if so, to issue Tennessee a certificate of public convenience and necessity to construct and operate the Project. While NEPA can inform the Commission’s decision as to whether a project is required by the public convenience and necessity, the Supreme Court has explained that the “twin aims” of NEPA are “[to] place [] upon an agency the obligation to consider every significant aspect of the environmental impact of a proposed action” and “ensure[] that the agency will inform the public that it has indeed considered environmental concerns in its decision-making process.”[87] As such, the programmatic NEPA analysis requested by the intervenors will not assist the Commission in determining whether a particular project is needed.

By contrast, under the NGA, the Commission “consider[s] all relevant factors reflecting on the need for the project”[88] which “include, but [are] not ... limited to, precedent agreements, demand projections, potential cost savings to consumers, or a comparison of projected demand with the amount of capacity currently serving the market.”[89] These “need” factors do not include environmental impacts and the Commission only “complete [s] the environmental analysis” “when the benefits [of a project] outweigh the adverse effects on economic interests.”[90] The Commission plainly explains: “This is essentially an economic test.”[91]

As explained above and in the Application, the purpose of the NED Project is to transport natural gas supplies from northern Pennsylvania to New York and New England markets. Tennessee has executed precedent agreements with New England LDCs and other market participants for 751,650 Dth per day of firm transportation capacity on the Project’s Supply Path Component, and with several of these same LDCs and other market participants for 552,262 Dth per day of firm capacity on the Market Path Component.[92] Tennessee has also identified and targeted sources of market demand for the remaining capacity and further stated that it will only build those facilities necessary to meet the requirements of firm contractual commitments. Tennessee’s demonstration of economic need for the NED Project-appropriately assessed under the criteria of the NGA-is unrelated to considerations that would be examined under a programmatic EIS carried

out under NEPA. Accordingly, the Commission need not conduct a programmatic EIS to evaluate the collective impacts of regional pipeline projects being proposed, or to assess a regional need for new gas infrastructure.

D. Tennessee Is Not Engaging in Unlawful Segmentation Through Its Filing of a Separate Application for the Independent NED Project.

The Allegheny Defense Project (“ADP”) asserts that Tennessee has engaged in unlawful segmentation by filing an application for the NED Project separately from its applications for its other stand-alone and discrete projects like the Orion Project (Docket No. CPI6-4-000), the Triad Expansion Project (Docket No. CPI5-520-000), and the Susquehanna West Project (Docket No. CPI5-148-000).[93] These three projects all involve looping along Tennessee’s 300 Line in Pennsylvania, but each serves different and distinct purposes from the NED Project. The NED Project will interconnect with Line 300, and although the NED Project includes some looping along the 300 Line in Bradford and Susquehanna Counties, Pennsylvania, it is functionally and financially independent from the Orion, Triad Expansion, Susquehanna West projects.

ADP improperly relies on *Delaware Riverkeeper Network v. FERC*,[94] which held that an agency impermissibly “segments” NEPA review “when it divides connected, cumulative, or similar federal actions into separate projects and thereby fails to address the true scope and impact of the activities that should be under consideration.”[95] ADP asserts that the NED, Orion, Triad, and Susquehanna West projects are connected, cumulative, and/or similar actions that are “pending concurrently” before the Commission in the same region, and concludes that all four projects must be considered in a single EIS to avoid improper segmentation.

There is no basis for concluding that the Commission would conduct improper segmentation by reviewing the NED Project separately from the Orion, Triad Expansion, and Susquehanna West projects. The facts that led the Delaware Riverkeeper court to find that improper segmentation had occurred are not present here. The court in *Delaware Riverkeeper* held that the Commission had improperly segmented a Tennessee project from three other connected Tennessee projects pending before the Commission at the time.[96] The court found that those four projects were not divided according to any “logical termini”[97] and lacked “substantial independent utility,”[98] and found that the projects’ physical interconnectedness further supported that independent environmental review of the projects constituted impermissible segmentation.

By contrast, the NED, Orion, Triad Expansion, and Susquehanna West projects comprise discrete pipeline projects, each with separate logical termini and substantial independent utility,[99] as demonstrated by their individual market support. The four projects have different project shippers, each of which has contracted for different levels of capacity to be delivered from and to different receipt and delivery points. These projects’ particular termini were created in accordance with their shippers’ specific needs, and each would move forward to serve these shippers in the absence of one another. Furthermore, these projects are not interconnected, either physically or otherwise.

The Orion Project is a 12.9-mile looping expansion project to be located in Wayne and Pike Counties, Pennsylvania. The Orion Project will transport gas west-to-east from a system receipt point to an existing interconnect with the Columbia Gas Transmission, L.L.C. system for subsequent delivery to downstream markets. Tennessee designed the Orion Project to accommodate specific needs of its three project shippers, which have contracted for the project’s full capacity. The Orion Project would proceed irrespective of the status of the Triad Expansion, Susquehanna West, and NED projects. At its nearest distance, the Orion Project is located approximately 33.75 miles from the NED Project.

The Triad Expansion Project involves the construction of approximately 7.0 miles of looping pipeline in Susquehanna County, Pennsylvania, and is designed to allow one shipper to transport gas to a new combined-cycle natural gas-fired power plant in Lackawanna County, Pennsylvania. The project terminates at a logical point—an existing interconnection with another pipeline that will deliver gas downstream to the power plant. Given its full subscription by a single shipper for delivery to one power plant, the Triad Expansion Project has substantial independent utility from, and would proceed in the absence of, the other three

projects discussed herein. The Triad Expansion Project pipeline looping is situated, at the nearest distance, approximately 5.8 miles from the NED Project.

The Susquehanna West Project consists of an approximately 6.2 mile “Western Loop” and a 1.9 mile “Eastern Loop,” situated on either side of Tennessee’s existing CS 315 in Tioga County, Pennsylvania, as well as modifications to two other compressor stations. In contrast to the NED, Orion, and Triad Expansion projects, gas on the Susquehanna West Project will flow from east to west. The Susquehanna West Project is fully subscribed by a natural gas producer, and its capacity will serve a downstream contract. The Susquehanna West Project’s termini are logical, as that project is designed to allow Tennessee to receive gas near a production area, and transport it via looping pipe along a fully-subscribed portion of the system to an existing delivery point for transportation to a downstream pipeline. While the Susquehanna West Project pipeline looping and NED Project pipeline looping facilities are located only 297 feet from each other at the closest point and both projects propose minor modifications at existing Compressor Station 319, given its full subscription by a single shipper for delivery to meet one contract, the Susquehanna West Project has substantial independent utility from, and would proceed in the absence of the NED Project, and vice versa. Neither project is functionally or financially dependent on the other.

Thus, the NED Project has substantial independent utility from the Orion, Triad Expansion, and Susquehanna West projects. The need for the NED Project is distinct from the needs for the other three projects, as Tennessee designed the NED Project to serve demand in New York and New England, while the other three projects terminate in Pennsylvania and are meant to serve different markets and customers. The NED Project shippers are different from those on the other three projects. For NED’s Market Path Component, shippers include LDCs in New England, and the Supply Path Component shippers include several of these same New England LDCs, plus producers and a power generator. The NED Project’s termination points reflect the needs of its shippers. Whether the Orion, Triad Expansion, and Susquehanna West projects are built is irrelevant to whether Tennessee will construct the NED Project.

The NED, Orion, Triad Expansion, and Susquehanna West projects’ functional and financial independence further contrasts these four projects from the projects at issue in Delaware Riverkeeper, where the court found that the project segments under review were functionally and financially interdependent. The NED, Orion, Triad Expansion, and Susquehanna West Projects each have independent project shippers that will use capacity on the respective projects to transport gas to different delivery points. Also, the Delaware Riverkeeper court recognized that a project being driven by independent financial considerations could be an important consideration in determining whether a project has substantial independent utility.[100] The NED, Orion, Triad, and Susquehanna West Projects are supported with incremental rates based upon their respective costs of service. As such, these four projects (the NED Project, the Susquehanna West Project, the Triad Expansion Project, and the Orion Project) are not commercially or financially interdependent.

To the extent the NED Project has cumulative impacts with any of the other three projects, these impacts will be appropriately addressed in the individual EIS to be prepared for the NED Project by the Commission.”[101] Based on regulatory guidance and published agency action, Tennessee identified geographic cumulative impacts assessment areas for each resource evaluated for the NED Project, such as air, water, and wildlife. Tennessee identified in Resource Report 1 all relevant impacts from the Orion, Triad Expansion, and Susquehanna West projects, along with other pending projects that have been proposed by Tennessee and other pipeline operators within the appropriate cumulative impacts assessment areas. The Commission can incorporate these impacts into its EIS for the NED Project, and in so doing, can meaningfully analyze the cumulative impacts of the NED Project without conducting a programmatic EIS.

Separating out the Orion, Triad Expansion, and Susquehanna West projects’ activities from the NED Project does not constitute improper segmentation because it would not conceal the environmental significance of the four projects together-which is the purpose behind the rule against segmentation.[102] These four projects each have logical termini, substantial independent utility, and are not physically connected to one another. Furthermore, the four projects are functionally and financially independent. Accordingly, Delaware Riverkeeper does not mandate-nor does any regulation, policy, or precedent require-joint environmental

review of these four projects.

E. Northeast Energy Solutions, Inc.’s Opposition to Irving Oil Terminals Operations, Inc. ‘s Intervention Should Be Denied.

Northeast Energy Solutions, Inc. ‘s (“NEES”) motion to intervene and further protest a motion to intervene by Irving Oil Terminals Operations, Inc. (“Irving Oil”) should be denied.[103] Irving Oil timely filed to intervene and, as a potential customer of the NED Project, is directly affected by the outcome of this proceeding. NEES’s assertions in the motion, while seemingly misinformed and difficult to follow, are irrelevant to the Commission standard for timely interventions.[104] Tennessee’s Application speaks for itself and its public announcements are fully consistent with the representations that it has made before the Commission throughout this proceeding.

F. An Evidentiary Hearing Is Not Necessary.

A number of Interventions request the Commission conduct a full evidentiary hearing for the NED Project.[105] The Commission should deny these requests for a full evidentiary hearing because a hearing is not necessary and the requests do not meet the Commission’s standards for setting a proceeding for hearing. The Commission has explained that setting a matter for hearing is appropriate only in proceedings presenting disputed issues of material fact that cannot be resolved on the basis of the written record.[106] Petitioners requesting an evidentiary hearing have the burden of making “a proffer of evidence as to those disputed facts that it alleges requires a hearing,” and “mere allegations of disputed facts are insufficient to mandate a hearing.”[107] a burden commenters made no real attempt to meet. Simply requesting a hearing does not meet this standard. All of the issues raised in the protests and comments on the Application can be fully addressed through the Commission’s paper hearing process. Therefore, the Commission should deny the requests for an evidentiary hearing for the NED Project.

G. The Motion for a Stay of the NED Project Proceeding and the Motion for Summary Dismissal of the NED Project Proceeding Should Be Denied.

On January 12, 2016, several individuals[108] (“Movants”) filed a Motion to Intervene and Stay of the NED Project proceeding. Movants argue that amendments to the NGA passed in 2005, which they contend granted the Commission jurisdiction over pipelines transporting natural gas for export, are unconstitutional.[109] The Movants state they also filed an action in the U.S. District Court for the District of Massachusetts in *Lovelace v. United States*, C.A. No. 3:15-cv-30131-MAP, “seeking a judicial declaration of the unconstitutionality of the Amendment and seeking a declaratory judgment and order halting further evaluation/consideration by FERC, aka United States, of the NED Project, in August of 2015.”[110] Tennessee notes that the court, in response to a Motion to Dismiss filed by the U.S., dismissed the Movants’ complaint on February 18, 2016 on the grounds of lack of jurisdiction, failure to exhaust administrative remedies, and ripeness.[111]

Movants fail to meet the Commission’s high burden for granting a stay, or even simply to justify their request, and, therefore, the Commission should deny the January 12, 2016 Motion for Stay. Pursuant to Section 705 of the APA, the Commission can only grant a stay when ‘justice so requires.’[112] In deciding whether justice requires a stay, the Commission considers the following factors: “(1) whether the party requesting the stay will suffer irreparable injury without a stay; (2) whether issuing the stay may substantially harm other parties; and (3) whether a stay is in the public interest.”[113] “If the party requesting a stay is unable to demonstrate that it will suffer irreparable harm absent a stay, [the Commission] need not examine the other factors.”[114] The Commission’s “general policy is to refrain from granting stays [of its orders] in order to assure definiteness and finality in Commission proceedings.”[115]

The Movants simply fail to demonstrate, or even allege, irreparable harm. The Commission’s review of the NED Project is still in its early stages. The Application was filed November 20, 2015, and the comment period on the Application closed on January 15, 2016. There are no possible grounds to demonstrate irreparable harm because Tennessee has not been authorized to take any actions that could cause any alleged harm to the Movants. Thus, a stay at this early point in the proceeding is not warranted.

Although the concept of irreparable harm does not readily lend itself to definition, the courts have developed several well-known and indisputable principles to guide the inquiry: “the injury must be both certain and great, actual and not theoretical, and . . . injunctive relief will not be granted against something merely feared as liable to occur at some indefinite time.”[116] Thus, a movant must substantiate the claim that irreparable injury is “likely to occur;” a mere possibility of irreparable harm is insufficient.[117] Bare allegations of what is likely to occur are insufficient since the court must decide whether the harm will in fact occur in the near future.[118] A movant “must provide proof that the harm has occurred in the past and is likely to occur again, or proof indicating that the harm is certain to occur in the near future.”[119] The Movants here have simply not done so.

The Commission is currently reviewing the NED Project and considering whether to issue a certificate of public convenience and necessity authorizing the Project. At this time, any alleged injuries are neither “certain” nor “great” and are “theoretical,” not “actual.” The requested injunctive relief cannot be granted because, at this time, any alleged irreparable harm is only a possibility, and “something merely feared as liable to occur at some indefinite time.” Therefore, the Movants have not demonstrated irreparable harm and the Commission should deny their untimely and unsupported request for a stay of the NED Project proceeding.

Similarly, the Commission should deny the Movants’ separate Motion for Summary Disposition of the NED Project proceeding, which was filed with the Commission on February 25, 2016 (which replaced an earlier February 24, 2016 filing), subsequent to the dismissal of the Movants’ federal court complaint on February 18, 2016. The Movants claim that the Motion for Summary Disposition, filed pursuant to Rule 217 of the Commission’s Rules of Practice and Procedure,[120] is based on a sole issue—the constitutionality of 15 U.S.C. § 717a, which the Movants argue “grants the United States power to allow private entities to take . . . real property by eminent domain, with adequate compensation, for the construction of pipelines to carry natural gas not for ‘public use’ but for exportation to foreign countries.”[121] It is worth noting here that 15 U.S.C. § 717a is the “Definitions” section of the statute and does not mention eminent domain.

Even so, as with the January 12, 2016 Motion for Stay discussed above, the Movants’ February 25, 2016 Motion for Summary Disposition should be denied as premature and unsupported. Under Section 385.217 of the Commission’s regulations, the Commission may summarily dispose of all or part of a proceeding “[i]f the decisional authority determines that there is no genuine issue of fact material to the decision of the proceeding or part of a proceeding”[122] Here, the Motion for Summary Disposition ignores the status of this proceeding, which is still in the early stages. The Commission is in the process of reviewing the certificate application and other materials submitted by Tennessee, as well as the numerous interventions, comments, and protests filed in the proceeding to date, and has and will likely continue to submit data requests to Tennessee to gather additional information for the preparation of the EIS and any certificate order. The claim by the Movants that there are “undisputed facts” that support the Motion for Summary Disposition is premature since the Commission, Tennessee, and other parties to the proceeding have not had an opportunity to review and respond to the Movants’ “undisputed facts.” Tennessee asserts that many of these claimed “undisputed facts” are instead opinions or interpretations, not facts, and should be vetted through the certificate review process by the Commission.

The Commission’s determination of whether Tennessee has demonstrated that the Project is required by the present and future public convenience and necessity will be made consistent with the Commission’s Certificate Policy Statement, and will include a review of the certificate application and other supporting information submitted by Tennessee; review of information submitted by parties to the certificate proceeding and other interested stakeholders; and the Commission’s own research and inquiry. The Commission’s review and determination of factual issues, as part of its decision-making process to determine if the issuance of a certificate of public convenience and necessity is warranted for the NED Project, is not suitable for summary disposition or summary dismissal, and the February 25, 2016 Motion for Summary Disposition of the Movants should be denied.[123]

IV.

CONCLUSION

Tennessee has fully demonstrated and firmly established the need for the NED Project in the Application and in this Answer. In addition, the Commission is not required to, and need not, perform a programmatic EIS for the NED Project together with other projects in the same general region. Further, the Commission is not improperly segmenting its NEPA review of other pipeline projects and the NED Project. Additionally, consistent with the Commission's long-standing practice and procedure, an evidentiary hearing is not necessary or required for the Commission's review of the Project. Finally, for the foregoing reasons, Tennessee respectfully requests the Commission deny the Movants' motions for a stay of the proceeding and for summary disposition of the proceeding, and deny the protest of NEES to the motion to intervene filed by one of the Project shippers.

Footnotes:

1 18 C.F.R. §§ 385.212,385.213 (2015).

2 Interventions (including protests, and comments) were filed by numerous individuals and parties. This Answer responds to the following: (1) Motion to Intervene, Initial Comments, and Request for Programmatic Environmental Impact Statement of Conservation Law Foundation, filed January 13, 2016 ("CLF Comments"); (2) Motion for Leave to Intervene and Comments of ENGIE Gas & LNG LLC, filed January 15, 2016 ("Engie Comments"); (3) Motion to Intervene, Initial Comments, and Request for Programmatic Environmental Impact Statement of the Natural Resources Defense Council, filed January 15, 2016 ("NRDC Comments"); (4) Massachusetts Attorney General Maura Healey's Filing of its New England Electric Reliability Options Study for Inclusion in the Record and Consideration by FERC on Tennessee Gas's Application for a Certificate of Public Convenience and Necessity, filed January 14, 2016 (the Massachusetts Attorney General, Maura Healey, filed a separate Motion to Intervene on December 21, 2016); (5) Motion to Intervene and Protest of the Pipe Line Awareness Network for the Northeast, Inc., filed December 28, 2015 ("PLAN Protest"); (6) Motion to Intervene and Protest of the New Hampshire Municipal Pipeline Coalition, filed January 15, 2016 ("NHMPC Protest"); (7) Motion to Intervene of Allegheny Defense Project, filed January 6, 2016; (8) Protest of Northeast Energy Solutions, Inc., filed January 13, 2016, amended January 15, 2016, and Objection of Northeast Energy Solutions, Inc. to Irving Oil Terminals Operations, Inc. Motion to Intervene and Further Protest, filed January 20, 2016 (Northeast Energy Solutions, Inc. filed a separate Motion to Intervene on December 15, 2015); (9) Petition of the Franklin Regional Council of Governments (FRCOG) for a Formal Evidentiary Hearing on Need for the Northeast Energy Direct Pipeline, filed January 15, 2016 ("FRCOG Petition") (the Franklin Regional Council of Governments filed a separate Motion to Intervene on January 4, 2016 ("FRCOG Intervention"); and (10) Motion to Intervene and for Stay of all Proceedings Pending Final Adjudication of Litigation in Federal Courts Seeking a Declaratory Judgment that the 2005 Amendment of the National Gas Act Granting the Federal Energy Regulatory Commission Jurisdiction over Natural Gas Pipelines Carrying Gas for Exportation to Foreign Countries is Unconstitutional (C. A. No: 3:15-C.V. 30131 (MAP) District of Massachusetts), filed January 12, 2016 (on behalf of Holly and Gordon Lovelace, Carolyn and Eric Ness, Michael and Kelly Paulsen, Woolman Hill Inc., and Meg Worcester aka Margaret W. Friedrich and Margaret W. Friedrich Trust), and Intervenor's Motion for Summary Disposition Under 18 CFR 385.217, filed February 25, 2016 (replaced February 24, 2016 filing) (on behalf of Holly and Gordon Lovelace, Carolyn and Eric Ness, Michael and Kelly Paulsen, Woolman Hill Inc., and Meg Worcester aka Margaret W. Friedrich and Margaret W. Friedrich Trust)

3 See Abbreviated Application of Tennessee Gas Pipeline Company, L.L.C. for a Certificate of Public Convenience and Necessity to Construct, Install, Modify, Operate, and Maintain Certain Pipeline and Compression Facilities and to Abandon Facilities, Docket No. CPI6-21-000 (Nov. 20, 2015) C' App lication").

4 15 U.S.C. § 717f(2012).

5 42 U.S.C. §§ 4321-4347 (2012).

6 18 C.F.R. § 385.213(a)(2).

7 See, e.g., Dominion Transmission, Inc., 105 FERC ~ 61,173, at P 22 n.6 (2003), reh 's denied, 116 FERC ~ 61,023 (2006); Columbia Gas Transmission Corp., 103 FERC ~ 61,388, at P 2 n.1, order on reh 'g, 105 FERC ~ 61,373 (2003); S. Natural Gas Co., 76 FERC ~ 61,122, at p. 61,130 (1996), reh 'g denied, 85 FERC ~ 61,134 (1998).

8 18 C.F.R. § 385.213(d).

9 15 U.S.C. §§ 717f(b), (c).

10 As discussed in Tennessee's March 17, 2016 response to the Commission's February 26, 2016 environmental

information request, Resource Report 1, Request 6, Tennessee has executed three new precedent agreements for capacity on the Project with Nantucket Electric Company (“Nantucket Electric”), Massachusetts Electric Company (“Massachusetts Electric”), and Liberty Utilities (EnergyNorth Natural Gas) Corp (“Liberty”). Massachusetts Electric executed a precedent agreement for 100,000 Dth per day on the Market Path Component and for 60,400 Dth per day on the Supply Path Component. Nantucket Electric executed a precedent agreement for 500 Dth per day on the Market Path Component and for 302 Dth per day on the Supply Path Component. These agreements have been submitted to the Massachusetts Department of Public Utilities for approval and these proceedings are ongoing. Liberty has executed a precedent agreement for capacity on the Supply Path Component for 78,000 Dth per day. This precedent agreement has been submitted to the New Hampshire Public Utilities Commission for approval and that proceeding is ongoing. These executed precedent agreements will be submitted as part of Tennessee’s supplemental filing that is anticipated to be submitted to the Commission by the end of April 2016.

- 11 Additional descriptions of proposed compressor stations and modifications are discussed in Resource Report 1, Table 1.1-4, and Resource Report 8 of the Application.
- 12 NHMPC Protest at 4; see also CLF Comments; Motion to Intervene of the New Hampshire Pipeline Awareness Network, filed January 15, 2016; FRCOG Intervention; Motion of the Town of Mason, New Hampshire to Intervene in Opposition, filed January 15, 2016; Motion to Intervene of Hancock Historical Commission, filed January 15, 2016; Motion to Intervene of Christopher A. Myers, filed January 4, 2016; Motion to Intervene of The Board of Selectmen, Town of Conway, Massachusetts in Opposition, filed December 29, 2015.
- 13 Certification of New Interstate Natural Gas Pipeline Facilities, 88 FERC ~ 61,227, modified by, 89 FERC ~ 61,040 (1999), order on clarification, 90 FERC ~ 61,128, order further on clarification, 92 FERC ~ 61,094 (2000) (“Certificate Policy Statement”).
- 14 Certificate Policy Statement at p. 61,745; Algonquin Gas Transmission, LLC, 150 FERC ~ 61,163, at P 18 (2015), reh ‘s denied, 154 FERC ~ 61,048 (2016).
- 15 Certificate Policy Statement at p. 61,745.
- 16 Id. at p. 61,748.
- 17 See discussion supra note 10 for additional information regarding three recently executed precedent agreements.
- 18 Application at 92.
- 19 Id. at 94-95.
- 20 Id. at 95-98.
- 21 Id. at 58-90.
- 22 The study was prepared by the Analysis Group in Boston and privately funded by the Barr Foundation, a noted supporter of environmental causes.
- 23 Massachusetts Low Demand Analysis: Final Report, Prepared for the Massachusetts Department of Energy Resources, Synapse Energy Economics (Jan. 7, 2015), <http://www.synapseenergy.com/sites/defaultfiles/Massachusetts%20Low%20Demand%20Final%20Report.pdf>.
- 24 See Office of Attorney General Maura Healey, Regional Electric Reliability Options, <http://www.mass.gov/ago/docs/energy-utilities/teros-infographic.pdf>.
- 25 See Application at 57-99.
- 26 See Petition of The Berkshire Gas Co. for Approval of a Precedent Agreement with Tennessee Gas Pipeline Co. at 46, Docket No. 15-48 (Mass. Dep’t of Pub. Utils. filed Aug. 31, 2015) (“Berkshire Gas Co. Petition”).
- 27 Id. at 10.
- 28 Id. at 58.
- 29 See Petition of Boston Gas Company d/b/a National Grid for Approval of a Firm Transportation Agreement with Tennessee Gas Pipeline Company, LLC, pursuant to G.L. c. 164, § 94A, Docket No. 15-34 (Mass. Dep’t of Pub. Utils. filed Aug. 31, 2015); Petition of Bay State Gas Company d/b/a Columbia Gas of Massachusetts for Approval of a Firm Transportation Agreement with Tennessee Gas Pipeline Company, LLC, pursuant to G.L. c. 164, § 94A, Docket No. 15-34 (Mass. Dep’t of Pub. Utils. filed Aug. 31, 2015); Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities, Order No. 25,822, Order Approving Stipulation and Settlement Agreement and Precedent Agreement, Docket No. DG14-380 (N.H. Pub. Util. Comm’n filed Oct. 2, 2015) (“Liberty Utilities Order”).
- 30 Not surprisingly, much of the media coverage of the Attorney General’s study did not distinguish between the electric and LDC markets, but simply reported that the study found that additional capacity was unnecessary. See e.g., “Mass AG sees no need for natural gas pipelines. Prefers methods to boost efficiency.” Boston Globe (Nov. 18, 2015), <https://www.bostonglobe.com/business/2015111118healeystudy-natural-gas-pipelines-sees-pros-and-cons/gPaGdvJyH8PWGnkUddgSfN/story.html>.
- 31 Massachusetts AG Study at 6-7. While contending its recommendations would significantly lower greenhouse emissions, the Massachusetts AG Study actually supports burning oil for electric generation during periods of acute gas shortages during the cold winter months, a solution that will clearly increase emissions, not lower

them.

- 32 State of the Grid: 2016, Comments by Gordon van Welie at 2 (Jan. 26,2015), <http://www.isone.comlstatic-assets/documents/2016/01120160126remarks2016stateofthegrid.pdf> (“2016 van Welie Comments”). See also, State of the Grid: 2016, Presentation, <http://www.iso-ne.comlstaticassets/documents/2016/01120160126presentation2016stateofthegrid.pdf>.
- 33 See 2016 van Welie Comments at 2.
- 34 Id. at 3.
- 35 Id.
- 36 Id. at 6.
- 37 Id. at 2.
- 38 Id. at 4.
- 39 Id.
- 40 CLF Comments, Exhibit 2.
- 41 See id. at 14 and Exhibit 2.
- 42 See Engie Comments at 9 and Energyzt Study, ES-1 through ES-3.
- 43 The Skipping Stone Study references the ICF-EISPCINARUC Study on Long-term Electric and Natural Gas Infrastructure Requirements in the Eastern Interconnection, September 2014 (“2014 ICF Study”). Skipping Stone Study at 9, Chart I. For a discussion of projected load curves in New England based on the 2014 ICF Study, see Appendix A of the Skipping Stone Study.
- 44 See Application, Section IX, 4, Long-Term Contracts Demonstrate Need for the Project.
- 45 Energyzt Study at 41-42.
- 46 See Appendix A to the Skipping Stone Study at A-I through A-I0. The Energyzt Study includes a similar conclusion (that existing pipeline infrastructure, pipeline expansions already underway, and other natural gas supply infrastructure is more than adequate to meet winter peaking needs in the near to medium term). See Energyzt Study at ES-1 and 19-27.
- 47 See Skipping Stone Study at 19-20.
- 48 Berkshire Gas Co. Petition at 46-47 (internal citations omitted). The Massachusetts Attorney General is currently appealing the approval.
- 49 Liberty Utilities Order at 29 (internal citation omitted).
- 50 Investigation by the Dep’t of Pub. Utils. on its own Motion into the means by which new natural gas delivery capacity may be added to the New England Market including actions to be taken by the electric distribution companies, Vote and Order Opening Investigation, at 7, Docket No. 15-37 (Mass. Dep’t of Pub. Utils. issued Apr. 27,2015).
- 51 Investigation by the Dep’t of Pub. Utils. on its own Motion into the means by which new natural gas delivery capacity may be added to the New England Market including actions to be taken by the electric distribution companies, Order Determining Department Authority under G.L. C. 164 § 94A, at 47, Docket No. 15-37 (Mass. Dep’t of Pub. Utils. issued Oct. 2,2015).
- 52 Petition of Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid for Approval of Gas Infrastructure Contracts with Tennessee Gas Pipeline, LLC for the Northeast Energy Direct Project, Docket No. 16-07 (Mass. Dep’t of Pub. Utils. filed Jan. 15,2016).
- 53 Id., Testimony of Peter J. Abt, Exhibit NG-PJA-1, at 13.
- 54 Id.
- 55 Id. at 8, 13.
- 56 Energy Information Administration, Average retail price of electricity (accessed: 5/1/2015).
- 57 ISO New England, Regional System Plan 2015, at 132 (Nov. 5,2015).
- 58 Certificate Policy Statement at p. 61,749. See also Transcon. Gas Pipe Line Corp., 98 FERC ~ 61,155, at p. 61,555 (2002), order amending certificate, 103 FERC ~ 61,033 (2003).
- 59 CLF Comments at 30-35.
- 60 See Algonquin Gas Transmission, LLC, Request for Approval of Pre-Filing Review for Access Northeast Project, Docket No. PFI6-1-000 (Nov. 3,2015), letter approving pre-filing (Nov. 17,2015).
- 61 Algonquin Gas Transmission, LLC, Abbreviated Application for Certificates of Public Convenience and Necessity and for Related Authorizations for its Atlantic Bridge Project, Docket No. CPI6-9-000 (Oct. 22, 2015).
- 62 Algonquin Gas Transmission, LLC, 150 FERC ~ 61,163, at Ordering Paragraph (A).
- 63 Tennessee Gas Pipeline Co., L.L.c., 154 FERC ~ 61,191 (2016)).
- 64 Constitution Pipeline Co., 149 FERC ~ 61,199 (2014), reh’g denied, 154 FERC ~ 61,046 (2016).
- 65 NRDC Comments at 8-12.
- 66 PLAN Protest at 6; NHMPC Protest at 19-21.
- 67 See, e.g., Constitution Pipeline, 154 FERC ~ 61,046, at PP 78-87; Algonquin Gas Transmission, LLC, 154 FERC ~ 61,048, at PP 95-106; Dominion Transmission, Inc., 152 FERC ~ 61,138, order on reh ‘g, 153 FERC ~ 61,284 (2015); Tennessee Gas Pipeline Co., 150 FERC ~ 61,160, order granting & denying in part req.for

- reh 'g, 154 FERC ~ 61,184 (2015).
- 68 See, e.g., Algonquin Gas Transmission, LLC, 154 FERC ~ 61,048, at P 96 (“CEQ’s regulations do not require broad or ‘programmatically’ NEPA reviews.”).
- 69 Nat ‘I Wildlife Fed’n v. Appalachian Reg ‘I Comm ‘n, 677 F.2d 883,888 (D.C. Cir. 1981) (citing *Kleppe v. Sierra Club*, 427 US. 390,412 (1976)).
- 70 See CEQ, Effective Use of Programmatic NEPA Reviews at 13-15 (citing 40 C.F.R. § 1508.18(b) (2015)).
- 71 Dominion Transmission, Inc., 153 FERC ~ 61,284, at P 62 (“We have explained that there is no Commission plan, policy, or program for the development of natural gas infrastructure.”) (internal citation omitted); Algonquin Gas Transmission, LLC, 154 FERC ~ 61,048, at P 97 (citing *Texas Eastern Transmission*, 149 FERC ~ 61,259, at PP 38-47 (2014)); *Constitution Pipeline*, 154 FERC ~ 61,046, at P 79.
- 72 *Dominion Transmission*, 152 FERC ~ 61,138, at P 30 (quoting 15 U.S.C. § 717f(c), (e)).
- 73 Letter from Chairman Norman Bay to Congressman Bob Goodlatte regarding the Mountain Valley Pipeline Project, Docket No. CPI6-10-000 (Nov. 25,2015); Letter from Chairman Norman Bay to Virginia State Senator A. Donald McEachin, Docket Nos. CPI6-10-000, CPI5-554-000 (Dec. 7,2015); Letter from Chairman Norman Bay to Virginia State Delegate Betsy Carr, Docket Nos. CPI6-10-000, CPI5-554-000 (Dec. 16, 2015); Letter from Chairman Norman Bay to Virginia State Delegate G. Manoli Loupassi, Docket Nos. CPI6-10-000, CPI5-554-000 (Dec. 16,2015).
- 74 Id.
- 75 *Tennessee Gas Pipeline*, 150 FERC ~ 61,160, at P 55.
- 76 Id.
- 77 NRDC Comments at 8-11; CLF Comments at 30; NHMPC Protest at 21.
- 78 *Constitution Pipeline*, 154 FERC ~ 61,046, at P 168.
- 79 Id. at P 87 (quoting 2014 Programmatic Guidance at 13).
- 80 Id. at P 87.
- 81 See, e.g., Algonquin Gas Transmission, LLC, 154 FERC ~ 61,048, at PP 105-06.
- 82 NRDC Comments at 8.
- 83 CLF Comments at 32.
- 84 Id. at 34.
- 85 NHMPC Protest at 20-21.
- 86 PLAN Protest at 6.
- 87 *Bait. Gas & Elec. Co. v. Nat. Res. De! Council, Inc.*, 462 US. 87, 97 (1983) (citing *Vermont Yankee Nuclear Power Corp. v. Nat. Res. De! Council, Inc.*, 98 S. Ct. 1197, 1216 (1978); *Weinberger v. Catholic Action of Hawaii*, 454 U.S. 139,143 (1981)).
- 88 Certificate Policy Statement at p. 61,747.
- 89 Id.
- 90 Id. at p. 61,745.
- 91 Id.
- 92 See discussion supra note 10 for additional information regarding three recently executed precedent agreements.
- 93 Motion to Intervene of Allegheny Defense Project at 2-4, filed January 6,2016 (“ADP Comments”).
- 94 753 F.3d 1304 (D.C. Cir. 2014), order on remand, *Tenn. Gas Pipeline, L.L.c.*, 153 FERC ~ 61,215 (2015).
- 95 *Delaware Riverkeeper*, 753 F.3d at 1313.
- 96 Id. at 1309.
- 97 Id. at 1315-16.
- 98 Id. at 1316-17. See also *Utahnsfor Better Transp. v. Us. Dep ‘t of Transp.*, 305 F.3d 1152,1182-83 (10th Cir. 2002) (citing *Custer Cnty. Action Ass’n v. Garvey*, 256 F.3d 1024, 1037 (10th Cir. 2001)) (“projects that have ‘independent utility’ are not ‘connected actions’ under 40 C.F.R. § 1508.25(a)(I)(iii)”), modified on reh ‘s. 319 F.3d 1207 (10th Cir. 2003); see also *Great Basin Mine Watch v. Hankins*, 456 F.3d 955, 969 (9th Cir. 2006) (“When one of the projects might reasonably have been completed without the existence of the other, the two projects have independent utility and are not ‘connected’ for NEPA’s purposes.”) (citing *Native Ecosystems Council v. Dombeck*, 304 F.3d 886, 894 (9th Cir. 2002)).
- 99 See *Coal. on Sensible Transp., Inc. v. Dole*, 826 F.2d 60, 69 (D.C. Cir. 1987); *O’Reilly v. Army Corps of Eng’rs*, 477 F.3d 225, 237 (5th Cir. 2007) (defining independent utility as whether one project “can stand alone without requiring construction of the other [projects] either in terms of the facilities required or of profitability”).
- 100 *Delaware Riverkeeper*, 753 F.3d at 1316 (“The commercial and financial viability of a project when considered in isolation from other actions is potentially an important consideration in determining whether the substantial independent utility factor has been met. FERC’s reliance on the shipping contracts in this case, however, is insufficient because the contracts do not show that the Northeast Project was driven by independent financial considerations apart from the other projects.”).

- 101 “[A]n agency may assess the cumulative impacts of an action but not consider that action with the proposed project in single environmental document.” *Algonquin Gas Transmission, LLC*, 154 FERC ~ 61,048, at P 84. (citing *Earth Island Inst. v. Us. Forest Serv.*, 351 F.3d 1291, 1305 (9th Cir. 2003)); see also *Constitution Pipeline*, 154 FERC ~ 61,046, at P 98 (rejecting claim that pipeline projects were improperly segmented from *Constitution Pipeline*, noting that cumulative impacts were appropriately discussed in the project EIS’s cumulative analysis section).
- 102 See *Nat. Res. De! Council, Inc. v. Hodel*, 865 F.2d 288, 297-98 (D.C. Cir. 1988) (citing *Thomas v. Peterson*, 753 F.2d 754, 758 (9th Cir. 1985)).
- 103 Motion to Intervene of *Northeast Energy Solutions, Inc.*, Docket No. CPI6-21-000 (Dec. 15, 2015); Objection of *Northeast Energy Solutions, Inc.* to *Irving Oil Terminals Operations, Inc.* Motion to Intervene and Further Protest, Docket No. CPI6-21-000 (Jan. 20,2016).
- 104 See 18 C.F.R. § 385.214.
- 105 Protest of *Northeast Energy Solutions, Inc.*, Docket No. CPI6-21-000 (Jan. 13,2016); Petition of Town of *Dracut* for a Formal Evidentiary Hearing, Docket No. CPI6-21-000 (Mar. 10, 2016); PLAN Protest; FRCOG Petition; NHMPC Protest.
- 106 *Dominion Transmission, Inc.*, 141 FERC ~ 61,183, at P 15 (2012) (citing *Moreau v. FERC*, 982 F.2d 556,568 (D.C. Cir. 1993)); *Duquesne Light Co.*, 135 FERC ~ 61,237, at P 15 n.13 (2011); *Midwest Indep. Transmission Syst. Operator, Inc.*, 137 FERC ~ 61,074, at P 340 (2011).
- 107 *ISO New England, Inc.*, 127 FERC ~ 61,254, at P 23 (2009) (citing *Cerro Wire & Cable Co. v. FERC*, 677 F.2d 124, 129 (D.C. Cir. 1982)); *Ohio Edison Co.*, 95 FERC ~ 61,178, at p. 61,585 (2001) (“there is no need for a hearing because there are no issues of material fact in dispute that cannot be resolved based on the record before us.”); *FirstEnergy Corp.*, 133 FERC ~ 61,222, at P 76 (2010) (“the Application presents sufficient information to render a decision and ... no issues of material fact have been raised that require a hearing.”); *Exelon Corp.*, 127 FERC ~ 61,161, at P 18 (2009), reh ‘s denied, 130 FERC ~ 61,095 (2010) (rejecting request for hearing on grounds that the intervenor “has not shown that there are any material facts in dispute”).
- 108 *Holly and Gordon Lovelace, Carolyn and Eric Ness, Michael and Kelly Paulsen, Woolman Hill Inc., and Meg Worcester aka Margaret W. Friedrich and the Margaret W. Friedrich Trust.* Motion To Intervene And For Stay of All Proceedings Pending Final Adjudication of Litigation in Federal Courts Seeking a Declaratory Judgment that the 2005 Amendment of the National Gas Act Granting the Federal Energy Regulatory Commission Jurisdiction Over Natural Gas Pipelines Carrying Gas for Exportation to Foreign Countries Is Unconstitutional (C.A. No: 3:15-C.v. 30131(MAP) District Of Massachusetts), at 1, Docket No. CPI6-21-000, filed January 12,2016 (“Motion for Stay”).
- 109 *Id.* at 10.
- 110 *Id.*
- 111 Memorandum and Order Regarding Defendant’s Motion to Dismiss and Plaintiffs’ Motion for Summary Judgment, *Lovelace v. United States*, No. 15-cv-30131-MAP (D. Mass. Feb. 18,2016), ECF No. 27. The court also dismissed the plaintiffs’ Motion for Summary Judgment.
- 112 See *Columbia Gas Transmission, LLC*, 146 FERC ~ 61,116, at P 56 (2014) (citing 5 U.S.C. § 705 (2012)).
- 113 *Dominion Cove Point, LNG, LP*, 126 FERC ~ 61,238, at P 16 (2009) (internal citations omitted); *Ruby Pipeline, L.L.C.*, 134 FERC ~ 61,103, at P 17 (2011) (internal citations omitted).
- 114 *Dominion Cove Point*, 126 FERC ~ 61,238, at P 18 (internal citations omitted).
- 115 *Id.* at 17 (citing *Sea Robin Pipeline Co.*, 92 FERC ~ 61,217, atp. 61,710 (2000)).
- 116 *Ruby Pipeline*, 134 FERC ~ 61,103, at P 18 (citing *Wis. Gas Co. v. FERC*, 758 F.2d 669, 674 (D.C. Cir. 1985)).
- 117 *Id.* (internal citation omitted); *Winter v. Nat. Res. De! Council*, 555 US. 7,22 (2008).
- 118 *Ruby Pipeline*, 134 FERC ~ 61,103, at P 18.
- 119 *Wis. Gas Co. v. FERC*, 758 F.2d 669, 674 (D.C. Cir. 1985).
- 120 18 C.F.R. § 385.217.
- 121 Memorandum of Law in Support of their Motion for Summary Disposition under 18 CFR 385.217 at 1, Docket No. CPI6-21-000 (Feb. 25,2016).
- 122 18 C.F.R. § 385.217(b).
- 123 On March 17,2016, the Town of *Nassau, New York* filed a letter with the Commission seeking an immediate suspension of the review of the Application. Although not styled as a motion for a stay of the certificate proceeding, *Tennessee* submits that the information submitted in opposition to the *Movants’ Motion for Stay and Motion for Summary Disposition* is also applicable to the *Town of Nassau, New York’s* request for suspension and any other similar filings seeking suspension of the certificate process and such request should be denied. *Comments of Town of Nassau, New York*, Docket No. CPI6-21-000 (Mar. 17,2016).

Respectfully submitted,

20160323-5095

Barry Pfannebecker, South Deerfield, MA.

The recent filing of NED Answers to Protests-032216.pdf in which it is stated “.....firmly demonstrated and firmly established the need for the NED Project.....” is the approach by Tennessee Gas Pipeline Co. to refute the information and data opposing this pipeline. How does a company that stands to derive profit from this undertaking provide the authoritative answers? It’s a conflict of interest. They do not care for the interests in the opposing information by providing compromises or alternatives, but are more concerned with refuting them in order to make money from NED.

20160323-5142

David Feener, Topsfield, MA.

I am against pipeline companies taking protected conservation lands for their projects

20160324-0011

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }

Karen Miller

151 Ashburnham Rd

New Ipswich, NH 03071

20160324-5003

Diane Sibley, Ashfield, MA.

I oppose TGP’s request for permission to proceed with tree-cutting. FERC should deny the request, as it did the Constitution Pipeline Company’s request (with respect to tree-cutting in New York State) under Docket No. CP13-499, because TGP does not have the 401 water quality certificates required for this project.

20160324-5010

Kori Feener, Natick, MA.

I oppose TGP’s request for permission to proceed with tree-cutting. FERC should deny the request, as it did the Constitution Pipeline Company’s request (with respect to tree-cutting in New York State) under Docket No. CP13-499, because TGP does not have the 401 water quality certificates required for this project.

Furthermore there is a pending case within the Massachusetts courts where Tennessee Gas Pipeline Co has sued the state and is attempting to break our state constitution. Nothing should proceed until that case is tried. If this is approved by FERC it will be in direct opposition to Massachusetts law.

As an award-winning documentary filmmaker I have been documenting everything happening in regards to this in the state of Massachusetts, and I will continue to adamantly follow this current docket.

20160325-0007

Congress of the United States

House of Representatives

Washington, DC 20515-2103

Niki Tsongas

3rd District, Massachusetts

March 22, 2016

Chairman Noiman Bay

Federal Energy Regulatory Commission

888 First Street, NE

Washington, D.C. 20426

Re: Request for Evidentiary Hearing and Dracut Scoping Session (CP16-21-000 Northeast Energy Direct)

Dear Chairman Bay,

I want to thank the Federal Energy Regulatory Commission (FERC) for hearing the numerous ongoing concerns regarding environmental, social, and economic impacts of the proposed Northeast Energy Direct Project (NED) from many of my constituents, and for requesting data and information from Kinder Morgan related to these concerns in order to fully vet their proposal.

On February 2, 2016, Beverly Woods, Executive Director of the Northern Middlesex Council of Governments (NMCOG), the local regional planning agency for a number of potentially impacted communities on the proposed route, requested a public and formal evidentiary hearing pursuant to Rules 157.10 and 212 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 157.10 and 18 C.F.R § 212).

I am writing in support of Ms. Woods' request for a Formal Evidentiary Hearing to address the notion that there is regional need for natural gas to support the NED project. Since Kinder Morgan's official filing with FERC in late 2015, many in the region, including my own constituents, are concerned that the NED project is proposed to largely serve export markets. These concerns have been exacerbated by the recent approval by the US Department of Energy for Pieridac Energy to export 0.8 billion cubic feet per day of domestic natural gas. Furthermore, Massachusetts Attorney General Maura Healy's recent electric reliability study has cast doubt for many that the New England electric grid is in need of such immense additional natural gas supply. Such a hearing will allow the public to better understand the project and will aid in FERC's commitment to transparency.

Additionally, since the move of the Dracut compressor station to an alternative location in late 2015, a number of my constituents from Dracut, who reside within a 1/2 mile of the new compressor station location, were not notified about the scoping meetings held in August 2015 and therefore were not provided the appropriate opportunity to express their concerns about the project. I would like to request that FERC reopen the scoping period and host another scoping meeting in Dracut, MA.

Again, I request that FERC give Ms. Woods' request every appropriate consideration and that FERC consider hosting another scoping meeting in Dracut, MA. I thank you for this consideration as I continue to advocate on behalf of my constituents in the 3rd Congressional District in order to ensure their concerns are addressed regarding the NED project.

Sincerely,

Niki Tsongas
Member of Congress

20160325-5001

Leslie J Carey, Averill Park, NY.

I am writing to respond to the "Answer to Protests" recently submitted by Kinder Morgan/Tennessee Gas. I have addressed two points below and due to space constraints cannot address every self serving, subjective item in this document. As usual, these ruthless profiteers eschew data and cherry pick statements to create the picture they prefer.

1) The Massachusetts A.G.'s study: The idea that Massachusetts needs more gas to meet its energy needs is factually incorrect, and rises to the level of propaganda. A.G. Healey's study is well researched and describes in detail how existing fossil fuels can be used while the transition to renewables takes over. This study was performed by unbiased consultants, who have in fact done studies for Big Energy in the past.

Kinder Morgan has been throwing money around and using lobbyists in New England for the past five years, using bribery and extortion to push their plans. Their plot is to use our region as a superhighway for gas export. Kinder Morgan/Tennessee's complaint about this unbiased study serves to support these amoral companies in stealing land, damaging health and safety, and destroying local economies.

2) The Economic Costs Pipelines are significant and damaging as reflected by this research:

Effects on Property Value, Ecosystem Services, and Economic Development in Western and Central Virginia Executive Summary

The Atlantic Coast Pipeline (ACP) is proposed to carry natural gas from the Marcellus Shale through a 564-mile-long swath of West Virginia, Virginia, and North Carolina to markets in Virginia and North Carolina and, potentially, overseas. It has been represented as both environmentally safe and economically beneficial, providing economic opportunity for local communities along the proposed route.

Promised economic benefits, however, are only part of the impact the Federal Energy Regulatory Commission (FERC) must review before deciding whether to approve the construction and operation of the pipeline. Under the National Environmental Policy Act, FERC's review must consider the full range of environmental effects of the proposed pipeline. These include the various ways in which environmental effects would result in changes in human well-being—that is, in economic benefits and costs. While estimates of positive economic effects including construction jobs and local tax payments have been developed and promoted as reasons to move forward with the pipeline, no systematic consideration of the potential negative economic effects—economic costs—of the ACP has been completed.

To help fill the gap in current information, five community groups* from a four-county region in central and western Virginia commissioned this independent research into key economic costs of the ACP. This region, comprised of Highland, Augusta, Nelson, and Buckingham Counties, would experience three types of economic costs due to the construction, operation, and presence of the ACP. First, the pipeline would impact property values along the 126 miles of pipeline proposed for the region. Affected properties are those touched by the 75-foot-wide right-of-way, within the 1.4-mile-wide evacuation zone, in proximity to the compressor station proposed for Buckingham County, and throughout the viewshed of the proposed pipeline. Second, construction and the ongoing operation of the pipeline would alter land use/land cover in ways that diminish ecosystem service values, such as aesthetics, water supply, and timber and food production. Third, and in part due to a loss of scenic and quality-of-life amenities, there would be decreases in visitation, in-migration, and small business development and a loss of jobs and personal income those activities would otherwise support.

Considering this four-county region alone, estimated one-time costs range from \$72.7 to \$141.2 million. These one-time costs comprise lost property value and the value of ecosystem services lost during construction. Annual costs following the construction period include lower ecosystem service productivity in the ACP's right-of-way, lower property tax revenue due to the initial losses in property value, and dampened economic development. These total between \$96.0 and \$109.1 million per year, and would persist forever. (See "At a Glance," for details.) Putting the stream of costs into present value terms [1] and adding the one-time costs, the total estimated cost of the ACP in Highland, Augusta, Nelson, and Buckingham Counties is between \$6.9 to \$7.9 billion. For reasons explained in the body of this report, these are conservative estimates.

The costs represented by the estimates presented here are what economists call "externalities," or "external costs," because they would be imposed on parties other than (external to) the company proposing to build the pipeline. Unlike the private (or internal) costs of the pipeline, external costs borne by the public do not affect the company's bottom-line. From an economic perspective, the presence of externalities is what demands public involvement in decisions about the ACP. Without consideration of all of the costs of the project, too much pipeline (which may mean any pipeline at all) is the inevitable result. FERC must therefore consider the true bottom line and ensure that the full costs of the pipeline, especially those external costs imposed on the public, are rigorously examined and brought to bear on its decision about whether or not to permit the ACP project to proceed.

20160325-5002

Jeff Boucher, Beverly, MA.

"I oppose TGP's request for permission to proceed with tree-cutting. FERC should deny the request, as

20160328-0035

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

M Coolidge

79 Morris St

Dracut, MA 01826

20160328-0046

March 17, 2016

Dear Federal Energy Regulatory Commission committee members;

My husband and I are Massachusetts residents and are very strongly opposed to the natural gas pipelines that gas companies like Kinder Morgan and Tennessee Gas Cos. desire to build through New England and urge you and the committee to deny them. We feel very strongly that all steps towards maximizing conservation should be taken and that alternative energy sources should be encouraged which should eliminate the need for the pipelines. Better conservation in particular will reduce the impact on business and individuals when prices do rise. There are many more reasons we are so strongly opposed but one of the major ones is that by encouraging more production of natural gas, there will be an increase in chances that groundwater will be contaminated both at the source of the wells and along the paths of the pipelines which would seriously, and potentially permanently, affect food production, businesses and neighborhoods. In addition, denying the pipelines and focusing on conservation and alternative energy will create many more long lasting jobs and small businesses and is bound to lead to more innovation in those areas.

Thank you for considering our position,

Alice and Greg Newth
59 East Taylor Hill Road
Montague, MA, 01351

20160328-5007

Christine Brandon, Plainfield, MA.

I oppose the TGP request for permission to proceed with tree cutting. FERC should deny the request, as it did the Constitution Pipeline's request (with respect to tree-cutting in New York state) under docket CP13-499 because TGP does not have 401 water quality certificates required for this project.

20160328-5138

SAVE BURDEN LAKE

www.saveburdenlake.org

stop.nassau.ned@gmail.com

March 28, 2016

Matthew Brower
Agricultural Resource Specialist
NYS Dept. of Agriculture and Markets
10B Airline Drive
Albany, NY 12235-0001
matthew.brower@agmkt.state.ny.us

Mr. Brower:

We are a group of residents in Rensselaer County along the route of the proposed Kinder Morgan (Tennessee Gas) Northeast Direct (NED) pipeline. We are opposed to the route of the pipeline through Rensselaer County and, in particular, its location of the proposed compressor station. We are writing to you in relation to your responsibilities regarding agricultural lands affected by the pipeline as a FERC cooperating agency.

The proposed NED pipeline as currently routed would traverse Rensselaer County in Schodack, Nassau and Stephentown, with a major compressor station near Burden Lake at Clark's Chapel Road in Nassau or one

of several alternative sites in Nassau or Schodack. We have determined that the route would compromise the continued agricultural use of a significant number of properties in certified agricultural districts. It would defeat protections that are the goal and purpose of agricultural districts.

We have mapped the locations of these district properties in relation to the proposed pipeline route and proposed compressor station locations. We ask that you give close attention to these properties in the course of your review. For your convenience, we are attaching copies of the maps we have prepared.

Sincerely,

Terry M. Nord
518-477-0394

cc: Stephen M. Tomasik, NYS DEC

Federal Energy Regulatory Commission, Docket No. CP16-21

Diane Smith

Associate Attorney

NYS Dept. of Agriculture and Markets 10B Airline Drive

Albany, NY 12235-0001

{3 maps omitted, complete submission can be downloaded (4 pages, 3,457 KB) at: }

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14181803>

20160329-0012

Kimberly Bose docket CP 16-21 NED Tenn Gas Kinder Morgan

Public convenience and necessity, really?

Lower our energy costs'? Conservation is the best deal around but have you personally looked into solar... it is the best way to lower your energy costs money up front, low or no interest loans...way to go! 5-7 year payback...

Massachusetts Attorney General report...seriously flawed'? Sounds like a Trump statement to me!

Would KM Tenn Gas Ruarantee electric costs to prove they would provide reduced costs for 25 years?

We want to subsidize solar, insulation and encourage conservation, we do not want to subsidize FOSSIL FUELS.

Carbon foot print, has nothing over METHENE and its position in climate change. Gas is NOT clean and green, it burns cleaner but the methane and 600 other ingredients are far more critical to the crisis in climate change.

We have over 300 million people in US and over 100 million homes. If we subsidized even ~/* of these homes with energy efficiency methods, insulation and solar, we'd be a lot closer to energy independence.

Who would swap out an oil fired system for gas today, with the glut of oil and appealing prices of oil:

Yes, we need storage of gas for difficult times, but in New England we have only a handful of days of extreme need. Use the existing storage tanks or add to these tanks for difficult times for heating, cooling and electric needs.

It is real simple do not allow Tenn Gas to export. They claim we have need in NE, well stop there. Tenn Gas "has significant support from dedicated shippers" ? In this country? More likely, out of this country!

Protect our Article 97...somany of our friends have donated their hard earned money to protect and conserve our wilderness for eternity, we don't want a pipeline to invade these lands. X4Q-w((/

Virginia Hastings, 30 North Lane Northfield, MA 01360 hastingsv@aol.com

BRADLEY & FAULKNER, pc
ATTORNEYS AT LAW
50 WASHINGTON STREET
P.O. BOX 666
KEENE, NEW HAMPSHIRE 03431-0666
(603) 352-2030

March 24, 2016

Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: Howard O. Spaulding — 375 Scotland Road, Winchester, New Hampshire
Tennessee Gas Pipeline, LLC — Docket1: CP16-21-000 / PF14-22-000

Gentlemen:

I am writing on behalf of Howard O. Spaulding of 375 Scotland Road, Winchester, New Hampshire 03470. Mr. Spaulding, as trustee of his revocable living trust, owns real estate on both sides of Scotland Road in Winchester. His property on the west side of Scotland Road is identified as Winchester Tax Map 3, Lot 18 and his property on the east side of Scotland Road is identified as Winchester Tax Map 3, Lot 19. Mr. Spaulding does not object to the proposed Tennessee Gas pipeline, per se, but he has strenuous objections to the current proposed location of the pipeline because of the effect it will have on his property:

1. Domestic Water Supply: First and foremost, Mr. Spaulding objects to the current proposed location of the pipeline because it will almost certainly destroy the domestic water supply to four or five homes on Scotland Road identified on the Winchester Tax Map as follows: Tax Map 3, Lot 17; Tax Map 3, Lot 20; Tax Map 3, Lot 19.1; Tax Map 3, Lot 21; Tax Map 3, Lot 18.

On the premises identified as Tax Map 3, Lot 19, there are several springs on the ridge behind the homes on the east side of Scotland Road. Those springs are the only source of water for each of those homes. The springs exist because there is an underground layer of clay which acts as a dam which blocks the water running underground down the hillside and forces the water to the surface. The result is a series of springs along the hillside. The water from those springs is piped by gravity to the homes along Scotland Road.

The installation of the pipeline in its proposed location will sever or destroy the clay “dam” which, in turn, will destroy the springs. If the clay dam is severed by installation of the pipeline, the springs which have supplied water to the homes on Scotland Road since the 1900s will be destroyed.

Mr. Spaulding assumes that herbicides will be used to keep the pipeline location free of trees, brush and other vegetation. Regardless of whether the clay is disturbed, the application of herbicides to the pipeline location will destroy the domestic water supply to the homes on Scotland Road. This action is unacceptable. The homes on Scotland Road will be deprived of clean water.

It is essential that the pipeline be rerouted away from the hillside which lies easterly of Scotland Road. Alternate routes have been proposed, which would have far less impact than the currently proposed route.

2. Aircraft Landing Strip: The field identified as Tax Map 3, Lot 18 on the west side of Scotland Road has been used for many years by Mr. Spaulding and others as a landing strip for small airplanes. In the past, Mr. Spaulding commuted to his places of employment in Long Island, New York, New Jersey and Amherst, Massachusetts with his own airplane using that field as his airport. That field is still used extensively by small aircraft. The proposed location of the pipeline bisects the landing strip. Mr. Spaulding believes that he and others will not be permitted to continue to use the landing strip if there is an underground pipeline across it. Mr. Spaulding feels that the possibility of an accident

makes an aircraft landing strip and a gas pipeline incompatible. There is no way to calculate the damages to Mr. Spaulding if aircraft will be prohibited from continuing to use his land as a landing strip.

3. Hay Field: The field identified as Tax Map 3, Lot 18 on the west side of Scotland Road doubles as a hay field. Mr. Spaulding has the same concerns about use of the hay field. Will he be prevented from driving over the pipeline with tractors and other heavy farm equipment because the pipeline bisects his aircraft landing strip/hay field? In the usual course of business, Mr. Spaulding and others constantly cross the proposed location of the pipeline throughout the summer with a heavy bulldozer, loader, logging trucks and other farm equipment. If various pieces of heavy farm machinery will not be permitted to drive over the pipeline, it will seriously impede normal farming activities.
4. Maple Sugaring: Mr. Spaulding regularly carries on an extensive production of maple syrup and maple sugar products. The maple trees are situated on the hillside on the land identified as Tax Map 3, Lot 19 easterly of Scotland Road. The installation of the pipeline through that area will disrupt his maple sugaring operation, and defoliating agents used on his maple trees may be destroyed. Currently, he taps maple trees on the hillside and the maple sap runs downhill through existing lines to a collection tank. Mr. Spaulding is concerned that the sugar maple trees will be separated from the sugar house by the pipeline and his tap lines will be removed or destroyed.
5. Wood Lot: There is merchantable timber (a pine grove) on Tax Map 3, Lot 19 as well as saleable cord wood. The proposed location of the pipeline will permanently remove merchantable timber and may block access to other timber and cord wood. Mr. Spaulding's children have long standing plans to build homes on Scotland Road. The proposed location of the pipeline will destroy those dreams.
6. General Matters: The proposed location of the pipeline will be within 260 feet from his home. It will be too close to his vegetable garden, his orchard and vineyard. His westerly view will be severely degraded. The pipeline will be too close to an ancestral burial ground. The pipeline is going to seriously diminish the quality of life of Mr. Spaulding and his neighbors. Mr. Spaulding has chosen to live and farm in an isolated, rural area. To install a pipeline right through the middle of his farm is intolerable. There has to be a better, less disruptive location for the pipeline. I hope your agency can convince Kinder Morgan/Tennessee Gas Pipeline to change the location of the pipeline away from Mr. Spaulding's farm.

Very truly yours,

Homer S. Bradley, Jr.

cc: Mr. Howard O. Spaulding

Martha Huszinski, Tennessee Gas Pipeline, LLC/Kinder Morgan

20160329-0032

Congress of the United States
House of Representatives
Washington, DC 20515

Chris Gibson
19th District, New York

February 19, 2016

Normay Bay, Chairman
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

RE: FERC Docket No.

Dear Chairman Bay,

This is a follow-up to my March, 2015 letter to Chairman LaFleur regarding the compressor station issues that many of my constituents have contacted my office about. Because of the rapid development of natural gas extraction in Pennsylvania and other nearby states there are several new natural gas pipelines proposed to cross New York State, as well as expansion of several existing pipelines. I have questions about the proposed compressor station in the Town of Highland in my district in Sullivan County, and the issues that need to be addressed should be of interest to FERC.

There is evidence that leaks and releases from compressor stations in other areas are associated with elevated concentrations of organic compounds that are components of natural gas. This includes methane, hexane, benzene and a variety of other compounds. Some of these compounds are known to be carcinogenic, and any cancer caused by them may appear only after a number of years to those persons exposed. In addition, there could be additional negative effects on the respiratory and nervous systems for residents living near these compressor stations.

FERC has traditionally relied on review of compliance with federal exposure standards for air toxins. However there are several reasons why these standards may be inadequate to protect public health. Many of these standards were set many years ago, and may be obsolete on the basis of current information concerning risks to humans from inhalation of these chemicals. Most standards and indeed most monitoring around compressor stations are based on average concentrations measured over relatively long periods of time, and may not address higher exposure rates at peak release times.

FERC should routinely include public health experts in its review process, a practice that is not done routinely at present. This is a concern because the protection of the health of the people living near to these sites should be a top priority. Workers and nearby residents must be protected against negative health impacts that may result from exposure both in the short and long term.

I request the FERC immediately take the following actions before issuing any approval for the Highland, Ny compressor station:

1. Include public health expertise on all Environmental Assessment and Environmental Impact Statement teams assigned to this project. Such individuals must be independent, credible and free from conflicts of interest.
2. Convene an independent expert panel to review the current federal exposure standards around compressor stations to assure that they are adequately protective of human health.
3. Insure that all approvals with respect to compressor stations comply with whatever health standards are developed through this process.
4. Work closely with local and county officials to take into account and mitigate as much as possible our constituent's concerns regarding the siting and impacts a compressor station may have.

It is only through a transparent and effective review process that our citizens can be assured that there are no negative health impacts with any projects that FERC and other governmental agencies are charged to regulate. And it is therefore only through satisfactory mitigation and prevention actions that citizens can be assured that all reasonable steps have been taken to address these issues before any approvals are issued.

Thank you very much for reviewing this information. Please direct any response to my District Director Steve Bulger at steve.bulger@mail.house.gov.

Sincerely,

Chris Gibson
Member of Congress

20160329-0033

United States Senate
Washington, DC 20510

JEANNE SHAHEEN

March 25, 2016

The Honorable Norman C. Bay
Chairman
Federal Energy Regulatory Commission
888 First Street, NE
Washington, D.C. 20426

Dear Chairman Bay:

I write to you about the Kinder Morgan Northeast Energy Direct (NED) natural gas pipeline project (Docket PF14-22-000). As you know, I have previously written to you regarding concerns my constituents have raised about this project and to ask questions about FERC's permitting process. Many of those questions still remain unanswered.

I have enclosed additional correspondence from my constituents who raise concerns about the proposed pipeline. I urge your timely response to these questions and the remaining questions raised by New Hampshire's citizens and stakeholders with regard to the NED pipeline project.

Thank you for your attention to this important matter.

Sincerely,

Jeanne Shaheen
United States Senator

January 14, 2016

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE Room 1 A
Washington, DC 20426

re: Tennessee Gas Pipeline Company, L.L.C., Docket No. CP16-21

From Mason (NH) Pipeline Committee

RE: Protection from the Health Impacts of Compressor Stations is Lacking – **Baseline Air Quality Studies Needed Near Proposed Compressor Sites**

Dear Secretary Bose:

The health effects of gas pipeline compressor stations have been documented by EPA, the SW Pennsylvania Health Project, environmental chemist Wilma Subra of Earthworks, and Dr. Curtis Norgaard, Boston pediatrician. These researchers find the following medical conditions prevalent in individuals living in close proximity to compressor stations:

- * More than half the people suffer from respiratory impacts, throat and nasal irritation, weakness and fatigue and muscle pains.
- * Close to half the people suffer from vision impairment and sleep disturbance.
- * 42% suffer from allergies, eye irritation, and sinus problems.
- * 39% suffer from joint pain, breathing difficulties and severe headaches.

The chemicals detected in the air near compressor stations are associated with these medical conditions.

The chemicals of most concern are three carcinogens -- benzene, formaldehyde and radon -- as well as nitrogen dioxide and fine particulates (PM2.5). PM2.5 acts to increase deep lung absorption of air pollutants. Other volatile organic compounds (VOCS) and hazardous air pollutants (HAPS) are emitted by compressor stations. The mixture of these chemicals in the air people breathe contributes to an array of negative health effects.

Subra has documented acute and chronic health impacts experienced by people living and working near compressor stations. **In addition to the above prevalent conditions, many people suffer the following acute impacts:**

- * Nausea, vomiting
- * Dizziness, light-headedness
- * Irregular heartbeat
- * Depression, anxiety

Serious chronic long-term impacts that have been documented are:

- * Damage to Liver, Lung, Kidney, Cardiovascular system
- * Damage to Developing Fetus and Reproductive system
- * Mutagenic Impacts and Developmental Malformations
- * Brain impacts and Damage to Nervous system
- * Aplastic Anemia
- * Leukemia, and Changes in Blood Cells and Blood Clotting Ability

From EPA Office of Inspector General: (Report No. 13-P-0161, Feb, 20, 2013, page 3)

“EPA Needs to Improve Air Emissions Data for the Oil and Natural Gas Production Sector”

Table 2: Health impacts of significant pollutants emitted from upstream oil and gas production activities

Greenhouse gases (methane/carbon dioxide)	Potential health impacts related to climate change will vary, but threats include increased incidence of serious infectious disease, extreme temperatures that lead directly to loss of life, and warmer temperatures that can increase air and water pollution and result in human health impacts.
NOx and VOCs, which contribute to groundlevel ozone	Health impacts may include reduction of lung function, inflammation of airways, aggravation of asthma, increased susceptibility to respiratory illnesses (e.g., pneumonia and bronchitis) and premature death. Vulnerable populations (e.g., people with lung ozone disease, children, and the elderly) are especially at risk.
Fine particulate matter (PM 2.5)	Health impacts may include worsening of lung function, asthma attacks, bronchitis, increased susceptibility to respiratory infections, and premature death.
Air toxics including benzene, toluene, ethylbenzene, and xylenes	Health impacts from short-term exposure may include skin and sensory irritation, central nervous system problems, and respiratory problems. Health impacts from long-term exposure may include problems with kidney, liver, and blood systems. For example, benzene is a human carcinogen and health impacts from shortterm exposure may include drowsiness, dizziness, headaches, and irritation of the eyes, skin, and respiratory tract. Long-term exposure has been linked to various blood disorders, reproductive effects, and increased incidence of leukemia.

EPA is aware of these health problems associated with compressor stations and other fracked gas infrastructure, but other than gathering more data to document these problems EPA has failed so far to establish air quality standards to protect people exposed to fracked gas infrastructure emissions. Neither does NHDES appear to have air quality standards that would be protective. Both agencies consider compressor stations to be “minor” emitters, based on the National Ambient Air Quality Standards (NAAQS). These standards measure pollutants in tons per year averages, a totally inadequate measure for pollutants that may vary wildly over the course of a day or week -- from nothing at all to peaks many times the EPA limit. Human health is much more affected by frequency and duration of peak pollutant emissions, not annual averages. (Madison County NY Dept of Health Comments to FERC, Docket CP14-497, 10/15/2014)

Compressor stations have wide variations in their emissions from day to day and over the course of a day. Averaging pollutants in tons per year allows KM/TGP to say they meet EPA’s air quality standards, while masking the extreme peaks of pollutants that compressor stations frequently emit.

It is a shame that EPA has so far failed to establish relevant air quality standards to adequately protect hu-

man health from compressor station emissions.

In southern NH the NED gas pipeline proposes a huge 41,000 HP compressor station that would affect air quality and human health in the towns of New Ipswich, Greenville, Temple, Mason, and Rindge. TGP has mapped 13 proposed alternative sites in or near these towns for Market Path Station 4. In addition, Market Path Station 3, also 41,000 HP, is proposed for MA or NH: 3 of its proposed alternative sites are located in Winchesster, NH.

Baseline air quality in compressor station impacted areas needs to be established before NED is constructed, to determine air quality impacts from the proposed compressor stations.

Ground level air sampling for benzene, formaldehyde, fine particulates (PM2.5), nitrogen dioxide and radon needs to be done on a periodic (perhaps monthly) basis throughout the year before construction begins, at sites near all sensitive receptors within 2 miles of all proposed compressor locations.

Mason Pipeline Committee asks FERC to require Tennessee Gas Pipeline Co. to fund air quality baseline studies that meet the above parameters in all areas where compressor station are proposed along NED's entire route, to gather baseline data on the air pollutants listed above. These studies should be done by independent contractors who have not previously worked for KM/TGP and do not anticipate doing so.

When private project developers apply to permitting agencies, they are often required to fund relevant studies by independent contractors to gauge the project's impact. Please apply these sensible standards to the NED project.

Sincerely,

Liz Fletcher

For Mason NH Pipeline Committee

The following publications are sources of health data quoted in this comment:

EPA Office of Inspector General, "EPA Needs to Improve Air Emissions Data for the Oil and Natural Gas Production Sector" Report No. 13-P-0161, Feb, 20, 2013

Macey et al. "Air concentrations of volatile compounds near oil and gas production: a community-based exploratory study" Environmental Health 2014.13:82

Madison County, New York, Dept of Health, Comments to FERC, Docket CP14-497-000, Dominion Transmission, Oct. 15, 2014

Southwest Pennsylvania Environmental Health Project, "Summary on Compressor Stations and Health Impacts" Feb, 24, 2015.

Dr. Curtis Norgaard, speaking in Temple as reported in Monadnock Ledger Transcript by journalist Ashley Saari, December 17, 2015.

January 27, 2016

Senator Jeanne Shaheen 506 Hart SOB Washington, DC 20510

RE: Health Impact Assessment for Northeast Energy Direct Pipeline application

Dear Senator Shaheen,

We are appreciate for your previous participation in a letter to the Federal Energy Regulatory Commission from our NH congressional delegation requesting that more attention be provided to our citizens' concerns and needs regarding the NED pipeline proposal. Now we are reaching out to you for leadership and advocacy regarding one of the more serious concerns that has surfaced through our research of pipeline infrastructure. It is the potential health impact facing our citizens in southern NH.

We are asking you to request from FERC **a thorough and impartial HEALTH IMPACT ASSESSMENT of NED** and potentially all future natural gas pipeline applications, as part of the Environmental Impact

Statement (EIS). Many of your congressional colleagues are receiving a similar request. Working together will strengthen the effort.

* Specifically, there are health concerns that would impact all the affected NH communities from the destructive construction process of NED's massive infrastructure —disturbing, polluting and damaging 40 conservation lands and hundreds of wetlands, contaminating our water aquifers and other resources and thousands of wells as they blast and drill through NH's radon and arsenic laden granite to dig below the frost line, plus the intensely climate changing damage of the methane (GHG emissions) that would leak throughout its 400+ mile trail from PA through New York and New England. In Merrimack when they blasted for Home Depot and the Premium outlet mails town water supply was affected and arsenic was found in the water. These were small scale compared to the amount of pipe they are plannin on runnin.

* But one of our most acute concerns has developed from the many reports emerging nationwide from state and county health departments, medical associations, universities, chemical researchers, and physicians who are documenting a tragic and serious health crisis arising from peoples' proximity to natural gas pipeline operations, particularly from metering and compressor stations.

* One of the most highly respected chemical researchers in the IJS, Dr. Wilma Subra, has documented the fact that people who live, work, or go to school within a radius of 3 miles from average-sized (12,000 HP) compression stations and metering stations are developing numerous health impacts from the carcinogenic and toxic pollutants they emit. In Merrimack there is a risk that a metering station will be proposed under 3 miles from an elementary school.

* Kinder Morgan/TGP's proposal for NED includes 2 compressor stations in NH—in Winchester and New Ipswich, with another just a mile from Pelham, NH in Dracut, MA. The 41,000 HP compressor station proposed for New Ipswich is irresponsibly and recklessly sited a mere 1/2 mile from Temple's Elementary School. It is also close to Temple's reservoir which supplies the only drinking water for our school and the nearby town of Greenville.

* In a conference call with Dr. Subra in October, we were advised to multiply the radius for health hazards from the enormous (41,000 HP) New Ipswich compressor station by three, producing a 9 mile radius of potential health problems for a wide swath of residential neighborhoods in Temple, Greenville, New Ipswich and Merrimack. Statistics indicate that impacts from emissions are particularly problematic for young children, the elderly, fetuses in their third trimester, and people with respiratory vulnerabilities. This heightens our concerns for our K-4th grade kids, especially those with asthma or other respiratory conditions.

* In addition to dealing with ongoing exposure to toxic emissions, the low frequency vibrations and constant noise from the gigantic compressor engines can affect concentration and nervous system functions for all ages.

It is critical that **impartial** Health Impact Assessments conducted **by public health experts**, and not a company that stand to profit from this pipeline, and that it become a permanent and integral component of the EIS for FERC's natural gas pipeline permitting process. Public health experts and epidemiologists should be able to project and extrapolate financial, medical, social, educational and social costs using modeling and predictive analysis of pre-construction air and water quality data and disease incidences and anticipated post-operational emissions over time.

Please help to establish this vitally important addition to the FERC assessment requirements. Health impacts must be part of the calculus. Are the negatives, known and yet to be experienced, worth it?

Thank you in advance for your timely action on this urgent matter.

Sincerely,

Carol DiPirro

Merrimack NH citizen

NHPiplenessawareness.org

cc: Senator Kelly Ayotte Representative Annie Kuster Representative Frank Guinta

20160329-0035

March 17, 2016

Dear Chairman Norman Bay;

My husband and I are Massachusetts residents and are very strongly opposed to the natural gas pipelines that gas companies like Kinder Morgan and Tennessee Gas Cos. desire to build through New England and urge you and the committee to deny them. We feel very strongly that all steps towards maximizing conservation should be taken and that alternative energy sources should be encouraged which should eliminate the need for the pipelines. Better conservation in particular will reduce the impact on business and individuals when prices do rise. There are many more reasons we are so strongly opposed but one of the major ones is that by encouraging more production of natural gas, there will be an increase in chances that groundwater will be contaminated both at the source of the wells and along the paths of the pipelines which would seriously, and potentially permanently, affect food production, businesses and neighborhoods. In addition, denying the pipelines and focusing on conservation and alternative energy will create many more long lasting jobs and small businesses and is bound to lead to more innovation in those areas.

Thank you for considering our position,

Alice and Greg Newth
59 East Taylor Hill Road
Montague, MA, 01351

20160329-0036

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }
Steven McGettigan PO Box 101 Temple, NH 03084

20160329-0037

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }
Nike McGettigan PO Box 101 Temple, NH 03084

20160329-0038

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }
Kirk Farrell 623 Brookline Rd Mason, NH 03048

20160329-0039

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }
Holly Farrell 623 Brookline Rd Mason, NH 03048

20160329-0040

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }
Faith Farrell 623 Brookline Rd Mason, NH 03048

20160329-0041

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }
Paul E. Stevens 156 Timbertop Rd New Ipswich, NH 03071

20160330-0011

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }
Deborah Lievens 105 Gilcrest Rd Londonderry, NH 03053

20160331-0012

Federal Energy Regulatory Commission
Washington, DC 20426

March 30, 2016

OFFICE OF THE CHAIRMAN

The Honorable Kirsten Gillibrand
United States Senate
Washington, D.C. 20510

Dear Senator Gillibrand:

Thank you for your March 8, 2016, letter regarding Tennessee Gas Pipeline Company, L.L.C.'s (Tennessee Gas) proposed Northeast Energy Direct Project (Docket No. CP16-21-000; previously No. PF I 4-22-000).

In accordance with the National Environmental Policy Act, Commission staff is currently preparing a draft environmental impact statement (EIS) for the proposed project. The EIS will disclose the anticipated impacts of this proposal to determine whether it will result in significant impacts on the environment, and will identify and address the potential impacts resulting from construction and operation of the project. This analysis will include the project's impacts on air quality, noise, public safety and health, as well as alternatives to the project. The Commission will consider the findings of the final EIS before making its decision on this proposal. I can assure you that the Commission's decision on whether to authorize this project will be based on a careful review of the issues and will be rooted in the law, facts, and science.

As in any Commission matter, please be assured that we strive to make our review of proposals both accessible and transparent to the public. If I can be of further assistance in this or any other Commission matter, I hope you will not hesitate to let me know.

Sincerely,
Norman C. Bay
Chairman

20160331-0013

Federal Energy Regulatory Commission
Washington, DC 20426

March 30, 2016

OFFICE OF THE CHAIRMAN

The Honorable Charles Schumer
United States Senate
Washington, D.C. 20510

Dear Senator Schumer:

Thank you for your March 8, 2016, letter regarding Tennessee Gas Pipeline Company, L.L.C.'s (Tennessee Gas) proposed Northeast Energy Direct Project (Docket No. CP16-21-000; previously No. PF I 4-22-000).

In accordance with the National Environmental Policy Act, Commission staff is currently preparing a draft environmental impact statement (EIS) for the proposed project. The EIS will disclose the anticipated impacts of this proposal to determine whether it will result in significant impacts on the environment, and will identify and address the potential impacts resulting from construction and operation of the project. This analysis will include the project's impacts on air quality, noise, public safety and health, as well as alternatives to the project. The Commission will consider the findings of the final EIS before making its decision on this proposal. I can assure you that the Commission's decision on whether to authorize this project will be based on a careful review of the issues and will be rooted in the law, facts, and science.

As in any Commission matter, please be assured that we strive to make our review of proposals both acces-

sible and transparent to the public. If I can be of further assistance in this or any other Commission matter, I hope you will not hesitate to let me know.

Sincerely,
Norman C. Bay
Chairman

20160331-0015

Federal Energy Regulatory Commission
Washington, DC 20426

March 30, 2016

OFFICE OF THE CHAIRMAN
The Honorable Paul R. LePage
Governor
State of Maine
I State House Station
Augusta, ME 04333

Dear Governor LePage:

Thank you for your February 3, 2016, letter regarding Tennessee Gas Pipeline, L.L.C.'s proposed Northeast Energy Direct Project (Docket No. CP16-21-000).

As you note, the project application was filed with the Commission on November 20, 2015, following the Commission's pre-filing review process. Commission staff is currently conducting its independent environmental analysis of the project and will prepare a draft environmental impact statement (EIS), which will be published and distributed for public comment. After consideration of the comments received on the draft EIS, a final EIS will be issued. The final EIS will address any comments received on the draft EIS. The Commission will consider the findings of the EIS before making its decision on whether to authorize this project.

As in any Commission matter, please be assured that we strive to make our review of proposals both accessible and transparent to the public. If I can be of further assistance in this or any other Commission matter, I hope you will not hesitate to let me know.

Sincerely,
Norman C. Bay
Chairman

20160331-0016

Federal Energy Regulatory Commission
Washington, DC 20426

March 30, 2016

OFFICE OF THE CHAIRMAN
Governor Margaret Wood Hassan
107 North Main Street
Room 208
Concord, NH 03301

Dear Governor Hassan:

Thank you for your February 10, 2016, letter regarding Tennessee Gas Pipeline Company, L.L.C.'s proposed Northeast Energy Direct Project (Docket No. CP16-21-000).

As you point out, Commission staff will identify and address the potential environmental impacts resulting

om construction and operation of the project. I assure you that the environmental impact statement (EIS) for the project will not be issued without the Commission having all of the information necessary to determine the potential environmental and human health impacts associated with constructing and operating the project.

Specifically, the project will have to comply with provisions of the Clean Air Act. The emissions criteria established for compliance with the Clean Air Act are designed to protect human health. Similarly, water resources potentially affected by the project are subject to the requirements of the Clean Water Act and numerous additional protective measures required by the Commission's Wetland and Waterbody Construction and Mitigation Procedures. Commission staff will also respond to all public concerns on impacts to human health within the EIS.

The air quality and water quality impact analyses will be included within the draft EIS which will be issued for public review and sent to the Commission's environmental mailing list for the project. After consideration of the comments received on the draft EIS, a final EIS will be issued. The final EIS will address any comments received on the draft EIS. The Commission will consider the findings of the EIS before making its decision on whether to authorize this project.

As in any Commission matter, please be assured that we strive to make our review of proposals both accessible and transparent to the public. If I can be of any further assistance in this or any other Commission matter, please let me know.

Sincerely,
Norman C. Bay
Chairman

20160331-5011

Cal Page – Physicist and NH Resident
15 Kodiak Rd. Brookline, NH. 03033

Re: cp16-21-000 - Application for a Certificate of Public Convenience and Necessity (Northeast Energy Direct Project)

I am writing to express my concerns with the Northeast Energy Direct (NED) project. Specifically, FERC and Kinder Morgan have not addressed our concerns. Despite assertions to the contrary from Kinder Morgan, the following issues have not been addressed.

Setback distances for right-of-way are not consistent with pipeline safety and represent high citizen risk.

I refer you to document <http://www.xylenepower.com/Natural%20Gas%20Pipeline%20Safety%20Setback.htm>

Titled CALCULATION OF SAFETY SETBACKS FROM LARGE DIAMETER HIGH PRESSURE NATURAL GAS PIPELINES by C. Rhodes, P. Eng., Ph.D.

Since the pipeline diameter is 30" and the pressure is 1280 PSI, Rs (radius safe) was calculated for the NED pipeline at 760 meters, or 2493 feet. Rs divided by four is significant, being the distance at which fire destroys everything, fire department present or not. This distance is 623 feet,

Given this, I was dismayed to find houses within 623 feet of the NED pipeline. If you want a specific location, look at where the pipeline crosses Rt 13 North in Brookline, NH. Placing a pipeline within Rs/4 is irresponsible and represents a callous view of human life. It should never be done.

The blast effects reach much farther out. I have personally spoken with someone who witnessed a pipeline explosion. They were about 3/4's of a mile away, and was 'rained on' with gravel from the explosion. The blast danger is not in doubt, is it? All you have to do is look up the San Bruno, CA explosion in 2010 that killed 8 people. (https://en.wikipedia.org/wiki/2010_San_Bruno_pipeline_explosion)

Congress of the United States
House of Representatives
Washington, DC 20515

Chris Gibson
19th District, New York

March 15, 2016

Normay Bay, Chairman
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

RE: FERC Docket No. #CP 16-21-000

Dear Chairman Bay,

I am writing concerning the ongoing FERC review of the Northeast Energy Direct natural gas pipeline and specifically regarding issues with compressor stations that many of my constituents have contacted my office about. As it stands today, I am currently opposed to the NED pipeline due to the lack of acceptable actions and responses by the applicant to several important issues I have raised with them. In addition to my other concerns, I also have questions about the proposed compressor stations along the pipeline route, and the issues that need to be addressed should be of interest to FERC. These concerns are similar to the letter I sent you last month regarding the proposed Highland, NY compressor station.

My constituents have brought to my attention information alleging that leaks and releases from compressor stations in other areas are associated with elevated concentrations of organic compounds that are components of natural gas. This includes methane, hexane, benzene and a variety of other compounds. Some of these compounds are known to be carcinogenic, and any cancer caused by them may appear only after a number of years to those persons exposed. In addition, there could be additional negative effects on the respiratory and nervous systems for residents living near these compressor stations.

FERC has traditionally relied on review of compliance with federal exposure standards for air toxins. However there are several reasons why these standards may be inadequate to protect public health. Many of these standards were set many years ago, and may be obsolete on the basis of current information concerning risks to humans from inhalation of these chemicals. Most standards and indeed most monitoring around compressor stations are based on average concentrations measured over relatively long periods of time, and may not address higher exposure rates at peak release times.

FERC should routinely include public health experts in its review process, a practice that is not done routinely at present. This is a concern because the protection of the health of the people living near to these sites should be a top priority. Workers and nearby residents must be protected against negative health impacts that may result from exposure both in the short and long term.

I request the FERC immediately take the following actions before issuing any approvals for the Northeast Energy Direct pipeline compressor stations:

1. Include public health expertise on all Environmental Assessment and Environmental Impact Statement teams assigned to this project. Such individuals must be independent, credible and free from conflicts of interest.
2. Convene an independent expert panel to review the current federal exposure standards around compressor stations to assure that they are adequately protective of human health.
3. Insure that all approvals with respect to compressor stations comply with whatever health standards are developed through this process.
4. Work closely with local and county officials to take into account and mitigate as much as possible our constituent's concerns regarding the siting and impacts a compressor station may have.

It is only through a transparent and effective review process that our citizens can be assured that there are no negative health impacts with any projects that FERC and other governmental agencies are charged to regulate. And it is therefore only through satisfactory mitigation and prevention actions that citizens can be assured that all reasonable steps have been taken to address these issues before any approvals are issued.

Thank you very much for reviewing this information. Please direct any response to my Distinct Director Steve Bulger at steve.bulger@mail.house.gov.

Sincerely,

Chris Gibson
Member of Congress

20160404-4017

Hand written Appendix 3 Information Request Northeast Energy Direct Project form, from Christine Miller, 609 A Central Ave, Needham, MA 02494: **requesting paper copy of the draft EIS**. Expressing environmental concerns.

20160404-4018

Hand written Appendix 3 Information Request Northeast Energy Direct Project form, from Karen Miller, Hair of the Dog Farm, 161 Ashburnham Rd, New Ipswich, NH 03071: **requesting paper copy of the draft EIS**. Requesting more time and meetings.

20160404-4019

Hand written Appendix 3 Information Request Northeast Energy Direct Project form, from Margaret B. Konyczyk?, 1 Porter St, South Deerfield, MA 01373: **requesting paper copy of the draft EIS**.

20160404-4020

Hand written Appendix 3 Information Request Northeast Energy Direct Project form, from Margaret B. Konyczyk?, 1 Porter St, South Deerfield, MA 01373: **requesting paper copy of the draft EIS**.

20160404-4021

Hand written Appendix 3 Information Request Northeast Energy Direct Project form, from Marie Reggio, #17 Pollard Dr, Millis, MA 02054: **requesting paper copy of the draft EIS**. Opposing.

20160404-4022

Hand written Appendix 3 Information Request Northeast Energy Direct Project form, from Miller/Reggio Family, 106 East Shore Drive, Bradford, NH 03221: **requesting paper copy of the draft EIS**. Opposing.

20160404-4023

November 1, 2015

Eric Tomasi, Environmental Engineer
Office of Energy Projects, DG2E
Federal Energy Regulatory Commission
888 First Street NE Room 1 A
Washington, DC 20426

re: Tennessee Gas Pipeline Company, L.L.C., Docket No. PFI4-22-000

Dear Mr. Tomasi,

At the Milford NH scoping meeting, you had some confusion about the governmental standing of a New

Hampshire Executive Councillor. Not surprising, as NH is the only state that has such an elected office. On October 21 , Governor Hassan and the Executive Council came to meet at Mason Town Hall at the invitation of David Wheeler, the very Executive Councillor who testified at the Milford scoping.

They brought this informational brochure about the NH Executive Council, which I thought you might be interested in. The Council is a unique and quite powerful institution.

You've done an excellent job of managing the scoping meetings, patiently giving everyone a real chance to say their piece.

As a Mason Conservation Commissioner, I deeply hope that FERC can find the NED project NOT to be in the public convenience and necessity. Far better for Kinder Morgan to upgrade TGP's 200 line, bringing the gas more directly to the markets and improving an aging infrastructure that will need replacing anyway.

Sincerely,

Liz Fletcher
288 Marcel Road
Mason, NH 03048

{large format brochure omitted; an overview & history of the Executive Council can be viewed at: }

<http://www.nh.gov/council/about-us/index.htm>

<http://www.nh.gov/council/history/index.htm>

20160404-4024

NEW HAMPSHIRE DIVISION OF HISTORICAL RESOURCES

State of New Hampshire. Department of Cultural Resources 603-271-3483
19 Pillsbury Street Concord. NH 03301-3570 603-271-3558
TDD Access Relay NH 1-800-735-2964 FAX 603-271-3433
www.nh.gov/nhdhr preservation@dcr.nh.gov

December 15,2015

Hope Luhman
Louis Berger
20 Corporate Woods Blvd
Albany, NY 1221

Re: Project Review: Interim Progress Report. Phase 18 Intensive Archaeological Investigation, Northeast Energy Direct Project: Cheshire. Hillsborough. and Rockingham Counties. NH. and Project Area Form, submitted by Louis Berger (DHR #6111)

Dear Ms. Luhman:

Thank you for providing the Division of Historical Resources (Division) an opportunity to comment on the Interim Progress Report for the Phase 1 B archaeological assessment cited above and the Project Area Form (PAF).

We understood that many areas were not accessible and that refining the sensitivity assessment will be accomplished (luring the Phase 1 B work as areas are opened for access. The Division would also make note that a walkover assessment is still required on parcels that were assessed using ROB orthophotos to verify disturbance levels. Also, the Division appreciates acknowledgement of our July 9, 2015 comment on the use of a predictive model in uplands and understands that Berger will test those areas sufficiently. Also, as a reminder, a protocol for recordation and assessment should be developed in consultation along with an unanticipated discovery plan.

The Division has received and reviewed the PAF, staff is currently preparing a response based on the outcome of the review and expect to send it within the next week. The next step in the above-ground review

process will be the identification of individual resources and historic districts based on the Division standards and guidelines. Please contact "Nadine Peterson at 603-271-6628 with any questions.

Once again, thank you and we look forward to continued consultation on this project.

Sincerely,

Edna Feighner, Archaeologist
Review and Compliance Coordinator

CC! Michael Letson, Tennessee Gas Pipeline Company, LLC

Eric Tomasi, FERC

{2nd page in submission appears to be unrelated and mis-filed: }

TO: Federal Energy Regulatory Commission
Copy to: Kinder-Morgan
FROM: Fred & Barbara Nuffer
SUBJECT: Northeast Energy Direct Pipeline - Docket # PF14-22-000
Water Issues at our Residence @ 171 Radley Road
Averill Park, NY 12018

My wife and I are concerned about the proposed route of the Kinder-Morgan Northeast Energy Direct pipeline project. We have been notified that the NED may be constructed along the National Grid Right-of-Way (ROW) approximately 200 feet north of our home and may require Kinder-Morgan to take a ROW along our property laying just north of the National Grid ROW.

Our concerns relate to our two water sources on our property and the potential for the pipeline construction (side slope benching, trenching and blasting) to have a negative impact on these water sources:

1. Our domestic water supply comes from a low yield (less than 112 gallon/minute) 400 ft. deep artesian well. The well fills from the bottom to the top and overflows into a waste drain. The pressure or "head" on the water is influenced by the steep hill side which rises approximately 100 higher behind our house. The drilling of this well was very costly.
2. A supplemental water source for our household is a spring that dates from the construction of our house in the 1930's. It is used to water our extensive vegetable gardens, including a large greenhouse. This water source is essential due to the low flow issues from our well.

Construction of the NED pipeline is proposed along on the northern edge of the National Grid Right of Way (ROW). This ROW is located on a steep slope only several hundred feet behind our house. Approximately 50 to 75 feet upslope of the National Grid ROW is the crest of the hill. To the north of the crest the terrain is much flatter.

Placement of this pipeline a significant distance to the north side of the National Grid right of way may help to mitigate some of these potential water supply issues as well as requiring less terracing and less earth disturbance than construction on a side slope. We request that the pipeline route be placed 200 hundred yards to the north of the top of grade of the hill behind our house to provide a buffer zone around our well head recharge zone.

If the current proposer route is not moved as requested, then we request that FERC require Kinder-Morgan to test our well prior to and after the construction of any pipeline thru our current property or within the current National Grid ROW. The test should be done for both water quantity and water quality. If our well or spring are negatively impacted by the construction; that is our water flow is reduced, turbidity increases or water quality parameters are negatively impacted, FERC should require that Kinder-Morgan immediately compensate us for the damage by drilling a new well and providing alternate potable water until such time as the new well is completed and on-line.

Fred & Barbara Nuffer
October / 13 / 2015

20160404-4025

NEW HAMPSHIRE DIVISION OF HISTORICAL RESOURCES
State of New Hampshire. Department of Cultural Resources 603-271-3483
19 Pillsbury Street Concord. NH 03301-3570 603-271-3558
TDD Access Relay NH 1-800-735-2964 FAX 603-271-3433
www.nh.gov/nhdhr *preservation@dcr.nh.gov*

December 15, 2015

Christina Muir
The Louis Berger Group, Inc.
20 Corporate Woods Blvd
Albany, NY 12211

Re: Northeast Energy Direct Pipeline, Project Area Form (RPR 6111)

Dear Ms. Muir:

Thank you for submitting a Project Area Form for the above-referenced project. The Division of Historical Resources' Determination of Eligibility Committee has reviewed the Project Area Form; based on the information available, the DHR's comments are:

TOWN/CITY	PROPERTY	DETERMINATION
Multiple	Northeast Energy Direct Pipeline Project Area Form (ZMf_NEDP)	additional survey or evaluation required

A copy of the DHR evaluation form along with photocopies of remarks are attached for your use. Once finalized, the Project Area Form will also be added to the statewide survey database for historic properties in New Hampshire.

In order to keep the project on schedule, we encourage you to begin survey of the properties outlined in Table 3 while the Project Area Form is in the process of being revised as requested in the attached evaluation form. Please contact me at 271-6628 or Nadine.Peterson@dcr.nh.gov if you have questions.

Sincerely

Nadine Peterson
Preservation Project Reviewer

Enclosures

cc: FERC

NH Division of Historical Resources
Determination of Eligibility (DOE)

Date received: 11/16/2015

Inventory #:

Date of group review: 11/22/16

Area: ML T _NEDP

DHR staff: Nadine

Property Name: Town/City: Amherst, Brookline, Fitzwilliam, Greenville, Hudson, Londonderry, Mason, Merrimack, Milford, New Ipswich, Pelham, Richmond, Rindge, Salem, Troy, Winchester, Windham

Address: multiple County: Cheshire, Hillsborough and Rockingham

Reviewed for: R&C PTI NR SR Survey Other

Agency, if appropriate: FERC

Individual Properties

NR SR

Not evaluated for individual eligibility

Eligible

Eligible, also in district

Eligible, in district

Not eligible

Incomplete information or evaluation

Integrity: ALL ASPECTS location Design Setting Materials

Workmanship Feeling Association

Criteria: A. Event B. Person C. Architecture/Engineering

D. Archaeology E. Exception

Level: Local State National

IF THIS PROPERTY IS REVIEWED IN THE FUTURE, ADDITIONAL DOCUMENTATION IS NEEDED.

STATEMENT OF SIGNIFICANCE:

The Project Area Form for the Northeast Energy Direct Pipeline project lays out a historic context for the region under study. Major themes in the area include transportation, agriculture, industry, education, and recreation. Resource types are categorized under these themes along with residential resources and cemeteries. Tables identify previously surveyed resources and those resources recommended for additional survey and evaluation. Please review the follow-up items below for next steps in the identification process:

o ENTERED INTO DATABASE

ACREAGE: 50,348.8 acres

PERIOD OF SIGNIFICANCE: N/A

AREA OF SIGNIFICANCE: N/A

BOUNDARY: N/A

SURVEYOR: Christina Muir, Bryan Herling, Amber Anderson

FOLLOW-UP: Notify appropriate parties.

The DHR concurs with the properties recommended for further survey listed in Table 3. However, the Project Area Form must be revised according to the comments below and resubmitted in order to finalize the list of properties to be surveyed.

- 1) Project Area Forms are always open to the public. Please remove the confidentiality statement at the bottom of each page of the document.
- 2) Several of the historic contexts on pages 5-14 are not researched up to the historic period (c. 1966). Please provide additional information for those contexts (for example. Transportation does not have an overview of the development of 20th century highways and Industry is only discussed up to 1900). The southern part of New Hampshire experienced tremendous growth during the 20th century and this does not appear to be reflected in the form.
- 3) The Education context on page 12 appears to be missing the majority of its content.
- 4) Once the contexts have been revised, provide a final list of properties that may fall within this more recent period that should be included in future survey (if any exist).
- 5) Replace the word Plate with Photo; for example Plate 1 should be Photo 1 etc.

- 6) The discussion on Agricultural Resources found on page 28 looks at barns individually. It is also important to describe the entire farm complex (layout, form, type, etc.) when evaluating a farm. This idea also relates to the Relevant Historic Contexts discussion on page 35.
- 7) Please revise Table 3 to note under which context the property is being evaluated and make note on what map the resource is located.
- 8) Revise photographs to include 2 per page.

Final DOE approved by:

20160404-4026

Kimberly D. Bose,
Secretary Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington, DC 20426

Dear Secretary Bose:

Kinder Morgan has failed to demonstrate that their pipeline is needed in New Hampshire let alone in New England. The company currently has an insufficient number of customers in New Hampshire to warrant building this gas transmission line through our state, thus the recent reduction in the line's capacity from 36 inches to 30 inches. Given that Kinder Morgan continues to pursue this project despite the lack of a domestic customer base, it is evident that Kinder Morgan intends to send its product primarily to international buyers. This, of course, will have a detrimental impact on New Hampshire by driving up our energy costs rather than lowering them as Kinder Morgan purports.

Allowing Kinder Morgan to commandeer seventy-one miles of New Hampshire's scenic rural land, which includes private homes, farms, conservation areas, historic areas, religious pilgrimage sites, and highly valued public land such as Rhododendron State Park in Rindge for the purpose of this corporation's self-serving ends would be a travesty. The proposed compressor station in New Ipswich would be within one half mile of the Temple Elementary School which also doubles as the town's emergency shelter. This is an obvious can of worms. Should there ever be a disaster at the compressor station, and Kinder Morgan's safety record is very spotty, there would be no safe place for the townspeople of Temple to congregate. Can the FERC seriously intend to approve such an ill-conceived scheme that requires the upheaval of an entire town's emergency evacuation plan?

The proposed route will require that Kinder Morgan blast their way through miles of solid granite, potentially contaminating our precious aquifers and consequently our groundwater. Nearly every home along the pipeline route relies entirely on those water sources as we draw our water from private wells. The environmental cost to lives and property will be enormous. It is a price too high.

Will New Hampshire citizens lose their property rights and will their lives be put at risk for the purpose of satisfying Kinder Morgan's bottom line? There is no economic advantage for New Hampshire in this project. We will not be recipients of the lion's share of natural gas that Kinder Morgan transmits through this proposed pipeline. Any jobs that might come from this project will be minimal and short lived, as once in place, the pipeline and compressor stations will be almost entirely automated. Furthermore, Kinder Morgan currently owns pipelines that are in need of repair. The company must first be required to attend to their existing pipelines which waste vast amounts of product through fugitive gas leaks and other unplanned emissions.

I implore the FERC to stand up for the people of New Hampshire and refuse to authorize the construction of this unnecessary and unwanted pipeline.

Marilyn Stowe
91 River Road
New Ipswich, NH 03071

The Commonwealth of Massachusetts
William Francis Galvin, Secretary of the Commonwealth
Massachusetts Historical Commission

December 10, 2015

Hope Luhman
Vice President, Cultural Resources
Louis Berger Group
20 Corporate Woods Blvd
Albany NY 12211-2370

RE: Tennessee Gas Pipeline Company, L.L.C., a Kinder Morgan Company, Northeast Energy Direct Project. Interim Draft Architectural & Archaeological Reconnaissance Survey Reports.MHC #RC.5 6771. FERC Docket # CPI6-21-000.

Dear Ms. Luhman:

Thank you for providing the Massachusetts Historical Commission (MHC), office of the State Historic Preservation Officer and State Archaeologist, with the copies of the two preliminary draft reports, dated November 9,2015, Interim Progress Report, Architectural Resources Survey, Northeast Energy Direct Project, Berkshire, Hampshire, Franklin, and Worcester Counties, Massachusetts, and Interim Progress Report, Archaeological Reconnaissance Survey, Northeast Energy Direct Project, Berkshire, Hampshire, Franklin, and Worcester Counties, Massachusetts. The two reports were received by the MHC on November 13,2015.

The interim draft report for architectural survey provides results through July 28,2015. The interim draft archaeological survey report provides results through October 31, 2015, and includes an appendix listing parcels not yet accessed. When the two cultural resources surveys are completed, please provide the Federal Energy Regulatory Commission (FERC) and the MHC with the draft reports of the results.

In preparing the draft reports, please address the following comments.

If the names of the Massachusetts municipalities cannot appear in the report titles, please add the municipal names where the survey occurred to the report abstracts.

Please add the names of the report authors to the title pages.

The Table of Contents should provide more detailed information to assist the reader to locate pertinent information. Please include the report subheadings.

The report subheadings should specify, when pertinent, the pipeline segment letter and name, or the names of the Fompressor stations, meter stations, access roads, etc. with the names of the municipalities.

The List of Figures should provide the figure captions of each figure.

The figure captions should specify the pipeline segment letter and name, or the names of the compressor stations, meter stations, access roads, etc. with the names of the municipalities.

Please add explanation in captions or keys for labels shown on figures, if the meaning or purpose of the label is not immediately discernable-such as the numbers appearing above and below property owner names and street/road names, or labeled locations such as "NEO-TAR-G-O 1 00".

On the largest-scale maps (Figure 2) called "Project APE, Predictive Model, and Identified Sites" that show roads and streets not already named, please add the road and street names to the figures.

In Figure 1 in both reports, or on a separate figure at the same scale, please add the names and the boundaries of the municipalities in which the project is located.

Please add USGS locus maps. Please further develop the report graphics so that the areas shown on each of the largest scale maps are logically relatable to the same area shown at the scale of 1 :24,000 USGS locus maps, and then relatable to the scale of Figure 1 and/or the separate figure showing the municipalities in

which the project is located.

Please include a list or table, organized by county, with the municipal names, the pipeline segment letter and name, and the names of facilities such as compressor stations, meter stations, access roads, etc. In the archaeological report (pg. 3), the Town of Conway (Franklin Co.) should be added.

The archaeological report, pp. 566-569, separately describes and tabulates observations of surface “stone features” which are presented “for preliminary review by interested tribes.” The MHC is not involved with the separate consultation between FERC and the Tribal Historic Preservation Officers (THPO). The MHC advises consultation regarding the FERC’s and the THFO’s information and reporting needs about features of interest to the THPOs.

In the archaeological report, visible historical cultural features, such as stonewalls (i.e., fences), piled rocks, other fieldstone arrangements, or apparently intentionally placed stones should be investigated as indications of archaeological sensitivity for historical period activity at those locations, as is being done for “stone foundations, wells, and other clearly identified stone constructions” (archaeological report, pg. 566).

Please integrate the information and results about historical cultural rock features with the pertinent survey-area descriptions of the results. Please show the locations of the features on the figures, and please include technical field photographs and drawings prepared according to the State Archaeologist’s memorandum on technical photography and cartography.

The identification, contexts, and associations of the historical features will be important in considering significance, project effects, and alternatives to avoid or mitigate adverse effects to significant historical features. Please attempt to relate the historical landscape features located in the project area of potential effect with historical residences, farms, industries, institutional sites, transportation routes, etc.

Please see the articles by Timothy Ives on New England historical stone features for guidance in identifying those features, “Remembering Stone Piles in New England,” and “Cairnfields in New England’s Forgotten Pastures,” and the sources that he cited, such as the books by Robert Thorson on historical New England fieldstone building traditions. Please investigate whether linear stone features coincide with historical property lines; whether stonewalls once enclosed or bordered fields, gardens, cemeteries, roadways etc.; whether they were parts of structures, such as retaining walls, watercourses, etc. Please consider whether rock piles may be survey points, from field clearing, stockpiles for stonewall construction, or commemorative markers such as cairns. Please consider whether apparently deliberately placed or arranged fieldstones may be grave markers, or if standing rock posts may be parts of former fences or gates.

Thank you for your attention to these comments, offered to assist in compliance with the Secretary of the Interior’s Standards and Guidelines for Archeology and Historic Preservation (48 Fed. Reg. 190 (1983)) and MGL c. 9, ss. 26A(4) & 27C (950 CMR 70). Please contact Edward L. Bell if you have any questions or need more information.

Sincerely,

Brona Simon
State Historic Preservation Officer
Executive Director
State Archaeologist
Massachusetts Historical Commission

xc:

Stuart Fiedel, Louis Berger Group
Eric Tomasi, FERC

20160404-4028

DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS

NEW ENGLAND DISTRICT
696 VIRGINIA ROAD
CONCORD MA 01742-2751

December 24, 2015

Regulatory Division CENAE-R-PEA

File Number: NAE-2014-644

David Hanobic

Federal Energy Regulatory Commission

888 First Street, N.E.

Washington, DC 20426

RE: NAE-2014-644 Tennessee Gas - Northeast Energy Direct Project

Dear Mr. Hanobic:

The Army Corps of Engineers New England District, Regulatory Division (Corps), will be a cooperating agency for the National Environmental Policy Act (NEPA) review of the Tennessee Gas Northeast Energy Direct Project proposed from Pennsylvania to Massachusetts. We can provide input and assistance regarding our regulatory program requirements under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, if applicable.

As indicated in 36 CFR 800.2(a)(2) and Appendix C(2)(c), when multiple federal agencies are involved in an undertaking, a lead federal agency may be designated to fulfill the collective obligations of the agencies under Section 106 of the National Historic Preservation Act (NHPA). Per 36 CFR 800.2(a)(2), if a federal agency fails to designate a lead federal agency, they remain individually responsible for compliance with Section 106. In accordance with these regulations, the Corps hereby designates the Federal Energy Regulatory Commission (FERC) as the lead federal agency for the Northeast Energy Direct Project for which FERC serves as the lead federal agency under NEPA.

The New England District Regulatory Program will generally accept Section 106 compliance obtained by FERC without further review by the Corps provided that compliance documentation is submitted to the Corps for the project.

Kevin Kotelly, will continue as our project manager for review of the permit application for the Northeast Energy Direct Project. He can be reached at 978-318-8703. or by email at kevin.r.kotelly@usace.army.mil.

Sincerely,

Jennifer L. McCarthy

Chief, Regulatory Division

Copy Furnished

Brona Simon, State Historic Preservation Officer (SHPO), Massachusetts Historical Commission (MHC),
The Massachusetts Archives Building, 220 Morrissey Boulevard, Boston, Massachusetts 02125

Bettina Washington, Wampanoag Tribal Historic Preservation Officer, Wampanoag Tribe of Gay Head
(Aquinnah), 20 Black Brook Road, Aquinnah, Massachusetts 02353, bettina@wampanoagtribe.net

Eric Tomasi, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, eric.
tomasi@ferc.gov

20160404-5011

Louise A Delehanty, Pelham, NH.

Checking

20160404-5012

Louise A Delehanty, Pelham, NH.
Check

20160404-5277

Tennessee Gas Pipeline
Company, L.L.C
a Kinder Morgan company

April 4, 2016

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Room 1A
Washington, DC 20426

Re: Tennessee Gas Pipeline Company, L.L.C.

Northeast Energy Direct Project, Docket No. CP16-21-000

Response to Comments from Town of Dracut, Massachusetts

Dear Ms. Bose:

On November 20, 2015, Tennessee Gas Pipeline Company, L.L.C. (“Tennessee”) filed with the Federal Energy Regulatory Commission an application for a certificate of public convenience and necessity (“Application”) for the proposed Northeast Energy Direct Project (“Project”) in the above-referenced docket. The Town of Dracut, Massachusetts (“Town of Dracut”) filed a letter on March 7, 2016 with the Commission, requesting that the Commission schedule an additional scoping meeting for the proposed compressor station to be constructed in Dracut, Massachusetts (referred to as the Market Tail Compressor Station) as part of the Project. The request for the additional scoping meeting is based on the Town of Dracut’s assumption that Tennessee was aware of a change in the location of the proposed compressor station in August 2015, prior to the submission of the certificate application in November 20, 2015, which prevented landowners within one-half mile of the new compressor station site to seek information and provide input on the new location for the compressor station. Tennessee provides the following information to clarify certain statements from the March 7, 2016 filing from the Town of Dracut.

Tennessee notes that, as part of the pre-filing process for the Project (in Docket No. PF14-22-000), it originally proposed a location for the new compressor station at 325A Broadway Road, Dracut Massachusetts. Following meetings and input from community stakeholders, including local governmental officials, in the summer 2015, Tennessee began to evaluate alternatives to the location of the proposed compressor station in Dracut, Massachusetts. Tennessee had previously identified the 970 Broadway Road site in Dracut, Massachusetts as an alternative to the proposed location for the Market Tail Compressor Station in the pre-filing process and began evaluation of environmental, accessibility, constructability, and other factors for the 970 Broadway Road location. Among other things, Tennessee did acquire an option to purchase agreement for the 970 Broadway Road location as it was continuing its evaluation of the site in the event that it determined that it would propose to change to the location of the Market Tail Compressor Station. Tennessee retained the option to purchase agreement on the 325A Broadway Road site while the alternative site was being evaluated and continued to keep that option to purchase agreement in place through the first quarter of 2016. In addition, the relocation of the compressor station site to the 970 Broadway Road location would necessitate route alterations of pipeline laterals in the Dracut, Massachusetts area, and these alterations were also evaluated as part of the compressor station relocation evaluation.

After completion of the evaluation process, which took several months to complete, Tennessee did determine that it would relocate the Market Tail Compressor Station and also make required adjustments in the pipeline laterals locations in the Dracut, Massachusetts vicinity. This revision in the Project scope was

publicly announced on October 19, 2015. In order to provide information to community stakeholders and gather feedback on these Project scope changes, Tennessee hosted a community forum on November 5, 2015 in Dracut, Massachusetts. There were approximately 225 attendees at this community forum, including local governmental officials. In the November 20, 2015 certificate application, Tennessee noted the changes in the Project scope that had been made since the second draft of the Environmental Report was filed in the pre-filing docket in July 2015, including the change in the compressor station location and the associated pipeline route adjustments near Dracut, Massachusetts.

Following receipt of the formal notice of the certificate application issued by the Commission on December 7, 2015, Tennessee provided notification packets, pursuant to Section 157.6(d)(5) of the Commission's regulations, 18 C.F.R. § 157.6(d)(5), to the affected landowners that had been identified for the Project. However, subsequent to that mailing, Tennessee discovered that 19 landowners located within one-half mile of the proposed Market Tail Compressor Station were inadvertently not included in the original landowner list that had been filed with the certificate application on November 20, 2015 or the updated landowner list filed on December 21, 2015. As explained in a January 6, 2016 filing, the GIS data that Tennessee had used to gather details regarding landowner names and addresses indicated that a housing development company owned the land, which was subsequently developed into condominiums. Therefore, the required landowner notification for this land was sent to the landowner/developer. Based on comments filed in the Project docket with the Commission and additional research, Tennessee determined that the housing developer had already constructed homes on and sold the 19 properties in question. Tennessee identified the landowner names and addresses for the 19 properties, and the names and addresses for these landowners were included in an updated landowner list included in the January 6, 2016 filing. In addition, Tennessee stated in the January 6, 2016 filing that, as of January 5, 2016, it had sent the required notification materials regarding the Project to these 19 landowners. As part of the January 6, 2016 letter, Tennessee requested waiver of the timing provisions of Section 157.6(d) of the Commission's regulations to allow for the submission of the notification materials to the 19 affected landowners as of January 5, 2016. Tennessee was not attempting to deceive or keep these 19 affected landowners "in the dark" about the Project, but inadvertently failed to identify them as affected landowners, as was disclosed in the January 6, 2016 filing. As soon as this error was discovered, Tennessee immediately provided these 19 landowners with the landowner notification packets. These affected landowners had the opportunity to file a motion to intervene in the proceeding through the January 15, 2016 intervention period, and to comment on the certificate application and other documents submitted in this proceeding on an ongoing basis.

In accordance with the Commission's filing requirements, Tennessee is submitting this filing with the Commission's Secretary through the eFiling system. Tennessee is also providing a copy of this filing to the Office of Energy Projects and to the parties on the official service list. Any questions concerning this filing should be addressed to Ms. Jacquelyne Rocan at (713) 420-4544 or to Ms. Shannon Miller at (713) 420-4038.

Respectfully submitted,

TENNESSEE GAS PIPELINE COMPANY, L.L.C.

J. Curtis Moffatt

Deputy General Counsel and Vice President Gas Group Legal

cc: Mr. Terry Turpin (Commission Staff)
Mr. Rich McGuire (Commission Staff)
Mr. Eric Tomasi (Commission Staff)
Official Service List

20160405-0034

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Paul Stevens

156 Timbertop Rd

New Ipswich, NH 03071

20160405-0036

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }
Michael Katz 251 Colburn Rd Temple, NH 03084

20160405-0040

TOWN OF DALTON

Town Hall
462 Main Street
Dalton, MA 01226-1601

Telephone (413)684-6111

Fax (413)684-6107

Mark D. Marini, Secretary
Department of Public Utilities
One South Station
5th Floor
Boston, MA 02110
March 28, 2016

Dear Secretary Marini,

The Town of Dalton has submitted documents to the Federal Energy Regulatory Commission outlining our concerns, questions, and requests regarding the proposed construction of the Tennessee Gas Pipeline through our town. Among our numerous concerns is the potential exercise of eminent domain by a public company for its personal benefit. While several property owners have allowed surveys on their land, the petition before you (DPU 16-03) filed by Tennessee Gas Pipeline Company, LLC is requesting access to the following lands owned by private landowners in the Town of Dalton:

LANDOWNERS WHO HAVE NOT GRANTED SURVEY PERMISSION

	LL#	Name	Property Location	MBL	Written Request Dates
326	59.00	Holiday Farm, Inc.	0 North Mountain St., Dalton, MA; 0 Adams Road, Dalton, MA	216-22; 2154	9/9/2015; 12/16/2015
327	60.02	Robert B.Carter, Jr.	90 Chalet Street, Dalton, MA	215-8	9/9/2015; 12/16/2015

We, the Select Board of the Town of Dalton, stand with our citizens in affirming their rights to decide who shall enter their property and under what conditions. While MGL Ch. 164, t(‘I 72A, 75B and 75D states that the DPU “may” grant such authorization upon petition, it does not state that it “shall” grant such permission. We urge you to deny this request before you and reassert our refusal to allow TGP to enter on land owned by the Town of Dalton.

Should you fail to protect the private property rights of our Dalton residents, we request the following conditions be placed on Tennessee Gas Pipeline Company L.L.C.in the form of an Order to TGP.

1. That no trees or timber shall be cut down on or removed from the properties cited above, except that brush, limbs, or trees less than two inches in diameter may be cut down and removed from vegetated areas on the properties in locations where surveyors need to obtain a line of sight;
2. That areas excavated in the conduct of archeological surveys must be restored to a condition reasonably consistent with their condition before excavation;
3. That no blasting shall be conducted on the properties;

4. That no man-made structures, including buildings, fences, and stone walls shall be disturbed;
5. That no vernal pools shall be disturbed;
6. That no areas of rare species shall be disturbed;
7. That any alteration to a wetland shall have a notice of intent filed with the local Conservation Commission;
8. That the pipeline company is responsible for any liabilities associated with its survey work on the properties, and it is required to compensate the landowner for any damages to the properties that are not repaired or restored;
9. That Tennessee Gas Pipeline Company L.L.C. shall make a reasonable effort to arrange with the property owners a convenient date and time when the properties may be surveyed so that the property owners may be present and observe the surveying;
10. That Tennessee Gas Pipeline Company L.L.C. must transmit a copy of this Order, by certified mail and by first class United States postal mail, to the property owners to be received by the owners at least five days prior to any entry upon the properties;
11. That within three days of its receipt of this Order, Tennessee Gas Pipeline Company L.L.C. shall serve a copy of this Order on the Select Board of the Town of Dalton and shall place a copy of this order in the following general circulation newspapers: the Berkshire Eagle and the Berkshire Courier.

On behalf of the residents of Dalton, the Select Board asks the Massachusetts Department of Public Utilities to recognize, uphold and protect the private property rights of its citizens as guaranteed by the Constitution of the Commonwealth of Massachusetts under Article X *“no part of the property of any individual can, with justice, be taken from him, or applied to public uses, without his own consent”* and Article XIV *“Every subject has a right to be secure from all unreasonable searches, and seizures, of his person, his houses, his papers, and all his possessions”*.

Sincerely,

John W. Bartels, Jr Robert W. Bishop
Mary Cherry Michael J. Szklas
John F. Boyle

cc: State Representative Paul W. Mark
State Senator Benjamin B. Downing
Senator Ed Markey
Senator Elizabeth Warren
Congressman Richard E. Neal
Attorney General Maura Healey
Holiday Farms, Inc
Robert B. Carter, Jr.

20160405-0074

**Congress of the United States
House of Representatives**

Ann McLane Kuster
Second District, New Hampshire

April 1, 2016

Norman C. Bay
Chairman, Federal Energy Regulatory Commission
888 First Street NE

20160405-0078 Christopher Johnson

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }

Christopher Johnson

85 Locke Rd

Chelmsford, MA 01824

20160405-5003

Christine A Rush, Castelton, NY.

I write to express My opposition to the Northeast Energy Direct Pipeline (NED) (Docket No. PF14-22-000) project proposed by the Tennessee Gas Pipeline Company, a subsidiary of Kinder Morgan, and request that the Federal Energy Regulatory Commission (FERC) reject the current permit application for construction of this project.

The NED Pipeline project represents a redundant expansion of industrial natural gas infrastructure on a route that travels from Pennsylvania and through a number of rural communities in New York State in Broome, Delaware, Schoharie, Albany, and Rensselaer Counties, which will bear all the impact and risk, while receiving little to no benefit from this project.

The gas compressors stations proposed for Rensselaer and Schoharie counties, have the potential to negatively impact air quality, public health, and the quality of life currently being enjoyed in these communities. These Fracked pipelines can explode as they pass by our schools, churches, town, villages and cities hundreds of people including children could be burned or killed. This will disturbed underground water with blasting and increase flooding and has the potential to adversely affect our aquifer. People are getting sick. A Health Study done in Minisink, NY where there is a compression station provides a potential link between the release of toxic chemicals by compression stations and respiratory illness such as asthma and COPD and headaches. Some of these toxic chemical are know to be carcinogenic.

The proposed infrastructure would disrupt the lives of hundreds of New Yorkers, many who rely on the land for their livelihoods and have resided in and contributed to these communities for generations. At no point has it been made clear that there is a compelling economic need for this project in NY state, however, the potential for long lasting environmental and health impacts is clear. It is for these reasons that I express opposition to this project and ask FERC to consider alternatives to this proposal.

Taking people's property for private gain is wrong- NO EMINENT DOMAIN FOR PRIVATE GAIN!

20160405-5018

Kinder Morgan Continues to Torture the Truth and Abuse the Public

- Part III -

Allen Fore, a vice president and spokesman for Kinder Morgan, continues his blatant use of weasel words, misdirection and outright lies as it suits his needs. And his needs are seemingly endless, with the aim of misinforming the public about Kinder Morgan's actions and intentions.

A recent news video regarding Kinder Morgan's proposed Palmetto Pipeline in Georgia included remarks made by Mr. Fore in an October 2015 interview. At 1:20 into the video, he addresses the use of eminent domain by Kinder Morgan:

“99% of the landowners we work with we reach an agreement with.

Eminent domain is rarely if ever used”.

Imagine a landowner sitting across the table from a Kinder Morgan negotiator. The KM representative calmly places a cattle prod on the table in front of him and makes frequent reference to it during the negotiations. If Allen Fore was describing such negotiations, I can picture him stating:

“99% of the landowners we work with we reach an agreement with. The cattle prod is rarely if ever used.”

Claiming that a company is not “using” eminent domain when they freely reference it to threaten the landowners they are negotiating with is the height of hypocrisy. But such torturing of the truth is business as

usual for Allen and his employer.

How can you tell when Mr. Fore is lying to you? It has to do with his lips moving.

Nick Miller Groton, MA

Palmetto Pipeline news video: <http://www.wrdw.com/home/headlines/Kinder-Morgan-suspends-work-on-Palmetto-Pipeline-374026231.html>

20160406-0023

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

April 5, 2016

OFFICE OF THE CHAIRMAN

The Honorable Niki Tsongas
U. S. House of Representatives
Washington, D.C. 20515

Dear Congresswoman Tsongas:

Thank you for your February 11, 2016, letter regarding Tennessee Gas Pipeline Company, L.L.C.'s proposed Northeast Energy Direct Project (Docket No. CP16-21-000). Specifically, you request that the Commission extend by fifteen days the deadline to file for intervenor status due to Tennessee Gas's error in not properly notifying 19 landowners within 1/2 mile of the proposed Market Path Tail Compressor Station in Dracut, Massachusetts.

In its January 6, 2016 filing, Tennessee Gas confirmed that it subsequently notified these missing landowners on January 5, 2016 regarding its certificate application filing. As you may be aware, we issued a Notice of Extension of Comment Date for the Northeast Energy Direct Project on January 4, 2016. The Notice provided additional time for landowners to either comment or request intervention status until January 15, 2016. Motions to intervene after that deadline are not precluded; any entity wishing to do so must follow the procedures set forth in section 385.214(d) of the Commission's regulations. I have attached information on how to intervene "Out of Time" after the intervention date has passed.

As in any Commission matter, please be assured that we strive to make our review of proposals both accessible and transparent to the public. If I can be of any further assistance in this or any other Commission matter, please let me know.

Sincerely,
Norman C. Bay
Chairman

Attachments

Motions to Intervene (Updated: July 9, 2014) *{omitted, can be viewed at: }*

<http://www.ferc.gov/resources/guides/how-to/intervene.asp>

Document-less Intervention (Timely & Out-of-Time)

Document-less intervention is an optional method for parties to intervene in a proceeding. It is for intervention only. Substantive comments on the merits of the proceeding, protests, or other motions should be filed separately using the e filing system.

Motions to Intervene are timely or out-of-time, depending on whether they are submitted before or after 5:00pm Eastern Time on the deadline for filing specified in the Commission's Notice of Filing. The filed date and time is normally determined at the time of file upload. Since there is no file upload step for a docu-

ment-less intervention, all information should be submitted prior to 5:00pm in order to receive the same day's filing date.

Filing Type Selection: On the Filing Type Screen

- 1) Select "General" in Column 1
- 2) Select "Intervention" in Column 2
- 3) In Column 3, select either
 - a. "(doc-less) Motion to Intervene, or
 - b. "(doc-less) Out-of-Time Motion to Intervene

Select Docket: Query and select the applicable Docket or Project Number(s). We currently maintain all service lists only at the -000 sub-docket level.

Text Box Information: After you query and select the applicable Docket (or Project) Number, you should key or copy/paste the basis for intervening in the text box. This is the information in 18 C.F.R.385.2 14(b). For "Out-of-time" Motions to Intervene the submitter must also show good cause why the time limitation should be waived.

Filing Party(ies): On the Filing Party screen, query and select the party or parties that should appear on the service list. In a joint or several motion, select each party individually. Do not add the law firm filing on behalf of a client company.

Specify the Person(s) to Whom Communication Should be Addressed: There is now just one screen for entering all contacts. The filing party or parties you selected on the previous screen appear at the top of the Communications screen with a radio button adjacent to each party. Select a party, enter the email address for a contact, and add the contact as either a signer/representative or other contact. You can associate the same contact with multiple parties simply by selecting a different radio button and adding the contact to the list. Repeat the process for each additional contact.

Each party must have at least one signer/representative on the service list. This is the signer or other legal representative for the party. In most cases it's the attorney at the company appearing on the service list or at the law firm representing that company. You can enter more than one signer/representative for a party.

An Other Contact (optional) is normally a person affiliated with the party on the service list that should be saved. They are involved in the proceeding but not necessarily as the legal representative of the party. All entities will be added to the service list regardless of how you designate them.

After you have added all contact information, follow the remaining screens. You must click on "Submit" on the last screen to confirm that you want to make the filing.

{this last page apparently mis-filed}

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

April 5, 2016

OFFICE OF THE CHAIRMAN

The Honorable Ryan Costello
U. S. House of Representatives
Washington, D.C. 20515

Dear Congressman Costello:

Thank you for your February 24, 2016, letter regarding PennEast Pipeline Company LLC's PennEast Pipeline Project in (Docket No. CP15-558-000).

As you note, the project application was filed on September 25, 2015, and is pending. Please know that Commission staff is conducting the necessary review of this project and is currently preparing a draft Environmental Impact Statement (EIS) for this proposal to meet our responsibilities under the National Environ-

mental Policy Act. We will publish and distribute the draft EIS for public comment, and after consideration of the comments received on this document our staff will issue a final EIS. The final EIS will address any comments received on the draft EIS. The Commission will consider the findings of the EIS and the results of staff's review of the project's design, market demand, costs, financing, and rates before making its decision on whether or not to authorize this project. You are on our mailing list to receive the draft EIS when it is issued. Your comments have been placed in the docket for this proceeding.

If I can be of further assistance in this or any other Commission matter, please do not hesitate to let me know.

Sincerely,
Norman C. Bay
Chairman

20160406-0024

STOP the NED Pipeline! PROTECT OUR WATER!

Docket # CP16-21

I have grave concerns regarding the potential impacts of the Kinder Morgan Northeast Energy Direct (NED) export pipeline on our **aquifers, rivers and wetland systems**. The NED pipeline proposes to cross 40 conservation areas, 155 wetlands, and 116 bodies of water, including 18 rivers. I want clear evidenced assurance, that if approved, the drilling and blasting that will occur under and near water bodies, such as the Merrimack and Souhegan, will **NOT** cause the release of **heavy metals** stored in the sediments there, nor will there be contamination in any form from construction or operation of the pipeline. Such occurrences will be disastrous to those downstream that rely on these waters for drinking, recreation and wildlife protection. No Flint disasters. Not in NH!

Linda Rauter
51 Canterbury Rd
Chichester, NH 03258

20160406-0031

{same as 20160210-0011 (STOP THE NED PIPELINE! Protect NH land from Eminent Domain!), signed by:}

Julia Steed Mawson 17 South Shore Dr Pelham, NH 03076

20160406-5002

Evelyn Taylor, New Ipswich, NH.
April 5, 2016

Northeast Energy Direct Project, Docket No. CP16-21-000

This comment is in regard to the relocation of the Market Tail Compressor Station planned for Dracut, Massachusetts and the late notice of impact to some residents affected by this alteration to the Northeast Energy Direct (NED) project by Tennessee Gas Pipeline (TGP).

The appearance of a large, high pressure fracked gas pipeline and compressor station is a life altering event. Studies show those living near compressor stations are likely to be harmed by deadly toxins and biologically damaging VOCs and particulate matter. It is unreasonably impossible to expect those who were not properly notified in advance to assess and respond and react with such short notice. The common citizen is not an expert on fracked gas pipelines or the process that's in place through which these proceedings must pass. For TGP to expect anyone to effectively utilize a window of less than a week to assimilate these matters is insane. After all, TGP has missed their deadlines and they are the supposed experts in these matters.

TGP has also does not extend any effort to disclose and discuss the grave health impacts associated with large high pressure fracked gas pipelines and compressor stations to those to be affected by them. TGP and Kinder Morgan have used marketing techniques claiming the gas will be clean and safe. I believe these tac-

tics must be called in question as being intentionally misleading. The hazardous material safety data sheets for benzene and other harmful substances to which people will be exposed does not state such substances are clean and safe.

The substances to be released into the environment and onto and into our bodies from compressor stations should be under strict controls similar to those for prescription medicines with full disclosure of the known and suspected hazards in writing for all to see.

Furthermore, unlike prescription medications, since exposure to these substances is INVOLUNTARY and to be FORCED UPON US, these pipeline companies should be required to purchase properties and pay all short and long term expenses to relocate those who do not wish to be exposed to cancerous and other biologically harmful substances as if we were lab rats in a caged experiment.

We should receive payment for lost pay from work and the costs of finding new jobs, moving expenses, wear and tear on our personal autos, gas mileage incurred during the period of disruption, hotel and meals expenses, and compensation for our stress and upset of having our lives torn apart at the whim of private corporations that exercise extreme measures to take what they want, when they want it at little or no cost to them. Those of us who have been aware in advance have spent thousands of personal hours on activities related to this NED proposal with ZERO compensation from TGP or Kinder Morgan. TGP and Kinder Morgan and the FERC requested hundreds of pages of information from private citizens and offered no compensation in return for those free hours of effort. Worse yet, we are still poised to lose homes and health at no cost to TGP or Kinder Morgan. It is time to get real about these corporate schemes.

I believe there are grave injustices being done to people who are being targeted as victims of private company pursuits for profit. I live close to the compressor station site in New Ipswich, NH, and I will not stand down and allow toxins to be dumped upon me. If these chemicals are clean and safe as TGP and Kinder Morgan have stated, then let those who have formed this scheme stand in that path of biological harm in our place and fund our escape from such harm. We need the FDA to be included in these proceedings as these chemicals are to be infused into our bodies in uncontrolled and unmeasured quantities with no prescription or warnings of the known or suspected illnesses, including death.

20160406-5076

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Tennessee Gas Pipeline Company, L.L.C.)

Docket No. CP16-21-000

OBJECTION OF
NORTHEAST ENERGY SOLUTIONS, INC.
TO
TENNESSEE GAS PIPELINE COMPANY, L.L.C.
MOTION FOR LEAVE TO ANSWER

Northeast Energy Solutions, Inc. (“NEES”) hereby objects to Tennessee Gas Pipeline Company, L.L.C. ‘s (“Tennessee”) motion for leave to answer in the above-captioned proceeding concerning Tennessee’s Northeast Energy Direct Project (“NED Project”) certificate application (“Application”) as filed with the Federal Energy Regulatory Commission (“Commission”).

1. In support of this Objection, NEES states, as follows: The exact legal name of the Objector is as set forth in the above, unnumbered paragraph. NEES is a multi-jurisdictional nonprofit corporation comprised of energy, land, environmental, end-user, and related economic interests. Uniquely, NEES, through its founding members, represents over 101,850 individuals in Massachusetts and New York who collectively own or hold conservation restrictions on over 46,211 acres of land in the Massachusetts. NEES also includes municipalities and a state legislator among its members. NEES is an educational resource and advocacy group (before state and federal government officials) that works to ensure that economically viable and environmentally

responsible energy projects account for its member's collective and respective interests. NEES was founded to represent its members in providing energy infrastructure analysis and advocacy regarding the economics of energy projects and transactions in the Northeastern United States.

2. The name and mailing address of the person upon whom all communications concerning the proceeding should be served is, as follows:

Vincent De Vito, Partner
Bowditch & Dewey, LLP
300 New Jersey Avenue, NW, Suite 900
Washington, DC 20001
Telephone: 617-757-6518
Fax: 508-929-3019
vdevito@bowditch.com

3. On or about November 20, 2015, Tennessee filed the Application pursuant to sections 7(b) and 7(c) of the Natural Gas Act, and the Commission regulations thereunder, seeking authority to: (i) construct, install, modify, and operate certain pipeline and compression facilities to be located in Pennsylvania, New York, Massachusetts, New Hampshire, and Connecticut; and (ii) to abandon certain facilities, all as part of a proposed Northeast Energy Direct Project ("NED"). The proposed NED is comprised of two components:

- a. Supply Path Component: Comprised of the proposed facilities from Troy, Pennsylvania to Wright, New York, including approximately 174 miles of pipeline facilities in Pennsylvania and New York, the proposed construction of three new compressor stations and modifications to one existing compressor station, further construction of two new meter stations, and purported appurtenant facilities.
- b. Market Path Component: Comprised of proposed facilities from Wright, New York to Dracut, Massachusetts. These proposed facilities include approximately 188 miles of mainline pipeline facilities in New York, Massachusetts, and New Hampshire, laterals located in Massachusetts and New Hampshire, and Connecticut), proposed construction of six new compressor stations, 13 new meter stations and modification of 14 existing meter stations, and purported appurtenant facilities.

4. The Commission issued a Notice of Application for the Application on December 7, 2015 and NEES timely moved to intervene in this proceeding. No opposition was not filed against NEES' motion to intervene within 15 days after it was filed. As such, NEES is a party in this proceeding.

5. Tennessee filed its Motion for Leave to Answer and Answer of Tennessee Gas Pipeline Company, L.L.C. to Interventions, Protests, Comments, Motion for Stay and Motion for Summary Disposition ("Motion") on March 22, 2016.

6. NEES respectfully and timely objects to the Motion as follows:

- a. To the extent certain Interventions are in fact Protests, the Commission should not waive the prohibition set forth in Rule 213(a)(2) of the Commission's Rules of Practice and Procedure as requested by Tennessee. Rule 213(a)(2) is clear and prohibits the filing of Answers to Protests.
- b. The Commission should not grant Tennessee's request for a waiver of Rule 213(d) to afford Tennessee additional time to respond to certain Interventions in one document. Rule 213(d) is clear in setting the filing time limits, and each Intervention is important in its own right and deserves to be addressed by Tennessee on a timely basis.

WHEREFORE, for all of the aforementioned reasons, NEES respectfully requests the relief sought herein be granted, including but not limited to denying Tennessee's Motion.

Respectfully submitted,

On behalf of NEES:

Vincent DeVito, Partner

Bowditch & Dewey, LLP

300 New Jersey Avenue, NW, Suite 900

Washington, DC 20001
Telephone: 617-757-6518
Fax: 508-929-3019
vdevito@bowditch.com
April 6, 2016

cc: Governor Charles D. Baker (MA)
Governor Daniel Malloy (CT)
Governor Andrew M. Cuomo (NY)
Senator Lisa A. Murkowski (AL)
Congressman Peter T. King (NY)
Congressman James P. McGovern (MA)
Commissioner Tony Clark, FERC
Commissioner Cheryl A. LaFleur, FERC
Chairman Norman C. Bay, FERC
Commissioner Philip D. Moeller, FERC
Commissioner Colette D. Honorable, FERC
Attorney General Maura T. Healey (MA)
President Stanley C. Rosenberg (MA Senate)
Speaker Robert A. DeLeo (MA House of Representatives)
Ann F. Miles, Director, Office of Energy Projects, FERC
Eric I. Tomasi, Environmental Project Manager, Office of Energy Projects, FERC
Michael McGehee, Deputy Director, Office of Energy Projects, FERC
State Senator Michael Brady (Brockton, MA)
State Representative Bradley H. Jones, Jr. (North Reading, MA)
Matthew A. Beaton, Secretary, Office of Energy and Environmental Affairs (MA)
Judith Judson, Commissioner, Department of Energy Resources (MA)
Rob Klee, Commissioner, Department of Energy and Environmental Protection (CT)
Basil Seggos, Acting Commissioner, Department of Environmental Conservation (NY)
Rebecca Tepper, Chief, Energy and Telecommunications, Attorney General (MA)

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document on all parties listed on the official service list compiled by the Secretary in this proceeding and attached hereto.

Dated at Boston, Massachusetts this 6th day of April, 2016.

Vincent DeVito, Partner
Bowditch & Dewey, LLP
300 New Jersey Avenue, NW, Suite 900
Washington, DC 20001
Telephone: 617-757-6518
Fax: 508-929-3019
vdevito@bowditch.com

20160407-0018

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }
Dorothy McGarry 122 Montaup Ave Dracut, MA 01826

20160407-0019

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }
Peter Colpitts 60 East Road Temple, NH 03084

20160407-0020

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }

Anne Foley PO Box 179 Temple, NH 03084

20160407-0021

{same as 20160406-0024 (STOP the NED Pipeline! PROTECT OUR WATER!...), signed by:}

Joel Peter & Sharon Hone 295 Windham Rd Pelham, NH 03076

20160407-0022

{same as 20160406-0024 (STOP the NED Pipeline! PROTECT OUR WATER!...), signed by:}

Melissa Lee 57 Valley Hill Rd Pelham, NH 03076

20160407-0023

{same as 20160406-0024 (STOP the NED Pipeline! PROTECT OUR WATER!...), signed by:}

Dawn S. McLaughlin 22 Birch Lane Pelham, NH 03076

20160407-0024

{same as 20160406-0024 (STOP the NED Pipeline! PROTECT OUR WATER!...), signed by:}

Anna M. Corey 215 Jones Ave Dracut, MA 01826

20160407-0025

{same as 20160406-0024 (STOP the NED Pipeline! PROTECT OUR WATER!...), signed by:}

Kent Varnum 6 Trinity Way Dracut, MA 01826

20160407-0026

{same as 20160406-0024 (STOP the NED Pipeline! PROTECT OUR WATER!...), signed by:}

Barbara Varnum 6 Trinity Way Dracut, MA 01826

20160407-0027

{same as 20160406-0024 (STOP the NED Pipeline! PROTECT OUR WATER!...), signed by:}

Paul V. McLaughlin 22 Birch Lane Pelham, NH 03076

20160407-0028

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Eunice Grenham 4 Hazelwood Ave Dracut, MA 01826

20160407-0029

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Dorothy McGarry 122 Montaup Ave Dracut, MA 01826

20160407-0030

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Barbara Varnum 6 Trinity Way Dracut, MA 01826

20160407-0031

{same as 20160204-0008 (STOP THE NED PIPELINE AND COMPRESSOR STATION...), signed by:}

Paulino M. Carteiro 60 Florry Drive, Unit 24 Dracut, MA 01826

the pipeline route at its closest point.

- I am affected because whatever blasting occurs will cause fissures that will allow chemicals to leach into the groundwater, which will affect the quality of the water from my well, and the fissures will also change the patterns of water movement which could affect my access to water for my well.
- I am an affected landowner because this project would, if built, dramatically reduce the value of my home and property.
- I am an affected landowner because as a taxpayer in Windsor, our tax base would be reduced by the decreased land values and then we'll all have to pay higher taxes to support a community that not only carries its current budget but has to allow for higher road maintenance costs due to pipeline construction, higher public health costs due to residents' affected health, higher legal costs to protect the interests of the Town from the effects of pipeline construction, and so forth.
- I am an affected landowner because my personal health would be negatively impacted by both a compressor station and the pipeline construction and any emissions or "accidents" that would occur after the system goes online.
- I am an affected landowner because I keep an organic garden and if this project goes through, the emissions from the compressor station will send so many pollutants through the air that I will no longer be able to grow my own food, nor will my neighbors, including the neighbor who runs a CSA to which I belong and from which I buy food.
- I am an affected landowner in that the methane emissions from this project will contribute to the climate change crisis that we are already experiencing, and by which we will all be impacted.
- I am an affected landowner because Kinder Morgan/Tennessee Gas is proposing to have electric ratepayers foot the cost of this pipeline construction, even though it is patently clear that none of this gas is needed in Massachusetts or New England and is all to be sold to other markets for the pure profit of the gas company.

Therefore, as an affected landowner, I would argue that the DPU should deny this request from Tennessee Gas, first, and foremost, because it's putting the cart before the horse. If the company does not yet have permitting from FERC to proceed, then it should not be allowed to proceed with this request.

Secondly, I do not pretend to think that FERC will deny this permit—despite the specious grounds upon which the application is based—but that is no reason for the DPU to go along with it. As I understand it, the DPU is charged with the responsibility of determining necessary public utility needs for the people of the Commonwealth of Massachusetts. It is well established, by our own Attorney General as well as numerous other sources, that we have no need for this proposed pipeline. The construction company, Kinder Morgan, has acknowledged publicly that the primary purpose of this proposed pipeline is to allow the transport of hydrofracked gas to "other markets," meaning markets outside of New England. This will offer financial gain to the fossil fuel companies but will not provide any necessary public benefit to the people of Massachusetts. If the role of the DPU is to determine if a project warrants the taking of land, or use of land, by eminent domain, then the need for that project must outweigh the violation of landowners' rights. How does a pipeline that transports gas through a region to get to another market constitute a public need that outweighs violating citizens' rights? If we do not have a need for the gas, then there are no grounds for granting eminent domain!

Third, in addition to the issue of violating landowners' rights for no need, an argument should be made that this project, for which the surveying is to be undertaken, is likely to wreak public health and environmental havoc on a wide swath of Massachusetts. Again, for the DPU to grant permission for such a project to go forward, it must have evidence that the benefits to the people of Massachusetts outweigh the risks. There is no such evidence, and it's very obvious that neither Tennessee Gas nor Kinder Morgan has yet to address the bulk of those concerns.

Fourth, it is also not at all clear that Kinder Morgan has the financial solidity to fund any sort of reparations

to landowners, and to the Commonwealth of Massachusetts taxpayers, if the myriad bad outcomes do occur. This is a company that appears to be on very shaky financial footing, and many of us worry that Kinder Morgan will not even be around to mop up the damage—notwithstanding the fact that much of the damage if it does occur would not be able to be mopped up. The DPU has an obligation to the citizens of the Commonwealth that taxpayers will not have to bear the burden of a project based on folly and negligent practice. Fifth, this project includes proposals to site this pipeline on lands that have been placed in conservation restriction or agricultural preservation. This violates the law of our Commonwealth, and the intention of laws such as Article 97 was to protect these lands from development. Now, the pipeline company wants to override the laws of our state for its own private gain?

Sixth, the Global Warming Solutions Act directs Massachusetts to move to cleaner energy in the next 15 years. The DPU should adhere to this law and deny a project that only contributes to climate change.

For all of the above reasons, I urge the DPU to stand up and protect the Commonwealth of Massachusetts and the people of Massachusetts from an unconscionable intrusion on the property rights of landowners, the rights of the state to protect its people, the safety of our public health, the sensitivity of our environment, the safety of our water, and the financial protection of our residents. Deny each of these petitions and hold to your mission of determining the actual utility needs of the people of Massachusetts.

Thank you,

Holly Higinbotham

cc: James L. Messenger, Esq.

Stephen August

Rep. Paul Mark

Rep. Gailanne Cariddi

Rep. Steve Kulik

Rep. Tricia Farley Bouvier

Rep. Smitty Pignatelli

Sen. Benjamin Downing

Sen. Stan Rosenberg

US Sen. Elizabeth Warren

US Sen. Ed Markey

US Rep. Richard Neal

Secretary Matthew Beaton

Paul Brennan HI

Governor Charlie Baker

Attorney General Maura Healey

Kimberly D. Bose, Secretary, FERC

20160407-3006

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

OFFICE OF ENERGY MARKET REGULATION

In Reply Refer To:

Letter Order Pursuant to § 375.307

Tennessee Gas Pipeline Company, L.L.C.

Docket No. CP16-21-000

April 7, 2016

Tennessee Gas Pipeline Company, L.L.C.
1001 Louisiana Street

Kevin Henrich

14 Fourth St

Dracut, MA 01826

20160408-0009

{same as 20160406-0024 (STOP the NED Pipeline! PROTECT OUR WATER!...), signed by: }
Georgette Y.E. Henrich 14 4th St Dracut, MA 01826

20160408-0010

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }
Paulino M. Carteiro 60 Florry Drive Unit 24 Dracut, MA 01826

20160408-0011

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }
Robert P. Jones 104 Pelczar Road Dracut, MA 01826

20160408-0012

{same as 20160406-0024 (STOP the NED Pipeline! PROTECT OUR WATER!...), signed by: }
Philippe Thibault 45 Peabody Ave Dracut, MA 01826

20160408-0021

MBR

MASSACHUSETTS BUSINESS ROUNDTABLE

April 5, 2016

Kimberly D. Bose

Secretary

Federal Energy Regulatory Commission

888 First Street NE, Room 1A

Washington, DC 20426

Northeast Energy Direct Project (FERDC Docket CP16-21-000)

Dear Secretary Bose:

I am writing in regard to the above referenced project to convey support for the policy goal of increasing the supply of natural gas through increased pipeline capacity as a strategy to control the high cost of energy in our region. Massachusetts has the third highest residential electricity costs of any state in the country. For industrial users, the cost of energy in Massachusetts is more than twice the national average based on data from January of 2016. Massachusetts ratepayers are therefore at a competitive disadvantage.

This is of concern to the members of the Massachusetts Business Roundtable, senior executives from some of our state's largest employers. In response to that concern, the Roundtable convened an Energy Task Force, comprised of leaders from large energy consumers, higher education, utilities, and renewable energy companies. The Goal Statement adopted by our Board, which conveys our priorities, is as follows:

The Massachusetts Business Roundtable supports public policy that provides reliable, sustainable, affordable energy resources for consumers and businesses enabling the state to meet the needs of a growing economy and the goals of the Global Warming Solutions Act in the most cost-effective way possible. To achieve this goal, the Roundtable supports a balanced, competitive, regional approach that includes renewable energy sources, natural gas, efficiency programs, and innovative on-site distributed generation solutions.

Attached is a copy of the document produced by our Task Force. I hope that the principles include in it are helpful in your deliberations. Thank you for this opportunity to comment.

Sincerely

20160411-0012

{same as 20160406-0024 (STOP the NED Pipeline! PROTECT OUR WATER!...), signed by:}

Risa & Michael Andre

4 Troutbrook Rd

Dracut, MA 01826

20160412-0011

{same as 20160406-0024 (STOP the NED Pipeline! PROTECT OUR WATER!...), signed by:}

Paul Jones

232 Winterberry Rd

Pelham, NH 03076

20160412-0012

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }

Gary Elsworth

840 Starch Mill Rd

Mason, NH 03048

20160412-0013

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }

Rr Sam Fuller

St.Anne St.Augustin / 383 Beech St Manchester, NH 03103

20160412-0014

{same as 20160406-0024 (STOP the NED Pipeline! PROTECT OUR WATER!...), signed by:}

Louisa Purcell

4 Tina Ave

Pelham, NH 03076

20160412-5315

A Pipeline Tariff Means

We All Pay The Piper

The Mass Legislature is preparing an omnibus energy bill and there is concern that the bill may include a pipeline tariff. 91 members of the legislature have signed a letter preemptively objecting to the inclusion of a tariff in the bill. Such a tariff is essentially a new tax that would be collected from electric ratepayers via their monthly electric bills. This ratepayer tariff would eventually end up in the pockets of private pipeline companies. Basically, the idea of a tariff is to force all electric ratepayers within some group or region to subsidize the construction of one or more large, high-pressure natural gas pipelines into the region – pipelines that their advocates claim we need but that might not get built without the help of public dollars.

In my research, I haven't found any interstate natural gas pipeline that has ever been built with a taxpayer subsidy before. It seems that a tariff has simply never been required, ever, to entice a private company to build a pipeline before. There are now roughly 300,000 miles of natural gas transport pipelines in the US. These are large, high pressure pipelines, not the local distribution lines. And not a single foot of these pipelines seems to have required a public subsidy in order to be built. Why is it suddenly a good idea to start paying private pipeline companies with taxpayer dollars for something that has always been privately financed?

There are multiple proposals for pipelines to bring natural gas into New England that are in various stages of construction or review. Together these pipelines would deliver a total of some 3.4 billion cubic feet of natural gas each day to New England. This is two or three times the amount of gas than even natural gas proponents believe that New England can use. All of these proposals were brought forth without needing a pipeline tariff to finance them. Kinder Morgan spokesman Allen Fore has stated publicly that his company is not dependent upon a tariff to fund their NED project, that if approved, it will be privately financed – so why would we then choose to provide them with taxpayer dollars?

A tariff is a tax. It may be called a tariff or a fee or a surcharge or whatever. But make no mistake, it is a tax. And it would be a brand new tax, one that has never existed before. One that has been dreamed up just for New England. One being brought to you by local pipeline lobbyists and advocates. One that will be used to

subsidize and to further enrich private energy companies.

OK, so it's a new tax. And nobody likes taxes, much less new taxes. But let's put that aside for the moment and see what the potential advantages to the public might be if this new pipeline tax were enacted:

- Perhaps the public would own a percentage of a pipeline that was built partly with public money so that it might share in any profits? That seems reasonable. But sorry – no.
- Will the private energy company perhaps guarantee that the price of natural gas in New England will drop (or at least not increase) once the subsidized pipeline is in place? This is what the energy companies claim will happen, so how about some sort of a guarantee to the public to help justify the creation of a new tax? Again, sorry – no.
- Would the public at least receive a discount on the gas traveling in the pipeline that they helped to pay for? You guessed it – no.
- That all makes it seem like the pipeline tariff is a very one-sided deal – a poor one for the public and a good one for the pipeline company. Certainly at the very least there would be an assurance that all of the gas being transported in such a subsidized pipeline would stay in New England to be used by those paying this new pipeline tax? And once again, so very sorry – no.

And so it seems that any future financial return to the public for their “investment” in a pipeline tariff would have to be placed squarely in the “trust me” category, with no guarantees for anything other than the increased electric bills that the tariff will cause.

There have been many complaints about the pipeline companies and their mistreatment of the public during their work on current New England pipeline proposals. You might imagine that if a pipeline were being constructed partly with public money that the public could at least count on better cooperation and communication from the pipeline companies. If you believe that paying this money to these private pipeline companies will make them any less disrespectful and deceitful towards the public, you will be disappointed. Likewise if you think that the payments would make them more willing to work with town governments, conservation commissions, land trusts, etc. – you are engaging in wishful thinking. A pipeline being constructed partially with public money would still be proposed and licensed through FERC with as little possibility for serious public input then as there is now without the tariff – very, very little.

A private pipeline company will certainly need to take land by eminent domain in order to construct an interstate pipeline. In addition to being repulsive to the public, the use of eminent domain by a private pipeline company is a relatively expensive proposition for them, as it requires that they go to court to do so. How ironic would it be if the public was funding the pipeline companies via a tariff so that these same pipeline companies could then go to court and use the tariff money to take private lands from members of the public? Forcing landowners along a proposed pipeline route to help finance the private company planning to use eminent domain against them seems cruel and unusual.

And here's a final question to ponder: If there is going to be a new tax on the public that is supposed to help us to meet our energy needs in a more reliable, affordable manner, wouldn't it make sense to consider the best possible use of such a public subsidy before a side deal is made to pass it to the fossil fuel industry? What if that money were applied to further energy conservation efforts? There is evidence that the reduction in demand from such a program might well pay more dividends to the public than a pig-in-a-poke pipeline tax. And of course there should be consideration given to renewables, demand response programs, evaluation of new storage technologies, etc. These are all initiatives that might well pay greater long term dividends to the public. Why not consider all of the possible options before making a decision that leads to eminent domain takings and huge new fossil fuel infrastructure that will dominate and constrain our energy choices for decades to come?

If a pipeline tariff is enacted, the public will gain little or nothing in the way of guaranteed financial return on the money paid to the pipeline companies from this new tax. In short, we will all end up paying the piper.

Nick Miller Groton, MA

20160413-0006

{same as 20160406-0024 (STOP the NED Pipeline! PROTECT OUR WATER!...), signed by:}

Helen Caggiano

20 Jacques Rd

Tyngsboro, MA 01879

20160413-0007

{same as 20160406-0024 (STOP the NED Pipeline! PROTECT OUR WATER!...), signed by:}

Marianne Lambert

75 Varnum Ave

Dracut, MA 01826

20160414-5132

Tennessee Gas Pipeline
Company, L.L.C.
a Kinder Morgan company

April 14, 2016

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Room 1A
Washington, DC 20426

Re Tennessee Gas Pipeline Company, L.L.C.
Northeast Energy Direct Project; Docket No. CP16-21-000
Response to April 7, 2016 Data Request

Dear Ms. Bose:

On November 20, 2015, Tennessee Gas Pipeline Company, L.L.C. (“Tennessee”) filed with the Federal Energy Regulatory Commission an application for a certificate of public convenience and necessity (“Application”) for the proposed Northeast Energy Direct Project (“Project”) in the abovereferenced docket.

On April 7, 2016, the Commission issued a Data Request to Tennessee in the above-referenced docket. Enclosed with this filing is Tennessee’s response to the Data Request.

In accordance with the Commission’s filing requirements, Tennessee is submitting this filing with the Commission’s Secretary through the eFiling system. Copies of this filing are being served on all parties on the official service list for the above-referenced docket. Any questions concerning this filing should be addressed to Ms. Jacquelyne Rocan at (713) 420-4544 or to Ms. Shannon Miller at (713) 420- 4038.

Respectfully submitted,

TENNESSEE GAS PIPELINE COMPANY, L.L.C.
J. Curtis Moffatt
Deputy General Counsel and Vice President Gas
Group Legal

Enclosure

cc: Terry Turpin (Commission Staff)
Rich McGuire (Commission Staff)
Jerry Pederson (Commission Staff)
Eric Tomasi (Commission Staff)
Mr. Wayne Kicklighter (Cardno)
Official Service List

Tennessee Gas Pipeline Company, L.L.C.
Northeast Energy Direct Project (“Project”), Docket No. CP16-21-000

Data Request No. 3, issued April 7, 2016

1. On Page 36 of the transmittal of Tennessee's application it states "The commodity rates for the Market Path Component and the Supply Path Component facilities reflect estimated firm volumes using an 86 percent utilization of the total firm Project capacity based on historical load factor levels on the Tennessee system..." Please state the utilization percentage that Tennessee used to estimate the Project Operation and Maintenance commodity expense of \$924,000 for the Supply Path Component on Line 1 of Exhibit N, Page 5 and the utilization percentage that Tennessee used to estimate Project Operation and Maintenance commodity expense of \$1,260,000 for the Market Path Component on Line 11 of Exhibit N, Page 5.

Response:

As noted on pages 35-36 of Tennessee's certificate application, the projected operation and maintenance expenses used in the derivation of the incremental recourse rates for service on the Market Path Component and the Supply Path Component facilities were based on historical cost factors experienced by Tennessee on its system for similar facilities. More specifically, Tennessee utilized cost factors derived from actual expenses incurred on its system for the 12 month period ending December 2014 and applied those cost factors to the specific facilities to be added as part of the Project. Further, Tennessee assigned all projected variable costs based on this methodology to the commodity rate. Thus, given that Tennessee's operating expenses assigned to the commodity rate were based on cost factors derived from actual expenses incurred on its system for the 12 month period ending December 2014, it is reasonable to assume that these costs are reflective of an 86 percent utilization rate.

Respondent: Carlos Oblitas
Title: Director, Rates
Phone: (713) 420-5771

2. Exhibit I "Summary of Precedent Agreements" states that the contractual commitment of the City of Westfield Gas & Electric Light Department for the Supply Path Component is 2,000 dekatherms per day (Dth/day). However, Exhibit A of the Gas Transportation Agreement of the City of Westfield Gas & Electric Light Department for the Supply Path Component states that the contractual commitment is 5,000 Dth/day. Please, clarify the correct contractual commitment of the City of Westfield Gas & Electric Light Department for the Supply Path Component.

Response

Tennessee clarifies that the City of Westfield Gas & Electric Light Department's ("Westfield") appropriate transportation quantity for the Supply Path Component of the Project is 2,000 Dth per day.

Tennessee acknowledges that, under Westfield's precedent agreement for the Supply Path Component of the Project, Westfield contracted for a transportation quantity of 5,000 Dth per day, with a right to reduce by up to 2,000 Dth per day (i.e., to a reduced transportation quantity as low as 3,000 Dth per day). However, at the time Tennessee filed its certificate application for this Project, Tennessee had received unofficial indications from Westfield that Westfield's management board would likely only approve a maximum of 2,000 Dth per day on the Supply Path Component. Indeed, prior to filing the certificate application, Tennessee had already received official written notice that Westfield's management board had approved only 2,000 Dth per day of transportation quantity on the Market Path Component. Tennessee and Westfield executed an amendment to Westfield's precedent agreement for the Market Path Component of the Project, officially reducing Westfield's transportation quantity consistent with Westfield's management board's approval. Tennessee thus concluded that, while an official notification letter for the Supply Path had not yet been received, based upon Westfield's unofficial indications and its reduced transportation quantity on the Market Path Component, Westfield's transportation quantity on the Supply Path Component was highly likely to be reduced to 2,000 Dth per day. Exhibit I to Tennessee's certificate application reflected this probability.

factual issues that cannot be resolved based on written submissions); and

General Motors v. FERC, 656 F.2d 791, 795 (D.C. Cir. 1981)(reversing FERC for failure to hold a formal hearing on issue of adequate need to support increase in peak day service under certificate where issue is disputed).

TGP's claim that "the need for NED outweighs any adverse effects" must be examined in the light of an Evidentiary Hearing. There are certainly material facts at issue here. For example, the only hard data TGP provides in its Motion is the total amount of gas contracted for in its precedent agreements. For NED Market Path, this quantity (751,650 Dth) amounts to only 42% of NED's capacity of 1.3 billion cf/day. This minor level of subscription, despite more than two years of intensive marketing, shows the need for NED is decidedly NOT significant.

Further, TGP is being misleading when it touts its precedent agreements as evidence of load growth. Some of the limited NED capacity that TGP has been able to get subscribed does not represent new need but is already supplied. In fact the majority of NED's only precedent agreement in NH is not new demand. Liberty Utilities, **a partner in NED as an Algonquin subsidiary**, has a contract for 115,000 Dth that represents only 50,000 Dth of new supply: 65,000 Dth is presently contracted for on an existing pipeline. TGP's assertions of NED's "significant market support" are highly overblown.

An evidentiary hearing can bring to light the stark contrast between the facts surrounding the NED pipeline and the fiction presented by TGP. An evidentiary hearing, not a public meeting such as the scoping sessions that have taken place in the NED pipeline region of New Hampshire, is required. The scoping sessions had no such cross examination aspect as an evidentiary hearing should have. Seeking the truth should be the goal of FERC's entire pipeline approval process, and an evidentiary hearing can shine a light on facts and put fabrication and fiction to rest.

In addition to the evidentiary hearing, **a programmatic EIS comprehensively comparing the impacts of all the pipeline projects proposed for New England would also shine a much-needed light on the complete picture of pipeline overbuilding in New England.** TGP's claim that there is "no geographic or other connection between the projects" defies logic.

In addition to NED, Spectra Atlantic Bridge, Spectra Access Northeast, Portland Natural Gas "C2C" all propose to supply gas to the New England market. Adding the Spectra AIM project approved March 2015, all these pipelines total close to 3 Bcf/d of additional gas capacity into New England, far in excess of any potential shortfall in even the most aggressive demand scenario. They are redundant solutions to the same potential need and must be reviewed as such under NEPA. [1]

On December 18, 2014, the Council on Environmental Quality (CEQ) issued guidance on the effective use of programmatic NEPA reviews, when "making decisions on common elements or aspects of a series or suite of closely related projects;" and as a way to "avoid 'segmenting' the overall program from subsequent individual actions and thereby avoid unreasonably constricting the scope of environmental review." [2]

Specific actions were listed in the December guidance as appropriate for a programmatic NEPA review, as follows:

Approving Multiple Actions. Decision to proceed with multiple projects that are temporally or spatially connected and that will have a series of associated concurrent or subsequent decisions. Programmatic examples include:

- Several similar actions or projects in a region or nationwide (e.g., a large scale utility corridor project); or
- A suite of ongoing, proposed or reasonably foreseeable actions that share a common geography or timing, such as multiple activities within a defined boundary (i.e., Federal land or facility). [3]

Certainly NED, Spectra Atlantic Bridge, Spectra Access Northeast, Portland Natural Gas "C2C" are all similar projects in a region that share a common timing.

Without a programmatic EIS, FERC lacks guidance on how to best fill a possible need, if indeed there is a need based on current information, not the outdated statistics frequently appearing in TGP's literature and

20160418-0007

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }
Gly? Pe? ? Tallant Rd Pelham, NH 03076

20160418-0008

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }
Julie McAdoo 258 Cutter Rd Temple, NH 03084

20160418-0009

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }
Mike & Kathy Hughson 7 Page Hill Road New Ipswich, NH 03071

20160418-0063

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Room 1A
Washington, DC 20426

Date: 4-12-2016

Via Certified Mail, Return Receipt Requested

Re: Denying property access

As the owner of the property located at:

406 Methuen Rd, Dracut, MA

I am denying permission to the Tennessee Gas Pipeline Company, LLC (a Kinder Morgan Company), its representatives, contractors, sub-contractors, or associates to enter my land to perform surveys, or for any other purpose. Any physical entry onto my property will be considered unauthorized, and treated as trespass.

Frank Kerepka

20160418-0070

SAY "NO" TO THE NED PIPELINE PROJECT!

PROTECT MASSACHUSETTS LAND FROM EMINENT DOMAIN!

I oppose the Kinder Morgan Northeast Direct (NED) Pipeline. Emissions, industrialization, pollution, fires and explosions from the construction and operation of this facility will put our health and safety at risk, as well scar our landscape, and put at risk our water, wildlife, forests, agricultural lands and rural character. Say NO to this private company who is asking us to assume 100% of the burden for something which has zero benefit for us!

GREED, NOT NEED, IS FUELING THIS PROJECT!

Arlene McGlasson 57 Bancroft St Dracut, MA 01826

20160418-0071

{same as 20160418-0070 (SAY "NO" TO THE NED PIPELINE PROJECT!...), signed by: }
Joanne Spicer 51 Farm Pond Rd Dracut, MA 01826

20160418-0072

{same as 20160418-0070 (SAY "NO" TO THE NED PIPELINE PROJECT!...), signed by: }
Tiffany Moore 30 Lannon Ave Dracut, MA 01826

and other organizations, mostly from the 18 New Hampshire municipalities, comprising roughly 160,000 citizens, on the projected approximately 71-mile path of the Kinder Morgan/Tennessee Gas Pipeline Company, LLC (“KM/TGP”) Northeast Energy Direct (“NED”) high pressure gas pipeline project being considered for approval under Federal Energy Regulatory Commission (“FERC”) Docket No. CPI6-21.[1] Thirteen of these towns have formed the New Hampshire Municipal Pipeline Coalition (“Coalition”) to oppose the project. Others are fighting it on their own, as shown by the Motion to Intervene and Protest that the Town of Hudson (currently a non-Coalition member) has filed in FERC Docket No. CPI6-21, a copy of which is attached to this letter as Exhibit “A.” We unite in reminding you who we are and what is at stake, in thanking you for your contributions to date-and in imploring you to take an even more active role in the matter, before it is too late.

Specifically, we urge you to do the following on behalf of ourselves, and the State of New Hampshire:

- **As a united New Hampshire Congressional Delegation, organize and lead a demand of other Northeast statesmen that FERC Docket No. CP16-21 be scheduled for a formal evidentiary hearing;**
- **Join Governor Hassan’s call to FERC to require a comprehensive health impact assessment for the NED project; and**
- **Advocate for the creation and appointment of a Citizens Advocate in FERC proceedings.**

WHO WE ARE, AND WHAT IS AT STAKE

We are not just “NIMBY”s.[2]

We are affected property owners and businesses in the pipeline’s projected path, but also concerned citizens outside of the pipeline’s path: conservationists, environmentalists, advocates and activists for responsible energy and global warming initiatives, town officials, mothers, fathers, grandparents, laborers, lawyers, teachers, librarians, engineers and children. We are New Hampshire residents, first and foremost, who want to make sure that right is done by our state and its people.

At stake is virtually the entire character and quality of Southern New Hampshire and the lives of its citizens. As discussed in the Town of Hudson’s motion to intervene in FERC Docket No. CPI6-21, the NED project will have devastating impacts:

“There are substantial and real environmental, economic, and health threats ... arising from the construction and operation of the pipeline ... It will cross conservation lands, forestland ... public infrastructure, private homes ... residents are deeply worried about the reduction in value of their homes, and the difficulties they may encounter in refinancing i.. Moreover, the Project threatens public safety by placing fire and explosion hazards in proximity to residential areas and subjects ... residents to an ongoing fear of such catastrophic incidents.”

Exhibit “A,” pp. 1-2.

Another overwhelming negative associated with the NED pipeline project is the widespread harm it threatens to New Hampshire’s water resources. As partially detailed in the Coalition’s own motion to intervene filed in FERC Docket No. CPI6-21:

“... Damage to water resources is inevitable from pipeline construction, resulting largely from stream crossings and construction in sensitive areas near aquifers. Moreover, many of the homes and businesses along the route have private wells and septic systems that require protection from construction 13 activities. The NED pipeline will cut through numerous water bodies, wetlands and aquifers along its route across New Hampshire and potentially compromise, among other areas, the following:

- Souhegan River, which it will cross six times
- Brooks and streams (22 in 15 towns)
- Aquifers (13)

- Ponds/lakes (11, largest, Scott Pond, is 134 acres)
- Wetlands (over 27, numerous vernal pools)
- Municipal water systems ...
- Private wells ...
- Numerous watersheds, including the headwaters of Tully Brook, East Asheulot, Miller [sic] River, and Middle Connecticut

Among many foreseeable impacts, blasting, horizontal drilling and other construction operations would impact many of these water resources ... Of particular concern is the hydrogeology of the region, where a massive underground pipeline corridor could serve as a conduit for groundwater contamination between aquifers, river basins and other water resources that would otherwise be isolated from one another ... “

See attached Exhibit “B,” pp. 12-13. The above is merely illustrative and does not begin to cover the total impact the pipeline project will have on water resources. For example, the entire Town of Greenville’s water supply will be at risk as it will be exposed to contaminants from the proposed neighboring New Ipswich compressor station, to be sited on land which drains generally into Greenville’s reservoir, only one-half mile away. The town obviously cannot just pick up and move, and has grave concerns about becoming another “Flint.” Also, there is great concern that construction activities associated with traversing the Merrimack and other rivers relied on for drinking water may release harmful sediments into the water column. Moreover, as the proposed pipeline route is still subject to change, the final impact may be even worse than is currently known.

The Coalition wrote to you about its water and other concerns last May, when it was only a Coalition of 10 towns (not the current 13). See attached Exhibit “C.” It “bottom lined” the failings of the NED project in the clearest of terms, highlighting another great harm of the project-”federal eminent domain”:[3]

“We believe that the proposed NED pipeline is wrong for New Hampshire, is unnecessary to meet the projected energy needs of New England, is an inappropriate use of eminent domain for the use of a private corporation ... “

“Federal eminent domain” is anathema to basic property rights and principles. Indeed, the first part of the New Hampshire State Constitution-our state Bill of Rights-was specifically amended to prohibit precisely what is happening:

“[Art.] 12-a. [Power to Take Property Limited.] No part of a person’s property shall be taken by eminent domain and transferred, directly or indirectly, to another person if the taking is for the purpose of private development or other private use of the property.”

Id.

If the NED project is approved by FERC, our citizens’ property will be forcibly taken by “federal eminent domain” for private use and profit-s-by a foreign entity which not only laughs at our constitution, but every aspect of our lawful ability to autonomously govern and protect our concerns. Recently, in response to a New Hampshire Site Evaluation Committee (“SEC”) request for public comments on improving the SEC’s rules addressing the negative impacts of high pressure gas pipelines, including health and safety concerns, TGP showed no intention of respecting New Hampshire law and concerns-stopping just short of calling the SEC’s invitation and purview “a complete waste of time”:

“ ... FERC alone approves the location and construction of interstate pipelines, related facilities and storage fields involving moving natural gas across state boundaries. In the event that any state or municipal law or ordinance conflicts with a FERC requirement, FERC’s requirement will prevail ... “

See pages 1-2 of Public Comment No. 27 in SEC Docket No. 2016-01 on the SEC website (available at the URL <http://www.nhsec.nh.gov/projects/2016-01rulemaking/2016-01-comments.htm>).

Many view this TGP “comment” letter as a bald act of intimidation, with the crowning proof being its fail-

ure to cite any supporting case law or other authority for its sweeping preemption claim, or even footnote the most recent United States Supreme Court pronouncement on the matter, which completely contradicts TGP's assertion:

“ ... As we have repeatedly stressed, the Natural Gas Act ‘was drawn with meticulous regard for the continued exercise of state power, not to handicap or dilute it in any way.’ *Panhandle Eastern Pipe Line Co. v. Public Servo Comm ‘n of Ind.*, 332 U. S. 507,517-518 (1947); see also *Northwest Central*, 489 U. S., at 511 (the ‘legislative history of the [Act] is replete with assurances that the Act “takes nothing from the State [regulatory] commissions” (quoting 81 Congo Rec. 6721 (1937)) ... “

Oneok, Inc. V. Learjet, Inc., 575 U.S. __, __ (2015).

Many, including the President of the New Hampshire State Senate, are flat-out worried by TGP's open unwillingness to consider New Hampshire's concerns. See attached Exhibit “D.”

We look at TGP's letter to the SEC, and the stories of others dealing with TGP-like the residents of Sandisfield, Massachusetts, whose state constitutional rights and concerns are being steamrolled by an “aggressive” TGP “end-run” around clear FERC requirements, with the aid of FERC-see attached Exhibits “E” (news article) and “F” (resident comments to FERC)and wonder if TGP's letter to the SEC is not the first shot in a heavy-handed war TGP is about to wage on New Hampshire citizens.

Then, of course, there is the *monetary cost* of the project to New Hampshire citizens ... Contrary to the energy savings promised consumers by pipeline proponents, the Coalition has noted that the NED project would actually add another energy cost: the average Liberty Utilities customer will incur a roughly \$600.00 annual cost to finance the pipeline for the 20-year duration of the Liberty Utilities contract with TGP-approximately \$12,000.00 total. See attached Exhibit “G.”

All of these ills for a pipeline that will be delivering only about 5% of its capacity as new gas to the State of New Hampshire.[4] New Hampshire just serves as a conduit for the rest of the gas, with the real impetus behind the project not being our, or any, state “need,” but a rich man's race to more lucrative foreign markets. With a transmission end point at the verge of connectivity with Maine, and thus Canada and beyond, it is not difficult to connect the dots. As one online article recently noted:

“Kinder Morgan has been reticent about the likelihood of the pipeline being used for exporting gas, saying only that the ultimate destination of the gas was not for them to decide. Still, they know quite well that the fracking boom in the Marcellus Shale has glutted the domestic gas market and depressed prices. And they know that U.S. gas prices have fallen to about a third of what they are in Europe.

So it would not make sense for Kinder Morgan to build a \$5 billion pipeline just to meet New England's needs. It's basic economics. The oversupply of gas in the U.S., in combination with strong demand in Europe, creates a business imperative to design NED with capacity for export.”[5]

Certainly, Senator Edward Markey of Massachusetts has had no problem making the connection, warnmg:

“ ... [T]he ultimate goal of some natural gas pipeline proposals being made in New England is not to help our residents with expanded infrastructure but to use New England as a throughway to export U.S. natural gas to Canada and ultimately to overseas markets ... “[6]

With some 17 pipeline projects in the works for the Northeast, what other conclusion may be reasonably drawn? See projects diagrammed at [http://www.northeastgas.org/pipeline expansion.php](http://www.northeastgas.org/pipeline_expansion.php).

Indeed, KM has made no bones about the fact that the market will dictate where the NED pipeline gas goes. In response to the question posed by Brookline, New Hampshire citizens whether at least some of the gas will be exported, KM was blunt: “Kinder Morgan cannot discriminate among customers based on the ultimate destination or use of the gas, such as the Northeast versus Canada or another foreign country ... The ultimate destination of the gas and volumes associated are within the sole control of the project customers.”[7] In other words, the gas will follow the money.

OUR REQUESTS

Request No.1: Please, as a united New Hampshire Congressional Delegation, organize and lead a demand of other Northeast statesmen that Docket No. CP16-21 be scheduled for a formal evidentiary hearing.

All of the harms, all of the purely-for-private-profit-injuries that will be inflicted on our citizens by the NED pipeline project will never occur if the claimed “need,” “benefit” and “best alternative” underpinnings of the project are disproved,[8] or if TGP’s FERC application is otherwise established to be factually unfounded or insufficient.

For this reason, we join in urging you, as New Hampshire’s Congressional Delegation, to support requests now pending in FERC Docket No. CP16-21 for a formal evidentiary hearing in the matter.

These requests include:

- (1) a petition from a Massachusetts regional council of governments for a formal evidentiary hearing on the specific issue of “need,” pending without response from FERC for over two months (see generally attached Exhibit “I”);
- (2) a protest by a multi-jurisdictional nonprofit corporation comprised of over 101,000 individuals and municipalities, with a request for a formal evidentiary hearing on the sufficiency of TGP’s application, pending without response from FERC for over two months (see attached Exhibit “J,” pp. 11-12);
- (3) a request for a formal evidentiary hearing from the Coalition on the issues of “need,” “benefit” and “best alternative” (see Exhibit “B,” p. 21), pending without response from FERC for over two months; and
- (4) another petition for a formal evidentiary hearing on the specific issue of “need,” recently filed by the Town of Dracut (see generally attached Exhibit “K”), which, absent pressure on FERC, is also likely destined for non-response.

Notably, while the New Hampshire Attorney General indicated in his motion to intervene in FERC Docket No. CP16-21 that a request for a formal evidentiary hearing was not being made at the time, he also “reserve[d] the right to request a hearing at a later date as allowed by the Commission’s Rules and Regulations.” See attached Exhibit “L,” p. 2. By copy of this letter to the Attorney General, we respectfully urge that he make such a request now.

A formal evidentiary hearing is absolutely necessary to ensure that the case is not decided by a process darkened to the public-behind closed doors, by a historically pro-pipeline FERC largely considering only the applicant’s untested submissions on the matter-but transparently, in the bright light of public scrutiny and justice, with opponents of the project afforded the fundamental right of cross-examination and their actual “day in court.”

We write in the hope that the following words from you mean that you agree:

“It is imperative that the Northeast Energy Direct Project go through a thorough federal review that provides affected stakeholders in New Hampshire with **a meaningful opportunity to participate** and express their views. This requires both FERC and Kinder Morgan to conduct an **open and transparent process** ... “

See attached Exhibit “M,” p. 1 (emphasis added).

Through their own interventions in the FERC proceedings and/or through representation by their own municipalities in the Coalition, a formal evidentiary hearing in FERC Docket No. CP16-21 would give affected New Hampshire stakeholders the “meaningful opportunity to participate” and “open and transparent process” that you have urged.

If you agree, please organize and lead a demand by other Northeast statesmen for such a hearing-and please, please, do not accept FERC’s usual non-response as an “answer.”

As Massachusetts Congressman James P. McGovern has already independently called for a formal evidentiary hearing “to address, and to call into question, the disputed materials and evidence used to support the NED project”[9] he may be expected to join in the demand and, given the opposition recently expressed by New York Senators Charles E. Schumer and Kirsten Gillibrand to the project as a whole, [10] Massachusetts Senator Edward Markey’s general, vehement objection to building pipelines for gas exportation out of New England, [11] and Vermont Senator Bernie Sanders’ long-standing, outspoken criticism of all fossil fuels, it seems extremely likely that they would join the demand, as well. But, please gather as much support for the demand as possible.

There is ample support for a formal evidentiary hearing in this matter, as discussed in the attached Exhibits “B,” “I,” “J” and “K.” Indeed, “[t]he Commission must hold a hearing where there are material issues of disputed fact inappropriate for resolution based on paper submissions and can expect reversal on appeal for failure to do so.” Exhibit “H,” p. 4 (citing, for example, *Cajun Elec. Power Coop v. FERC*, 28 F.3d 173, 177 (D.C. Cir. 1994)(requiring hearing to resolve disputed factual issues that cannot be resolved based on written submissions) and *General Motors v. FERC*, 656 F.2d 791, 795 (D.C. Cir. 1981)(reversing FERC for failure to hold a formal hearing on issue of adequate need to support increase in peak day service under certificate where issue is disputed». Besides the cases just cited, a number of decisions have found formal evidentiary hearings to be appropriate in FERC proceedings under our circumstances, including:

PSNH v. FERC, 600 F.2d 944,955 (D.C. Cir. 1979)(FERC may only deny a request for an evidentiary hearing if there are no material facts at issue);

Louisiana Assoc. of indep. Producers v. FERC, 958 F.2d 1101,1109 (1992) (evidentiary hearing appropriate for matter involving “unprecedented level of public comment, input and concern”; “trial-type hearing” might assist the public in evaluating the project).

TGP’s claims of “need,” “benefit” and “best alternative” respecting its FERC application, and the determination whether the application is otherwise sufficiently factually founded and adequate, all concern material issues and facts plainly in dispute.

On the issue of “need” alone, there is substantial contradictory evidence. As noted in the attached Exhibit “I”:

“At least three reports directly dispute Tennessee Gas’ claims.

- The Massachusetts AG Report, *Power System Reliability in New England: Meeting Electric Resource Needs in an Era of Growing Dependence on Natural Gas* released in November 2015, which concluded that ‘the region is unlikely to face electric reliability issues in the next 15 years and additional energy needs can be met more cheaply and cleanly through energy efficiency and demand response;
- A report by Skipping Stone entitled *Solving New England’s Deliverability Problems Using Storage and Market Incentives* (2015) which concluded that a ‘big pipeline’ solution to the region’s winter deliverability problems - would result in dramatic underutilization of the pipeline the large majority of the year, and would not be cost effective. The Skipping Stone report instead recommends use of LNG capacity and gas demand response measures to address electric reliability;
- The Department of Energy’s Report on Natural Gas Infrastructure (February 2015), which noted that ‘Policy changes [to relieve high electric costs] underway include modifications to ISO forward capacity market incentives to better align resource performance and flexibility and FERC’s proposed reforms to improve the coordination and scheduling of natural gas pipeline capacity with electricity markets. ,,,

Id., pp. 8-9. Additionally, another issue concerning actual “need” may only be fully explored by an evidentiary hearing: the incentive and/or opportunity for inflating the claimed “need,” given the incestuous relationships of the involved pipeline proponents. As noted by the PUC in its Order No. 25, 822 approving the TGP and Liberty Utilities contract on the NED pipeline:

“Algonquin Power & Utilities Corp. (‘APUC’) owns both Liberty Pipeline and [Liberty Utilities]. Liberty Pipeline and Kinder Morgan, Inc. (Kinder Morgan), jointly own Northeast Expansion, LLC which in turn owns the proposed NED Pipeline The value of Liberty Pipeline’s interest in Northeast Expansion is up to \$400 million.”

See *id.*, p. 9, available on the PUC website under PUC Docket No. DG14-380 at the URL <https://www.puc.nh.gov/Regulatory/Docketbk/2014/14-3801ORDERS/14-380%202015-10-02%20ORDER%20NO%2025-822.PDF>. These relationships certainly raise a real question of credibility as to whether Liberty Utilities’ claimed “need” for gas from the pipeline is real and/or inflated. Especially when (a) New Hampshire is a necessary conduit for approval of the pipeline, (b) Liberty Utilities is the only New Hampshire customer subscribed to the project to establish any New Hampshire “need” arguably justifying the damage it will cause the state, and (c) Liberty Utilities’ parent company (APUC) has a \$400 million investment in the pipeline (effectively partnering with Kinder Morgan on the NED project through APUC’s subsidiary, Liberty Pipeline), why would there not be at least the potential for improper influence on the issue? The issue of credibility should only be resolved by testimony and other evidence. Cf *Smith v. Zant*, 887 F.2d 1407, 1433 (11 th Cir. 1989)(questioning whether credibility determination could be made without live testimony).

Finally, the low subscription rate for the pipeline in New Hampshire itself, and the inability of its investors to fully subscribe the project elsewhere, calls into question any “need” that cannot be better addressed less destructively-which, of course, also raises the “benefit” and “best alternative” issues. [12]

But beyond the factual disputes and issues demanding a trial, there is another compelling consideration supporting a formal evidentiary hearing. At the first FERC scoping hearing held on the matter, at the end of July, 2015, in Nashua, Eric Tomasi of FERC noted:

“At last count you know there was substantially over 3,000 comments on the record on this project. This project might actually set a record for the most amount of comments we have ever received on a project.”

See attached Exhibit “0,” p. 184. Given the more than seven months that have elapsed since Mr. Tomasi made this observation, and the number of new comments appearing on the case docket since then, the record would seem a certainty. There is too much public interest in and objection to the outcome of FERC Docket No. CP16-21 for the matter to be decided without a public trial. See *Louisiana Assoc. of Indep. Producers v. FERC*, supra, 958 F.2d at 1109 (evidentiary hearing appropriate for matter involving “unprecedented level of public comment, input and concern”; “trial-type hearing” might assist the public in evaluating the project).

Request No.2: Please join Governor Hassan’s call to FERC to require a comprehensive health impact assessment for the NED project.

Governor Hassan requested last month that FERC require the submission of a health impact assessment for the NED project. See attached Exhibit “Q.” Obviously, given the scope of the project and health concerns involved, the assessment should be comprehensive. For reasons supporting a comprehensive health impact assessment (“CHIA”) requirement for such projects at the state level, please see the two public comment letters pertaining to the desirability of a CHIA requirement in SEC proceedings under Tab 3 in SEC Docket No. 2016-01 on the SEC website (available at the URL <http://www.nhsec.nh.gov/projects/2016-01rulemaking/2016-01-comments.htm>).

Minimally, citizens are entitled to such an assessment, at some level, as a threshold requirement for consideration of such a project; and, particularly given all indications that TGP does not intend to abide by state law requirements, FERC itself should impose the requirement so that there is no argument for avoiding it. It appears that there has thus far been no response from FERC to Governor’s Hassan’s request. Please join in Governor Hassan’s call as New Hampshire’s Congressional Delegation, again organizing and leading a demand for such a requirement of as many Northeast statesmen as possible-and not accepting a non-response for an “answer.”

Request No.3: Please advocate for the creation and appointment of a Citizens Advocate in FERC proceedings.

For a better system of checks and balances, and to provide citizens with more of a voice in proceedings, FERC should create a position equivalent to New Hampshire's Consumer Advocate, with a Citizens Advocate assigned to all cases. Please urge FERC to establish this position as soon as possible, and to appoint such a Citizens Advocate to FERC Docket No. CPI6-21.

One or more members of our group would be happy to meet with you, in person, at your convenience, and either Melanie Levesque, Mlevesquel@charter.net, Kaela Law, kaelademetra@gmail.com, or Richard Husband, RMHusband@gmail.com, will contact you shortly in this regard.

In closing, we, again, thank you for your contributions to date, and urge you to continue to support this important cause.

Footnotes:

- 1 According to the New Hampshire Office of Energy and Planning website, the 18 New Hampshire towns along the planned route for the NED project had estimated 2014 populations as follows: Amherst (11,269), Brookline (5,111), Fitzwilliam (2,389), Greenville (2,074), Hollis (7,722), Hudson (24,668), Litchfield (8,363), Londonderry (24,305), Mason (1,391), Merrimack (25,408), Milford (15,209), New Ipswich (5,115), Pelham (13,069), Richmond (1,161), Rindge (5,980), Temple (1,380), Troy (2,141) and Winchester (4,325). See <http://www.nh.gov/oep/data-center/population-estimates.htm>.
- 2 Acronym for "Not in my back yard."
- 3 In relevant part, 15 U.S.C. §717(h) provides:
“(h)RIGHT OF EMINENT DOMAIN FOR CONSTRUCTION OF PIPELINES, ETC.
When any holder of a certificate of public convenience and necessity cannot acquire by contract, or is unable to agree with the owner of property to the compensation to be paid for, the necessary right-of-way to construct, operate, and maintain a pipe line or pipe lines for the transportation of natural gas, and the necessary land or other property, in addition to right-of-way, for the location of compressor stations, pressure apparatus, or other stations or equipment necessary to the proper operation of such pipe line or pipe lines, it may acquire the same by the exercise of the right of eminent domain in the district court of the United States for the district in which such property may be located, or in the State courts ... “
Id.
- 4 Pipeline proponents are careful to keep this miniscule amount out of the discussion, but it is easily established. The NED pipeline has the capacity to convey approximately 1.3 billion cubic feet of natural gas per day. See <http://www.mass.gov/ago/news-and-updates/press-releases/2015/2015-10-19-ferc-review.html>. Per PUC Order No. 25, 822, Liberty Utilities-the only New Hampshire customer signed on to the pipeline-has contracted for only up to 115,000 dekatherms of that capacity per day. See *id.*, pp. 4, 31, available on the PUC website under PUC Docket No. DG14-380 at the URL <https://www.puc.nh.gov/Regulatory/Docketbk/2014114-38010RDERSI14-380%202015-10-02%20ORDER%20NO%2025-822.PDF>. 115,000 dekatherms calculates to just under 9% of 1.3 billion. See <http://www.kylesconverter.com/energy.-work.-and-heat/cubic-feet-of-natural-gas-to-dekatherms-Cec>) (1.3 billion cubic feet equals 1.3 million dekatherms; 115,000 is only 8.8% of 1.3 million.). But only a little more than half of this amount actually represents new gas for New Hampshire. As stated in the PUC's order: "Of the total 115,000 Dth per day of capacity contracted for in the Precedent Agreement, 50,000 Dth per day is replacement of existing TGP capacity and 65,000 Dth per day is new or incremental capacity." See page 4 of order at URL link provided above. 65,000 is roughly 57% of 115,000; 57% of the roughly 9% capacity that 115,000 dekatherms represents amounts to just over 5% (roughly 5.13%).
- 5 Taken from <http://cognoscenti.wbur.org/2016/03/09/ikinder-morgan-northeast-energy-direct-pipelineopposition-fred-hewett> (emphasis added).
- 6 See attached Exhibit "H."
- 7 See the question and response beginning at the bottom of (unnumbered) page 5 at <http://static1.squarespace.com/static/50e99f7be4b08880418b9d42/t/54d273f4b0e31ab6c33bfal1423078395112IBrookline+qa.pdf>.
- 8 See discussion generally, attached Exhibit "B."
- 9 See attached Exhibit "N."
- 10 See attached Exhibit "O."

11 See attached Exhibit “H.”

12 Facts otherwise substantially disputed, for reasons discussed herein and in the attached Exhibits “B,” “I,” “J” and “K,” including whether there is any net “benefit” given all of the harms caused by the pipeline project, and whether the three report recommendations just cited and/or “a combination of renewable energy resources, existing generation, other resources such as [liquid natural gas], and existing pipeline infrastructure,” see Exhibit “B,” p. 5, and/or the 16 other pipeline projects in the works do not present better alternatives.

Sincerely,

NHPLAN:	By: /s/ David Moloney and Maryann Harper
Mason Conservation Commission:	By: /s/ Robert B. Laroche, Chairman
Troy Conservation Commission:	By: /s/ Marianne Salcetti, Ph.D, Chair
Litchfield Pipeline Group:	By: /s/ Richard M. Husband
Temple Ad Hoc Pipeline Advisory Committee:	By: /s/ Bev Edwards and Sean Radcliffe
Mason Pipeline Committee:	By: /s/ Kathleen Chapman
Pelham Pipeline Awareness:	By: /s/ Kaela Law
Pelham Conservation Commission:	By: /s/ Paul Gagnon, Chairman
New Ipswich Pipeline Resistance Citizens Group:	By: /s/ Tim Somero
Winchester Pipeline Awareness:	By: /s/ Sarah Louder and Susan Durling
Temple Energy Committee:	By: /s/ Bev Edwards
NH Pipeline Awareness:	By: /s/ Rob Chesebrough
Greenville NH Pipeline Resistance:	By: /s/ Henry Vallaincourt
Windham Residents Against the Pipeline:	By: /s/ Homer Shannon
Merrimack Citizens for Pipeline Information Group:	By: /s/ Amanda Y onkin
Rindge Pipeline Awareness:	By: /s/ Betty Anders
Hollis Community:	By: /s/ Tammy Fareed
Brookline Pipeline Task Force:	By: /s/ Tad Putney, Melanie Lesvesque, Jordan Bailey and Christine Levasseur St. George
New Ipswich Pipeline Awareness:	By: /s/ S. A. Matthews
Toxics Action Center, VT and NH:	By: /s/ Shaina Kasper
NED Health Study Group:	By: /s/ Gwen Whitbeck
Pelham/Windham Pipeline Awareness Outreach Subcommittee:	By: /s/ Julia Steed Mawson
Kidz of the Pipeline Resistance:	By: /s/ Josiah Barthelmess

Attachments

cc: Governor Margaret Wood Hassan
New Hampshire Attorney General Joseph A. Foster
New Hampshire Municipal Pipeline Coalition

{Exhibits “A” through “F” omitted; can download original (64 pages, 38.4 MB) at: }

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14208196>

20160418-5188

{Addendum to 20160418-5186 above: Exhibits “G” through “Q”, 67 pages, 35.4 MB; download at: }

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14208202>

20160419-0012

FEDERAL ENERGY REGULATORY COMMISSION

WASHINGTON, DC 20426

OFFICE OF THE CHAIRMAN
The Honorable Jeanne Shaheen
United States Senate
Washington, D.C. 20510

April 18, 2016

Dear Senator Shaheen:

Thank you for your March 25, 2016, letter regarding Tennessee Gas Pipeline Company L.L.C.'s, proposed Northeast Energy Direct Project (Docket No. CP16-21- 000).

Commission staff will identify and address the potential environmental impacts resulting from construction and operation of the project. I assure you that the environmental impact statement (EIS) for the project will not be issued before the Commission staff has all of the information necessary to determine the environmental and human health impacts associated with constructing and operating the project.

Specifically, the project will have to comply with provisions of the Clean Air Act. The emissions criteria established for compliance with the Clean Air Act are designed to protect human health. While the U.S.Environmental Protection Agency has the jurisdictional authority to control air pollution under the Clean Air Act, it has delegated authority to implement this control to the New Hampshire Department of Environmental Services regarding the proposed compressor stations referenced in the attachments to your letter. Commission staff will also respond to all public concerns on impacts to human health within the EIS, including the concerns raised in the letters from your constituents. The air quality impact analyses will be included within the draft EIS which will be issued for public review and sent to the Commission's environmental mailing list for the project. After consideration of the comments received on the draft EIS, a final EIS will be issued. The final EIS will address any comments received on the draft EIS. The Commission will consider the findings of the EIS before making its decision on whether to authorize this project.

As in any Commission matter, please be assured that we strive to make our review of proposals both accessible and transparent to the public. If I can be of any further assistance in this or any other Commission matter, please let me know.

Sincerely,
Norman C. Bay
Chairman

20160419-0013

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

April 18, 2016

OFFICE OF THE CHAIRMAN
The Honorable Chris Gibson
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Gibson:

Thank you for your March 15, 2016, letter regarding Tennessee Gas Pipeline Company L.L.C.'s, proposed Northeast Energy Direct Project (Docket No. CP16-21-000) and request that the Commission fully consider human health impacts in its review of the compressor station near Highland, New York.

Commission staff will identify and address the potential environmental impacts resulting from construction and operation of the project. I assure you that the environmental impact statement (EIS) for the project will not be issued before the Commission staff has all of the information neces-

Turners Falls, MA 01376

RE: Focused Review of Potential Environmental Risk
Proposed Tennessee Gas Pipeline Construction
Montague Plains Aquifer and the Hannegan Brook Well
Turners Falls, Massachusetts

Dear Commissioners:

GeoInsight, Inc. (GeoInsight) is pleased to provide this professional opinion to the Turners Falls Water Department (TFWD) in response to your concerns regarding the proposed construction of the Tennessee Gas Pipeline, Inc. (TGP) on the water quality of the Montague Plains Aquifer and the Hannegan Brook Well.

BACKGROUND

Based upon the discussions at our meeting on December 16, 2015, it is our understanding that TGP (a subsidiary of Kinder Morgan Energy Partners [Kinder Morgan]) intends to construct a natural gas pipeline through a portion of the Montague Plains Aquifer. The pipeline alignment and associated construction activities will be located within the wellhead protection area (Zone II) for the Hannegan Brook Well.

Permitting of the proposed pipeline is under the jurisdiction of the Federal Energy Regulatory Commission (FERC). The TFWD requested cooperating agency status with FERC in the preparation of the Environmental Impact Statement prepared by Tennessee Gas.

At our meeting, you indicated that there is public concern regarding the pipeline project specifically related to potential threats posed by the proposed pipeline to the Turners Falls water supply. You requested that GeoInsight review Tennessee Gas's plans and evaluate potential risks that the pipeline may pose to your drinking water supply.

MATERIALS REVIEWED

- Portions of relevant Massachusetts Department of Environmental Protection (MADEP) regulations, policies, and guidance documents that would apply to natural gas pipelines located in a Zone II.
- Town of Montague (the Town) Zoning Bylaws with respect to construction of natural gas pipelines within an Aquifer Protection District.
- TGP plans titled "Northeast Energy Direct Project, Proposed 30" Pipeline, Segment H, HDD [Horizontal Directional Drill]-21" dated November 2015.
- Massachusetts Geographic Information System (GIS) data including the Zone II and property lines.
- FERC submittals: Northeast Energy Direct Project, Draft Environmental Report, Resource Report 1: General Project Description, Resource Report 2: Water Use and Quality, Resource Report 6: Geological Resources, and Appendix L: Environmental Construction Plan for Massachusetts.
- Letter from Phil Chipman of Tennessee Gas dated January 19, 2016 addressed to TFWD, regarding Horizontal Directional Drill (HDD) drilling fluid.
- Letter from James Hartman of TGP, dated March 4, 2016, responding to the GeoInsight's concerns regarding:
 1. chemical analysis of the natural gas to be transmitted in the pipeline, specifically regarding trace elements mixed with the gas;
 2. specifications for the blasting agents to be used in blasting activities; and
 3. specifications for the "best management practices (BMPs)" to be used during construction of both the HDD and open trench in the Zone II, specifically regarding the storage, refueling of equipment, sedimentation control with haybales/silt fences, and prompt backfilling and reseeded, etc.

FINDINGS

A map of the proposed pipeline alignment in the Hannegan Brook Well Zone II was prepared using the sources described above. The TFWD property, the Hannegan Brook Well Zone II, and proposed works zones are shown on Figure 1. Much of the pipeline installation will be completed using traditional open trenching techniques. Some sections will be installed using HDD, and one of these HDD sections is located in the Hannegan Brook Well Zone II.

The proposed pipeline route generally follows parallel to the existing Western Massachusetts Electric (WME) right-of-way used for overhead power lines. This proposed alignment generally minimizes the length of the Zone II crossing. The length of pipeline crossing the Zone II is approximately 2,800 feet, of which 1,800 feet is proposed for HDD and approximately 1,000 feet is proposed for open trench.

The west HDD entry/exit location is on TFWO property. The east HDD entry/exit location is on WME property. A portion of open trench installation is located on TFWD property, on the west side of HDD. The "Segment H" plans, referenced above, note approximately 6 acres of temporary construction area with 1.5 acres at the west entry/exit location on TFWD property, and 4.5 acres at the east HDD entry/exit location is on WME property. These are approximately 0.5 miles north-northeast of the Hannegan Brook Well.

Construction or operation of the proposed pipeline, as described, is not specifically prohibited or restricted by State drinking water regulations for land uses allowable in Zone IIs or by Town of Montague Zoning Bylaws.

The natural gas (which is to be transported in vapor form, not as a liquid) is reported by TGP to be over 90 percent methane with varying minor percentages of other light hydrocarbons including ethane, propane, butane, and pentane. Often, less than 1 percent of the gas is carbon dioxide and nitrogen. James Hartman's March 4, 2016 letter states "trace amounts" of benzene and toluene "may be found in conventionally produced natural gas, such as gas produced from the Gulf of Mexico, which Tennessee and other pipeline operators have been supplying to New England for decades."

Methane does not readily dissolve in groundwater and is not a common groundwater contaminant. Methane is not a regulated compound in drinking water and naturally occurring methane associated with petroleum deposits is specifically excluded from Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) regulations, also known as Superfund. Natural Gas and natural gas liquids are also exempt from the release notification provisions of the Massachusetts Contingency Plan (MCP; 310 CMR 40.0000).

Based upon the information reviewed, it is not clear whether cleaning, lubricating, rust inhibitors, or other products will be introduced into the pipeline. GeoInsight personnel have been involved with assessments and cleanup of lubricating oils drained from gas pipelines at compressor stations and pipeline clean-outs. Current TGP plans do not show compressor stations or cleanouts located in the Zone II.

HDD is commonly used for water main installations in sensitive environmental areas, including wetlands and Zone I areas. Bentonite (a natural clay mineral) fluid seals the annulus to prevent creation of a preferred hydraulic pathway. HDD should not be confused with "fracking," which is a different process and used for different purposes. Hazardous chemicals were not listed in materials provided by Tennessee Gas describing the fluids to be utilized in the HDD process.

The blasting management procedures described in the Environmental Construction Plan for Massachusetts (Appendix L of the Environmental Report) does not exclude the use of perchlorate in blasting agents. There have been several cases in Massachusetts where public water supplies have become impacted with perchlorate from blasting agents that were used in bedrock areas upgradient of Aquifer Protection Zones. See the attached guidance document prepared by the MADEP regarding perchlorate blasting agents. Blasting agents also commonly include nitrate-containing chemicals, which have impacted groundwater supplies as a result of blasting activities. Based upon our knowledge of the geology of the area, blasting is not likely to be needed in the Zone II. However, blasting will possibly be needed on the eastern side of the Zone II which is upgradient of the area and would be in the Zone III (see Figure 1). Note that the Zone III for the Hannegan

Brook Well has not been delineated.

CONCLUSIONS

Natural gas does not generally present a significant risk to groundwater; in fact, liquid propane and natural gas are the preferred fuels for backup power generators used at public drinking water supply wells. However, certain pipeline additives, such as lubricants and cleaners, have been used historically that may present greater risks.

Pipeline construction activities (blasting in particular) poses a potential risk that should be mitigated with utilization of proper BMPs.

RECOMMENDATIONS

We recommend that the TFWD request that PERC make the following items a condition of the permit to construct and operate the pipeline.

1. Hazardous chemicals and oils should not be introduced into the pipeline. This includes hazardous chemicals for cleaning (pigging) or lubrication at compressor stations.
2. Blasting agents containing perchlorate should not be used in the Zone II or outside of Zone II to the east (upgradient). TPWO should be notified of any blasting to be conducted in the Zone II or upgradient of the Zone II. The TFWD should be provided with blasting plans and BMPs for comment and should be provided the opportunity to observe blasting procedures.
3. Documentation of regular pipeline cleaning and leak testing should be made available to the TFWD. The pipeline should be adequately cleaned before abandonment at the end of its lifetime.
4. Independent inspection of construction activities should be conducted to verify that pipeline construction contractors are adhering to BMPs for HDD installation and blasting activities. TFWD should be provided with the opportunity to review BMPs and to participate in these inspections. Specific BMPs should include:
 - a. fuel or lubricating oil should not be stored in the Zone II and equipment should not be fueled in the Zone II; and
 - b. equipment cleaning or servicing should not be conducted in the Zone II.
5. Pig launchers/receivers, compressor stations, clean-outs, sumps, or any other penetrations in the pipeline should not be located within the Zone II.
6. Hydrostatic test water used during construction should not be discharged into the Zone II.

CONFLICT OF INTEREST

GeoInsight is not aware of any contract for consulting services to TGP or its parent company, Kinder Morgan, nor has GeoInsight received any compensation from these companies for this study or for other projects.

QUALIFICATIONS

GeoInsight is a team of highly qualified environmental professionals assembled to provide strategically oriented, thoughtful assistance to clients in managing environmental issues based upon broadly based, diverse consulting experience. The knowledge base represented among the GeoInsight team includes substantial experience in the areas of:

- water supply evaluation, development, permitting, design, and protection;
- wastewater discharge permitting and treatment system design;
- site investigation and remediation, including real estate transaction, RCRA Superfund, and due diligence;
- environmental compliance management, including auditing, planning and permitting services for in-

dustrial, municipal, institutional, and utility clients;

- risk evaluation and minimization;
- environmental litigation support;
- landfill assessment, design, and permitting;
- foundation consulting and soils engineering; and
- geotechnical site assessment and construction oversight.

Additional information regarding GeoInsight's experience in source water protection is given under the water supply section of our website, www.geoinsightinc.com.

The undersigned both have extensive experience in municipal water supply development and permitting, which includes aquifer mapping, contribution zone delineation, and aquifer protection strategies. Mr. Harwood conducted the State permitting of the Hannegan Brook Well and has conducted work in the Montague Plains Aquifer since 1999.

Mr. Harwood is licensed as a Professional Geologist in the States of New Hampshire and Florida and licensed as a Certified Geologist in the State of Maine. He is also registered as a Certified Professional Geologist by the American Institute of Professional Geologists. Mr. Maclean is also licensed as a Professional Geologist in the State of New Hampshire, as well as a Licensed Site Professional in the Commonwealth of Massachusetts and a Licensed Environmental Professional in the State of Connecticut. Mr. Maclean is a frequent presenter at New England professional conferences on the subject of source water protection. It should be noted that the States of Rhode Island and Vermont do not regulate the practice of Geology and, therefore, licensure or registration programs do not exist in Rhode Island or Vermont. The above listed licenses in Maine, New Hampshire, Massachusetts, and Connecticut encompass all available State licenses relating to the practice of Geology in New England.

LIMITATIONS

The scope of this study is limited to the evaluation of potential risks to the Montague Plains Aquifer and the Hannegan Brook Well water supply by the proposed TOP. Other potential concerns related to the proposed pipeline or risks to other aquifers or wells have not been investigated.

GeoInsight has performed hydrogeologic and engineering services in accordance with generally accepted professional practices. In no way should this work be viewed as a guarantee that all potential risks posed by the TGP have been identified or that impact to the Hannegan Brook Well will not occur due to accident or negligence of construction or operation of the proposed pipeline.

If you have questions regarding this letter or any other matter, please call us at (978) 679-1600.

Sincerely,

GEOINSIGHT, INC.

David G. Harwood, C.G., P.G., C.P.G.
Project Manager/Hydrogeologist

David A. Maclean, P.G., L.S.P., L.E.P.
Senior Associate/Senior Hydrogeologist

Enclosure

Commonwealth of Massachusetts
Executive Office of Energy and Environmental Affairs

Potential Environmental Contamination from the Use of Perchlorate-Containing Explosive Products Memorandum

To: Blasting Contractors and Interested Parties

From: Janine Commerford, Assistant Commissioner, Bureau of Waste Site Cleanup, Massachusetts Department of Environmental Protection

Subject: Potential Environmental Contamination From the Use of Perchlorate-Containing Explosive Products

Date: September 15, 2008

Introduction

In recent months, the Massachusetts Department of Environmental Protection (MADEP) has detected perchlorate in a few drinking water supplies in Massachusetts, including three public water supply wells where nearby blasting operations appear to be the source of the perchlorate contamination. The purpose of this memorandum is to provide guidance on perchlorate and prevent contamination of drinking water supplies.

Background

Perchlorate is a chemical compound comprised of 1-chlorine and 4-oxygen atoms. The wide-scale production of ammonium perchlorate for use as a solid rocket propellant has led to the use of perchlorate compounds in a number of common products, including fireworks, airbag inflators, some paints and enamels, industrial chemicals, and explosives. Perchlorates are highly water soluble, and can travel significant distances in groundwater. Perchlorate can affect the function of the thyroid gland, which regulates the body's metabolism. Pregnant women and their fetuses, infants, children under the age of 12, and people with hypothyroidism are most susceptible to its potential effects. In July 2006, MassDEP promulgated a drinking water standard of 2 parts per billion or ppb, and notification criteria (Reportable Concentrations in soil and groundwater) for this contaminant under the state waste site cleanup regulations (Massachusetts Contingency Plan, 310 CMR 40.0000).

In response to detections of perchlorate in water supply wells in Massachusetts, MADEP is investigating surrounding sites and activities that may have caused or contributed to contamination. Blasting operations employing perchlorate-containing explosives have been identified in at least three locations as the likely source of drinking water contamination.

Blasting Agents and Explosives

Perchlorates are present in some but not all blasting agents and explosives. They are found primarily in water gel and emulsion formulations. These products are used in difficult blasting applications, and contain sodium perchlorate, ammonium perchlorate, and/or potassium perchlorate as a sensitizing agent. Perchlorate-containing explosives typically have a high density and high explosive energy, making them suitable in wet/hard/dense rock blasting applications, or in general blasting applications to expand drilling patterns or to address excessive rock burdens. Additional situations where perchlorate-containing products are sometimes used include tight underground cuts, tight trenching applications, deep wet trenches, deep wet boreholes, and locations with high pre-compression conditions. The content of perchlorate in these products is variable, depending on the manufacturer, but can be 20% to 30% or more by weight.

Recommendations

Although the environmental impacts from the use of perchlorate-containing blasting agents and explosives have not been fully defined, MADEP believes it is prudent for contractors to take the following reasonable steps now to minimize potential problems in this regard:

1. **Determine the perchlorate content of blasting agents and explosives to be used** . This may require that you make inquiries with your suppliers and/or manufacturers.
2. **To the extent practical, avoid the use of perchlorate-containing explosive products when surface or groundwater can be affected with particular attention:**
 - Within and adjacent to the recharge areas of public drinking water supply wells (i.e., Zone II and Interim Wellhead Protection areas), and within and adjacent to the sensitive watershed areas of public drinking water supply reservoirs (i.e., Zone B areas). Maps of these areas should be available from local officials, and can be viewed on-line at MassGIS .

3. When the use of perchlorate-containing products is necessary:

- **institute rigorous “housekeeping” practices.** Some sources suggest that explosive products that are properly detonated will result in the nearly complete destruction of perchlorates, and that loss of product via spills or debris are the primary cause of environmental pollution.
- **take reasonable steps to prevent and address misfires.** In cases where explosives or blasting agents are washed or removed from a borehole following a misfire, reasonable efforts should be made to collect and properly manage or dispose of perchlorate-containing materials. In all cases, the safety of workers and the general public is of paramount concern.

Please contact Rose Knox at the MADEP Bureau of Waste Site Cleanup (BWSC) at 617-556-1026 or Rosemary.Knox@state.ma.us if you would like additional information, or please refer to this Web page .

{entire submission can be downloaded (8 pages, 456 KB) at: }

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14208983>

{Executive Office of Energy and Environmental Affairs website page is at: }

<http://www.mass.gov/eea/agencies/massdep/cleanup/regulations/contamination-perchlorate-containing-explosive-products.html>

20160420-0012

{same as 20160406-0024 (STOP the NED Pipeline! PROTECT OUR WATER!...), signed by:}

Mark S. Peters

167 Ruby Rd

Dracut, MA 01826

20160420-0013

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }

Cathy Richardson

316 Richardson Rd

Dracut, MA 01826

20160420-5029

County of Cheshire

12 Court Street, Keene, NH 03431

www.co.cheshire.nh.us

April 12, 2016

From: Board of Commissioners

County of Cheshire

12 Court Street

Keene, NH 03431

To: Local, State and Federal Recipients

Re: Northeast Energy Direct (NED)

I am enclosing a Resolution of the Cheshire County Commissioners relative to the funding of the proposed Kinder-Morgan, Tennessee Gas Pipeline, Northeast Direct (NED) pipeline. This resolution was passed by the Commissioners unanimously.

The commissioners unanimously oppose the funding of a private pipeline through any regional tariff assessments through the imposition of electric utility fees.

The accompanying resolution solicits support for the proposition that no tariff, tax, or fee levied by an electric utility upon ratepayers, may be levied upon any state resident for the purpose of constructing a high pressure gas pipeline and further, that no tariff, tax, or fee, including any fee levied by any gas or electric utility upon ratepayers, may be levied upon any state resident for the purpose of constructing a high pressure gas pipeline that connects directly or indirectly to a liquefied natural gas export terminal.

The Commissioners would appreciate taking this Resolution into account in any deliberation that your agency may have relative to this pipeline project.

Stillman D. Rogers

Chairman, Cheshire County Board of Commissioners

County of Cheshire
12 Court Street, Keene, NH 03431
www.co.cheshire.nh.us

Resolution of the Board of Commissioners, County of Cheshire, New Hampshire

April 6, 2016

Resolved: Unanimous Opposition to the Funding of Private Pipeline Projects through Regional Tariff Assessments via Electric Utility User Fees.

Whereas, during 2014 the New England States Committee on Electricity (NESCOE), in response to significant opposition, backed off from its proposal to impose a tariff that would charge all New England regional electric ratepayers for the construction of natural gas pipelines,

Whereas, there is considerable doubt that funding a natural gas pipeline through a regional tariff on electric ratepayers would comport with the Federal Power Act, and

Whereas, the attempt to impose a tariff on electric ratepayers is now focused on individual New England states on a state by state basis, and

Whereas, FERC policy requires enhancement of transportation alternatives, avoiding overbuilding of capacity, avoiding unnecessary disruption of the environment, and preventing the unneeded exercise of Eminent Domain, and

Whereas, the Right of Way negotiations are still confronting high opposition to the pipeline from most land-owners and communities on the proposed routes, and domestic need for an additional 1.3 bcf/d of pipeline capacity has not been demonstrated, and

Whereas, measures of demand reduction for natural gas such as increasing energy efficiency, increasing use of renewable fuels, and adjusting storage capacity to prepare for peak demand periods are available--

Therefore, be it resolved that:

No tariff, tax, or fee levied by an electric utility upon ratepayers, may be levied upon any state resident for the purpose of constructing a high pressure gas pipeline; and

No tariff, tax, or fee, including any fee levied by any gas or electric utility upon ratepayers, may be levied upon any state resident for the purpose of constructing a high pressure gas pipeline that connects directly or indirectly to a liquefied natural gas export terminal, and;

No Certification of Public Convenience and Necessity and no state or local permits shall be granted to Kinder Morgan's Northeast Direct Pipeline.

Stillman Rogers, Chairman

Charles F. Weed, Vice Chair

Peter Graves, Clerk

20160421-0024

{same as 20160418-0070 (SAY "NO" TO THE NED PIPELINE PROJECT!...), signed by: }

Alfred Kinney

23 Lands End Road

Tyngsboro, MA 01879

20160421-0027

{same as 20160418-0070 (SAY "NO" TO THE NED PIPELINE PROJECT!...), signed by: }

Frank Kerepka

406 Methuen Rd

Dracut, MA 01826

(TGP), have suspended further work and expenditures on the Northeast Energy Direct (NED) project.” Based on this announcement, and the Company’s request to the Department for a stay, the Department grants the Company’s request for a stay until May 26, 2016, on which date the Company expects to submit a status report. The stay terminates all current deadlines in D.P.U. 16-01, 16-02, and 16-03 until further notice, including the April 22, 2016 deadline for the Company to submit responses to the Department’s First Set of Information Requests and the May 6, 2016 deadline for filing written comments in these proceedings.

The period of the stay is apparently required for the Company to communicate and otherwise discuss its decision to suspend further work on NED with its customers, including those local distribution company customers in Massachusetts who have previously entered into precedent agreements with the Company. As a result of the Company’s press release, it is anticipated that the Company will ultimately withdraw its petitions in the above-referenced matters. However, until such a request is made, the matters are held in suspension until May 26, 2016.

No further action by any affected property owner or public commenter need be taken at this time.

Stephen H. August
Hearing Officer

April 21, 2016

20160422-5105

Susan Baxter
302 N Rankin St
Appleton, WI 5491
920-739-7427

04/22/2016

Re: Docket No: CP14-529 and CP16-21

Ms. Kimberly Bose, Secretary
Federal Energy Regulatory Commission (FERC)
888 First Street NE, Room 1A
Washington, DC 20426

Dear Ms. Bose,

I am writing today to make sure that the record in Docket CP16-21 (a proposal from KM/TGP for a pipeline from PA through NY, MA and NH) reflects that the project proponent has suspended the pursuit of this application.

Perhaps TGP has mentioned this fact to the FERC but there will be no harm in my mentioning it as well. The decision was announced on April 20th, 2016.

It is important to have this information on the record since the data about how long a typical application takes to be processed may be skewed if the FERC does not track this type of situation. (In honesty the data has most likely already been skewed.)

Furthermore, it would be responsible for KM/TGP to inform the FERC of this development and clarify its intent regarding the NED project (CP16-21), so that the “reserved capacity” for the NED project could be appropriately allotted to the Connecticut Expansion Project (CP14-529).

Thank you for your consideration of this comment.

Sincerely,

Susan Baxter

cc Cori Rose
MA DEP

NOTICE_TEXT

Critical: Y

TSP/TSP Name: 1939164-TENNESSEE GAS PIPELINE

Notice Type Desc (1): TSP CAP OFFERING

Notice Type Desc (2): TSP CAP OFFERING

Post Date: 10/23/2015 2:59:59 PM

Notice Effective Date/Time: 10/23/2015 2:59:59PM

Notice End Date/Time: 12/31/2049 9:00:00AM

Notice ID: 357450

Notice Stat Desc: SUPERSEDE

Prior Notice: 356971

Reqrd Rsp: 1

Subject: RES. OF CAP. FOR NORTHEAST ENERGY DIRECT

Notice Text:

DATE: October 23, 2015

TIME: 3:00 PM

TO: ALL TENNESSEE GAS PIPELINE COMPANY CUSTOMERS

RE: RESERVATION OF CAPACITY FOR NORTHEAST ENERGY DIRECT EXPANSION PROJECT

Pursuant to Article XXVI, Section 5.8 of the General Terms and Conditions of its FERC Gas Tariff, Tennessee Gas Pipeline Company, L.L.C. ("Tennessee") gives notice that certain capacity as described below will be reserved for use in the Northeast Energy Direct Expansion Project "Project". The effective date of the reservation is November 1, 2018. As Tennessee has continued to develop the market and facilities for the Project, it has continued to refine the capacity that it has reserved for the Project in previous postings on July 16, 2013, September 22, 2013, November 6, 2013, April 7, 2014, and September 4, 2015. This posting is intended to combine and supersede all previous capacity reservation postings and to provide a complete summary of all capacity reserved for the Project. The capacity being reserved is as follows:

Capacity on Mainline Valve Segments:

- 50,000 Dth/day MLV 270C-1103 (Distrigas Receipt 412513) to MLV 270C-102
- 2,500 Dth/day MLV 270C-102 to MLV 270C-104 (Beverly Salem Massachusetts Delivery 420118)
- 47,500 Dth/d MLV 270C-102 to MLV 270-1
- 100 Dth/day MLV 270-1 to MLV 270A-103 (Arlington Massachusetts Delivery 420115)
- 47,400 Dth/day MLV 270-1 to Station 267 Suction Valve 267-1-AS-1
- 12,500 Dth/day Station 267 Suction Valve 267-1-AS-1 to MLV 273-2A
- 11,500 Dth/day MLV 273-2A to MLV 270B-102 (Tewksbury Massachusetts Delivery 420139)
- 1,000 Dth/day MLV 273-2A to MLV's 273C-104 and 270B-105C (Laconia New Hampshire Delivery 420426)
- 100 Dth/day Station 267 Suction Valve 267-1-AS-1 to MLV 266A-102A+2.63 (Bellingham Massachusetts Delivery 420424)
- 34,800 Dth/day Station 267 Suction Valve 267-1-AS-1 to MLV 266-1
- 10,300 Dth/day MLV 266-1 to MLV 265E-103
- 5,300 Dth/day MLV 265E-103 to MLV 265E-202 (Lincoln SMS Delivery 420758)
- 5,000 Dth/day MLV 265E-103 to MLV 265E-104BR (Cranston Sales Delivery 420750)
- 24,500 Dth/day MLV 266-1 to MLV 263-1
- 20,611 Dth/day MLV 263-1 to MLV's 262-1+4.55 and 262-2+4.55 (Monson Sales Delivery 420751)
- 3,889 Dth/day MLV 263-1 to MLV 355-1
- 3,889 Dth/day MLV 355-1 to MLV 334A-102 (White Plains New York Delivery 420093)
- 13,088 Dth/D from MLV 266A-101 to MLV 270B

- 2,183 Dth/D from MLV 261 to MLV 266A-101
- 18,349 Dth/d from MLV 261 to meter 400484 (Agawam MA)
- 52,095 Dth/day MLV 266D-101 to MLV 266A-222
- 235,848 Dth/d from MLV 273F-101.2 (Dracut Receipt 412538) to MLV 267-2
- 441,000 Dth/d from MLV 267-2 to MLV 261-2
- 67,500 Dth/d from meter 412538 (Dracut, Valve 273F-101) to MLV 265E-101
- 22,500 Dth/d from MLV 265E-101 to meter 412181 (Wright, Valve 249A-101)
- 180,000 Dth/d from meter 412181 (Wright, Valve 249A-101) to MLV 237
- 140,000 Dth/d from MLV 237 to meter 420867(Pooling Pt – 200 Leg – Zone 4, MLV 219)
- 5,000 Dth/d from MLV 266A-101 to meter 420285 (Mendon Mass Tie Over, Valve 266A-122)
- 5,000 Dth/d from meter 420285 (Mendon Mass Tie Over, Valve 266A-122) to meter 420135 (Pawtucket RI, Valve 266A-114)
- 201,000 Dth/d from MLV 265E-101 to meter 420707 (Ocean State Power, Valve 265E-111)
- 90,000 from meter 420707 (Ocean State Power, Valve 265E-111) to meter 420926 (FPLE Rise, Valve 265E-121)
- 82,000 Dth/d from MLV 265A-101 to meter 420109 (Worcester MA, Valve 265A-122)
- 50,000 Dth/d from MLV 264B-101 to meter 420191 (Spencer MA, Valve 264B-112)
- 9,500 Dth/d from MLV 264A-101 to meter 420108 (Southbridge MA, Valve 264A-112)
- 38,000 Dth/D from MLV 256A-101 to meter 420747 (Bousquet, Valve 256A-121)
- 160,000 Dth/d from meter 460012 (Ellisburg, Valve 313G-102) to meter 420527 (Rose Lake, Valve 313G- 121)
- 200,000 Dth/d from meter 420527 (Rose Lake, Valve 313G-121) to MLV 313
- 640,000 Dth/d from MLV 313 to MLV 317
- 42,400 Dth/d from MLV 317 to MLV 320

Receipt Meter Capacity:

- 50,000 Dth/d- 412513 (Distrigas)
- 93,425 Dth/d- 412181 (Wright, NY)
- 45,000 Dth/d – 412538 (Dracut)
- 115,425 Dth/d – 412181 (Wright)
- 160,000 Dth/d - 460012 (Ellisburg)
- 40,000 Dth/d - 420527 (Rose Lake)
- 500,000 Dth/d - 412850 (Liberty Dehy)

Delivery Meter Capacity:

- 3,889 Dth/d- 420093 White Plains (NY)
- 100 Dth/d- 420115 Arlington (MA)
- 2,500 Dth/d- 420118 Beverly Salem (MA)
- 11,500 Dth/d- 420139Tewksbury (MA)
- 100 Dth/d- 420424 Bellingham (MA)
- 1,000 Dth/d- 420426 Laconia (NH)
- 5,000 Dth/d- 420750 Cranston Sales (RI)
- 20,611 Dth/d- 420751 Monson Sales (MA)
- 5,300 Dth/d- 420758 Lincoln SMS (RI)
- 18,349 Dth/d- 400484 Agawam (MA)
- 10,481 Dth/d- 420121 Lawrence (MA)
- 66,839 Dth/d- 420285 Mendon, MA
- 40,000 Dth/d - 420086 (Phelps NY)
- 86,000 Dth/d – 420739 (Harrison Co Gen Sales)
- 83,000 Dth/d - 420731 (Selkirk)
- 94,000 Dth/d – 420747 (Bousquet)

- 141,000 Dth/d – 420751 (Monson)
- 51,000 Dth/d – 420901 (Berkshire Power)
- 130,000 Dth/d – 420884 (Millennium Power Cogen)
- 229,000 Dth/d – 420707 (Ocean State Power)
- 76,000 Dth/d – 420894 (Blackstone)
- 133,000 Dth/d – 420926 (FPLE Rise)
- 227,000 Dth/d – 421022 (Glenmont)
- 161,000 Dth/d – 421070 (Schodack)

The following capacity was not included in any previous posting and is now being reserved for the Project:

- 100,000 Dth/d from meter 412181 (Wright, Valve 249A-101) to meter 420918 (South Albany, Valve 252A-101)
- 100,000 Dth/d of delivery meter capacity at 420918 (South Albany)

For further information, please contact:

Rebecca Mack
(713) 420-4656
Rebecca_Mack@KinderMorgan.com

20160422-5251

Tennessee Gas Pipeline
Company, L.L.C.
a Kinder Morgan company

April 22, 2016

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

Re: Tennessee Gas Pipeline Company, L.L.C., Docket No. CP16-21-000
Northeast Energy Direct Project

Dear Ms. Bose:

On November 20, 2015, Tennessee Gas Pipeline Company, L.L.C. (“Tennessee”) filed with the Federal Energy Regulatory Commission (“Commission”) a certificate application (“Application”) in the above-referenced docket for the Northeast Energy Direct Project (“Project”). The Application remains pending before the Commission.

As a result of inadequate capacity commitments from prospective customers and a determination that the Project is uneconomic, Kinder Morgan, Inc., Tennessee’s parent company, announced on April 20, 2016 that the company would suspend further work and expenditures on the Project. At this time, Tennessee is in the process of determining how best to proceed consistent with existing contracts. As a result, Tennessee respectfully requests that the Commission not take any further action in processing the Application, pending Tennessee submitting a status report to the Commission no later than May 26, 2016.

In accordance with the Commission’s filing requirements, Tennessee is submitting this filing with the Commission’s Secretary through the eFiling system, and is providing a copy of this filing copy of this filing to the Office of Energy Projects and to all parties on the official service list for this proceeding.

Respectfully submitted,

TENNESSEE GAS PIPELINE COMPANY, L.L.C.

J. Curtis Moffatt

Deputy General Counsel and Vice President Gas Group Legal

nated, or are in the process of termination, and it is disturbing that Kinder Morgan's press release on the matter only refers to the "suspension" as pertaining to "the [NED] as it is currently configured." Unless and until such time as the proceedings are terminated, the matter is still pending and subject to the requests made in the March 25, 2016 correspondence. Moreover, as there are some 16 or more gas pipeline projects in the works for the Northeast other than the NED project, one or more of which may result in tentacles reaching into New Hampshire, and all of which will bear bitter fruit for the region that we are a part of, the requests are very pertinent to all FERC proceedings going forward. The FERC process must be reformed to allow for decision-making on a level playing field, including institution of the changes discussed in the letter:

- (1) all major gas pipeline infrastructure (including compressor stations) projects, such as and including the NED pipeline project, should be scheduled for formal evidentiary hearings to ensure transparency and fairness;
- (2) a comprehensive health impact assessment should be required for all gas pipeline infrastructure (including compressor stations) projects to ensure the health and well-being of citizens; and
- (3) a Citizens Advocate position should be created for FERC proceedings to provide an advocate on behalf of citizens, to ensure a better system of checks and balances.

Please substantively respond with the demands upon FERC Docket No. CP16-21, as requested in the March 25, 2016 letter, and pursue changes to all FERC proceedings in like kind. Your time and courtesy in this matter is greatly appreciated, and citizens look forward to the results. Should the four of you desire a meeting, please e-mail the undersigned at RMHusband@gmail.com. Please do not delay action, however, pending such a meeting, as there is an immediate need for action and such meetings with so many individuals (including four congressmen) are very difficult to arrange in any short order.

Sincerely,

NHPLAN:

By: //s Richard M. Husband
Duly Authorized Member

cc: Signatories to March 25, 2016 letter (via e-mail)
Melanie Levesque (via e-mail)
Kaela Law (via e-mail)
Governor Margaret Wood Hassan (via e-mail)
New Hampshire Attorney General Joseph A. Foster (via e-mail)
New Hampshire Municipal Pipeline Coalition (via e-mail c/o Tad Putney)

20160425-5069

April 21, 2016

Senator Jeanne Shaheen
1589 Elm Street – Suite 3
Manchester, NH 03101

Representative Ann McLane Kuster
18 North Main Street – Fourth Floor
Concord, NH 03301

Senator Kelly Ayotte
1200 Elm Street – Suite 2
Manchester, NH 03101-2503

Representative Frank Guinta
33 Lowell Street
Manchester, NH 03101

**RE: Federal Energy Regulatory Commission ("FERC") Docket No. CP16-21
(Northeast Energy Direct pipeline project)
and FERC proceedings**

Dear Senators Shaheen and Ayotte and Representatives Kuster and Guinta:

This serves as a follow-up to the April 21, 2016 letter from NHPLAN to the four of you.

Please understand that we do acknowledge and thank you for the effort that each of you have put forth in dealing with FERC to date.

However, citizens have not just left the burden at your feet, but have unflinchingly carried the vast and growing bulk of the load by themselves. For more than a year, concerned communities and individuals in New Hampshire (and throughout the Northeast: some for more than two years) have been pouring unceasing effort into opposing the NED project and advocating better energy policies and solutions. Finally, there is suggestion that the NED project “may” be abandoned, albeit it with clear wiggle-room: does “as it is currently configured” mean that we will be looking at a slightly smaller pipeline or tweaked pipeline path in a month, two months, or a year? Moreover, again, there are at least 16 other pipeline projects in the works for the Northeast. See http://www.northeastgas.org/pipeline_expansion.php. It would be a great disservice to our citizens, as well as to your efforts to date, if we must shortly start the fight from scratch under the same one-sided, pipeline rubber-stamping FERC system. I know that fixing FERC is a tough fight, but it is a fight for the arena of federal representatives. It is tough standing in the cold and rain with signs for hours, living every moment with the fear that your children’s safety will be placed at risk and the use, enjoyment and value of your home (and largest asset) taken away from you for private profit, sacrificing time with your friends and family to meetings, hearings and more hearings, rallies, setbacks and increasing obstacles—all fights our citizens have tirelessly taken on.[1] The hope that we now have for the end of NED is great, but much remains to be done. They are old adages because they always hold true: we must be ever vigilant, and never rest on our laurels.

FERC must be fixed, and as soon as possible. Ordinary citizens and their representatives have been screaming this. See, e.g., <http://nhplan.org/ferc-petition>; <http://fixferc.com/>; <https://stopned.files.wordpress.com/2015/03/fix-ferc-first-chapter-6-what-others-are-saying-about-ferc.pdf>; https://petitions.moveon.org/sign/fix-ferc-first-2?mailing_id=31655&source=s.icn.em.cr&r_by=14420169. As an insulated independent federal agency, only Congress can do this, and it must to allow for truly informed decision-making on a level playing field, and thus the right results. Again, reform should include institution of the changes suggested in the March 25, 2016 and April 21, 2016 letters:

- (1) major projects, such as the NED pipeline project, should be scheduled for formal evidentiary hearings to ensure transparency and fairness;
- (2) comprehensive health impact assessments should be required for such projects to ensure the health and well-being of citizens; and
- (3) a Citizens Advocate position should be created for FERC proceedings to provide an advocate on behalf of citizens, to ensure a better system of checks and balances.

We continue to urge you, as the New Hampshire Congressional Delegation, to lead a united pursuit of such reform, garnering the support of as many like-minded fellow statesmen as possible.

The need for immediate action could not be more compelling.

With all of the pipeline projects knocking on our Northeast door, now we also have S2012, the “Energy Policy Modernization Act of 2016.” See <https://www.congress.gov/bill/114th-congress/senate-bill/2012/text>. Only publicly surfacing the past couple of days, this legislation has already been passed by the Senate, 85-12, with a similar version passed by the House of Representatives. As Senate support was overwhelming, and the “yeas” for this legislation included not only the votes of you, Senators Shaheen and Ayotte, who have both expressed concern over the NED project, but also those of Massachusetts Senators Warren and Markey and New York Senators Schumer and Gillibrand, staunch opponents of NED, there is hope that it is good, forward-thinking energy legislation, weaning us from “natural”[2] gas and all of the health, safety, environmental, etc. problems associated with it, and its infrastructure. But this is far from clear given some of its language, and certainly not everyone agrees it to be the case, see <http://grist.org/news/senate-passes-energy-modernization-bill-that-would-have-been-modern-in-1980/>: at least, not in its entirety, and not without revision.

Of particular concern, from our limited review to date of this massive, complex legislation: (1) S2012 seems

to even further limit state authority and decision-making in FERC processes: while states may still deny permitting required under FERC, the Clean Water Act, Clean Air Act and other federal statutes, such denials appear harder to make, and to make stick; and even greater deference and binding authority appears to be given to the conclusions of FERC; and (2) the following and other language suggests even greater expedition of gas infrastructure approval: “It is the sense of Congress that all Federal authorizations required for a project or facility should be issued by not later than the date that is 90 days after the date on which an application is considered to be complete by the Commission.” See proposed Section 3103, attached. We greatly respect you, Senators Ayotte and Shaheen, as we do all of our representatives, and know that you have New Hampshire’s best interests at heart. But, if our reading of S2012 is correct: why is it wise, especially when we have just dodged a bullet from a proposed massive gas infrastructure overbuild—per Kinder Morgan’s own admission—to weaken, rather than strengthen, state ability to stop a project such as the NED pipeline, and expedite FERC approval? Some are concerned that this is all the NED project “suspension” is really about: waiting for enactment of whatever final version of S2012 emerges from Congress, to allow for even easier, faster FERC approval. Maybe the FERC application has to be pulled and refiled, and even slightly restyled (for an arguably better “configuration”), but these are small impediments. If these fears are unfounded, we would greatly appreciate it if someone would explain the error.

S2012 seems to promote other and better energy sources and, with such sweeping support, certainly must be well-intentioned. But, if it opens the door wider and faster for FERC approvals, the result is still gas-centric: the powerful lobby grease-skidded, quick-fix choice. At a time when we should be immediately moving beyond this fossil fuel to renewables, how will S2012 get us to where we need to be, by the time we need to be there? How does it fix FERC—repair its ramrodding, rubber-stamping system?

As a similar but different version of S2012 has been passed by the House of Representatives, which would have to be reconciled with the Senate bill, is the negotiation process involved in reconciling these two versions of legislation not a good time for the FERC reforms being urged by citizens? If not now, when? We cannot miss this opportunity.

Citizens in Massachusetts have requested that Senator Warren work on a moratorium on FERC pipeline permitting while a comprehensive investigation and review of FERC’s processes, including consideration of the conflicts of interest and other hazards inherent in its industry-funded, carefully cloistered system, are undertaken. Should New Hampshire’s federal representatives not be doing the same, reaching out to Senators Warren, Markey, Schumer, Gillibrand and other Congressional colleagues for united support, before considering final approval of legislation making the system even more dangerous? If you do not deem such a moratorium and undertaking appropriate, please elaborate.

There are clearly better energy solutions than locking us into increasing long-term dependence on a fossil fuel that we should be phasing out (if we really care about global warming)—with all of the construction and eventual disposition nightmares associated with its infrastructure—especially the fossil fuel which caused our concerns to begin with.

Please note New Hampshire’s energy policy under R.S.A. 378:37:

“378:37 New Hampshire Energy Policy. – The general court declares that it shall be the energy policy of this state to meet the energy needs of the citizens and businesses of the state at the lowest reasonable cost while providing for the reliability and **diversity of energy sources**; to maximize the use of cost effective energy efficiency and other demand side resources; and to protect the safety and health of the citizens, the physical environment of the state, and the future supplies of resources, with consideration of the financial stability of the state’s utilities.”

Id. (emphasis within statute added).

Please consider Governor Hassan’s emphasis on the importance of adhering to this policy. See https://www.puc.nh.gov/Regulatory/Docketbk/2016/16-241/COMMENTS/16-241_2016-04-13_M_HASSAN_COMMENT.PDF.

Please note what the New Hampshire Office of Energy and Planning has stated and concluded:

“...OEP is concerned that the report falls short by focusing only on natural gas investments and ignoring the challenges the region faces as our fuel mix becomes less diverse. Investing in more natural gas infrastructure could lead to even more reliance on natural gas. However, **increasing reliance on one fuel, namely natural gas, is what caused the wholesale price spikes in the winter of 2013-2014 in the first place ...**”

See page 2 at <https://www.puc.nh.gov/Regulatory/Docketbk/2015/15-124/LETTERS-MEMOS-TAR-IFFS/15-124%202015-10-15%20OEP%20COMMENT.PDF> (emphasis added).

Far better solutions than increasing “natural” (fracked) gas infrastructure include:

- a) Reliance on Existing Liquid Natural Gas Availability. Distrigas of Massachusetts LLC has signed long-term contracts to bring in additional liquid natural gas (“LNG”) to New England that will be stored in EXISTING infrastructure over the summer to be used during winter peak demand (as LNG has been used to supplement our energy needs and prevent price spikes in the past).[3]
- b) Renewable Resources and Distributed Generation. Wind, solar, water, thermal ... renewable sources of energy are energy solutions already mandated by the New Hampshire legislature.[4] New Hampshire’s official energy action plan encourages using smaller “generation facilities,” such as residential rooftop solar panels, to supplement large power plants:

“Distributed Generation (DG) refers to producing electricity and/or thermal energy through dispersed, smaller scale generation facilities rather than relying on large centralized power plants. DG includes sources from residential rooftop solar photovoltaics (PV) to large combined heat and power (CHP) systems. DG supports a system that is more resilient, flexible, and efficient. Small scale energy projects also enhance New Hampshire’s economy, as installation of these projects creates jobs that are difficult to outsource, and money spent on the projects circulates within the state’s economy. Despite these benefits, DG remains under-developed in New Hampshire because it is difficult for many residents to pursue. New Hampshire should work to improve access to renewable generation for homes and businesses.”[5]

New Hampshire should stick to its game plan and work toward the development of renewables and other energy generation facilities to diversify our energy sources and replace our unhealthy (in so many respects) overdependence on fossil fuel generated energy.[6] Piling on pipelines that only increase our dependence on fossil fuels will not solve our problems.

- c) Energy Efficiency Coupled with Demand Response Programs. “Energy efficiency is the cleanest and cheapest way for New England to meet its energy needs.”[7] Energy efficiency measures to date have already caused electric consumption to decline in New England.[8] Add demand response incentive programs—such as providing big manufacturing companies incentives to cease operations during peak consumption hours—and the squeeze that contributes to rate hikes would be alleviated. Home “nesting” systems and smart meters can contribute to demand response, too.
- d) Dual Fuel Power Plants. The Granite Ridge power plant in Londonderry was actually designed to be dual fuel gas-fired with oil storage tanks on the side for “backup” generation. Although funding was not secured for the oil tanks, such a “backup generator” makes all the sense in the world to address those brief, crunch periods of energy need in the winter: back-up generators and/or supplemental heating systems have become commonplace for residences in New England; if such planning and solutions can be implemented at the residential level, why not at the generation level?
- e) Incremental Pipeline Upgrades of Existing Infrastructure. Not ideal, as it still increases dependency on fracked gas, but it is better than overbuilding ...

We look forward to your response to the various issues raised herein, and previously.

To paraphrase Socrates: if we seem gadflies, it is for the common good. We are dealing with historically critical issues, at the most crucial juncture, and we must get it right, while there is still time.

Thank you for your time and courtesy in this matter.

Sincerely,
NHPLAN:
By: //s Richard M. Husband
Duly Authorized Member
RMHusband@gmail.com
(603)540-9817

Footnotes:

- 1 Some seemingly never sleep. But this discussion should not be read to suggest that this campaign rides only on the fears of affected homeowners. To the contrary: most of us involved have never even been in the proposed NED pipeline path; we are in it for our communities, state and the common good, the same things you strive for as our fellow citizens and representatives.
- 2 Hardly: the term should be “fracked,” with all of its impurities.
- 3 See <https://www.bostonglobe.com/business/2015/05/10/distrigas-inks-big-Ing-deals/guafPIHwoFG4bhENhaERYK/story.html>. See also pages 8 and 9 of http://northeastgas.org/pdf/g_whitney_2014.pdf.
- 4 http://www.puc.state.nh.us/Sustainable%20Energy/Renewable_Portfolio_Standard_Program.htm.
- 5 “New Hampshire State 10-Year Energy Strategy,” p. iv, at <http://www.nh.gov/oep/energy/programs/documents/energy-strategy.pdf> (emphasis added).
- 6 See <http://www.nh.gov/oep/energy/programs/documents/energy-strategy.pdf> (emphasis added), beginning with “RPS” discussion on page 37.
- 7 See <http://www.nh.gov/oep/energy/programs/documents/sb191pc-2014-7-25-necec.pdf>.
- 8 See <http://www.platts.com/latest-news/electric-power/portland-maine/energy-efficiency-cut-new-england-prices-by-24-21305989>.

cc: Signatories to March 25, 2016 letter (via e-mail)
Melanie Levesque (via e-mail)
Kaela Law (via e-mail)
Governor Margaret Wood Hassan (via e-mail)
New Hampshire Attorney General Joseph A. Foster (via e-mail)
New Hampshire Municipal Pipeline Coalition (via e-mail c/o Tad Putney)
Senator Elizabeth Warren
Senator Edward Markey
Senator Kirsten Gillibrand
Senator Charles E. Schumer
Congressman James McGovern

{original document with all live links can be downloaded (6 pages, 648 KB) at: }

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14214079>

20160425-5211

RENSELAER COUNTY
OFFICE OF THE EXECUTIVE
NED PATTISON GOVERNMENT CENTER
TROY, NEW YORK 12180

Kathleen M. Jimino
Rensselaer County Executive

Phone: (518) 270-2900
Fax: (518) 270-2961

April 25, 2016

Federal Energy Regulatory Commission

Attn.: Norman C. Bay, Chairman
888 First Street, NE
Washington, D.C. 20426

Re: Northeast Energy Direct
Tennessee Gas Pipeline Company, LLC
Northeast Energy Direct Project
FERC Docket No. CPI6-21-000 (previously No. PFI4-22-000)

Dear Mr. Bay:

We learned on April 21st that Kinder Morgan, Inc. and its subsidiary, Tennessee Gas Pipeline Company, LLC, “ ... have suspended further work and expenditures on the Northeast Energy Direct pipeline project ... ,” the application for which is pending before your Commission. Late in the day on April 22nd, the applicant furnished our County Attorney with a copy of its correspondence to your Commission by which it requesting that FERC stand still on the application until May 26th.

Rensselaer County is at a point in time when it must either commit substantial sums of money to the proceeding pending before your Commission or if this application is to be closed, then to redirect those funds to other beneficial uses for our citizenry. Your Commission has repeatedly requested additional material and information from the applicant, without any receiving any meaningful response. Although we have no objection to the requested month delay in further action, our County must insist and hereby moves that if nothing meaningful to the furtherance of the pending application is filed by Kinder Morgan, Inc. and/or Tennessee Gas Pipeline Company, LLC on May 26th, that FERC dismiss the application with prejudice at the end of business on that date.

Thank: you for your consideration.

Respectfully Submitted,
RENSSELAER COUNTY, NEW YORK
Kathleen M. Jimino
County Executive

{note: originally filed by FERC only into PF14-22; resubmitted as 20160426-5086 into CP16-21}

20160426-0058

{same as 20160418-0070 (SAY “NO” TO THE NED PIPELINE PROJECT!...), signed by: }

Kristine & Clint Baptiste 8 Brentwood Dr Dracut, MA 01826

20160426-0060

{same as 20160418-0070 (SAY “NO” TO THE NED PIPELINE PROJECT!...), signed by: }

Rick & Jean Birkhead 70 Surrey Lane Dracut, MA 01826

20160426-0061

{same as 20160418-0070 (SAY “NO” TO THE NED PIPELINE PROJECT!...), signed by: }

Danielle Plourde 10 Redgate Rd Dracut, MA 01826

20160426-5072

Tennessee Gas Pipeline
Company, L.L.C.
a Kinder Morgan company

April 26, 2016

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission

888 First Street, N.E.
Washington, DC 20426

Re: Tennessee Gas Pipeline Company, L.L.C., Docket No. CP16-21-000
Northeast Energy Direct Project

Dear Ms. Bose:

On November 20, 2015, Tennessee Gas Pipeline Company, L.L.C. (“Tennessee”) filed with the Federal Energy Regulatory Commission (“Commission”) a certificate application (“Application”) in the above-referenced docket for the Northeast Energy Direct Project (“Project”). The Application remains pending before the Commission. On April 22, 2016, Tennessee submitted a letter to the Commission requesting that the Commission not take any further action in processing the Application, pending Tennessee submitting a status report to the Commission no later than May 26, 2016. The April 22, 2016 letter was filed following Kinder Morgan, Inc., Tennessee’s parent company, announcing on April 20, 2016 that the company would suspend further work and expenditures on the Project, as a result of inadequate capacity commitments from prospective customers and a determination that the Project is uneconomic.

Tennessee had previously committed to submitting a supplemental filing by the end of April 2016 in order to provide modifications to the Project scope, as well as to provide updated information in response to scoping comments and to Commission staff data requests. At this time, in light of the April 20, 2016 announcement by Kinder Morgan, Inc. and Tennessee’s April 22, 2016 letter filed with the Commission, Tennessee will not be submitting the supplemental filing by the end of April 2016. As noted in the April 22, 2016 letter, Tennessee is in the process of determining how best to proceed consistent with existing contracts, and will provide an update on the status of the supplemental filing when it submits its status report no later than May 26, 2016.

In accordance with the Commission’s filing requirements, Tennessee is submitting this filing with the Commission’s Secretary through the eFiling system, and is providing a copy of this filing copy of this filing to the Office of Energy Projects and to all parties on the official service list for this proceeding.

Respectfully submitted,

TENNESSEE GAS PIPELINE COMPANY, L.L.C.

By: /s/ J. Curtis Moffatt

J. Curtis Moffatt

Deputy General Counsel and Vice President Gas Group Legal

cc: Mr. Terry Turpin (Commission Staff)
Mr. Rich McGuire (Commission Staff)
Mr. Eric Tomasi (Commission Staff)
All parties on service list

20160426-5086

{duplicate of 20160425-5211 above misfiled into PF14-22, resubmitted here into CP16-21}

20160427-5068

**THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES**

CHARLES D. BAKER
GOVERNOR
(617) 305-3500

ONE SOUTH STATION
BOSTON, MA 02110

ANGELA M. O’CONNOR
CHAIRMAN

KARYN E. POLITO
LIEUTENANT GOVERNOR

JOLETTE A. WESTBROOK
COMMISSIONER

MATTHEW A. BEATON

ROBERT E. HAYDEN

The Massachusetts Department of Public Utilities instructed Tennessee Gas Pipeline Company L.L.C. to mail the following information to the property owners named in its petitions before the Department in docket numbers D.P.U. 16-01, 16-02, and 16-03.

PLEASE READ

DPU ISSUES STAY OF TENNESSEE REQUEST TO SURVEY PROPERTIES

On April 21, 2016, the Department of Public Utilities (“Department”) granted a request made by Tennessee Gas Pipeline Company (“Company”) to stay any further action in its survey petition cases, D.P.U. 16-01/02/03 until May 26, 2016. The suspension of any further action is due to a Company press release issued on April 20, 2016, in which the Company stated that it has suspended further work and expenditures on the Northeast Energy Direct (“NED”) Project. As a result of the “stay” of any further action, the Department has terminated all current deadlines in the survey petition cases, including the May 6, 2016 deadline to file written comments until further notice. No further action by any affected property owner or public commenter is necessary at this time. Based on the Company’s press release, the Department anticipates that the Company will withdraw its petitions in the above-referenced matters.

20160427-5169

KOPELMAN AND PAIGE, P.C.
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John Goldrosen
jgoldrosen@k-plaw.com

April 27, 2016

BY E-FILING ONLY

Ms. Kimberly D. Bose Secretary
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington DC 20426

Re: Docket No. CP16-21-000 - Tennessee Gas Pipeline Company, LLC (Northeast Energy Direct Project)

NOTICE OF CHANGE OF REPRESENTATIVE for METHUEN, MASSACHUSETTS

Dear Ms. Bose:

I am writing on behalf of the City of Methuen, Massachusetts (“Methuen”).

On January 4, 2016, Methuen filed its Motion to Intervene in the above matter (Accession No. 20160104-5114). The Motion to Intervene provided that notices in this matter were to be sent to, among others, Kerry Regan Jenness, City Solicitor, at krjenness@ci.methuen.ma.us.

This firm is now City Solicitor for Methuen, in place of Attorney Jenness. Therefore, please change the entry for Methuen on the Service List for this matter, as follows:

DELETE: Kerry Regan Jenness, krjenness@ci.methuen.ma.us

ADD: John J. Goldrosen, jgoldrosen@k-plaw.com

Thank you for your attention to this matter.

Very truly yours,
John J. Goldrosen

cc: Mayor

United States Senate
WASHINGTON, DC 20510
(202) 224-3324

KELLY A. AYOTTE
NEW HAMPSHIRE

April 20, 2016

The Honorable Norman C. Bay
Chairman
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

Dear Chairman Bay:

I write regarding Kinder Morgan's proposed Northeast Energy Direct (NED) pipeline project.

As you recall, I have written the Federal Energy Regulatory Commission on several occasions to reiterate the outstanding questions my colleagues in the New Hampshire congressional delegation and I have previously raised. In addition to our delegation's outstanding questions, my constituents continue to raise a number of questions and concerns about the proposed project both individually and through their local representatives,

Please find enclosed a letter from a New Hampshire citizen's group, NH Pipeline Awareness (NHPLAN). The letter raises several specific concerns and questions related to the Commission's permitting process and I urge the Commission to answer and address these questions and concerns in as thorough a manner and as expeditiously as possible,

Going forward, I continue to strongly encourage the Commission to answer and address the comments and questions of all local residents and our congressional delegation in a detailed, transparent, and timely manner. As I have previously expressed, unless and until these questions and concerns are meaningfully addressed and answered, I oppose this project going forward,

Sincerely,

Kelly A. Ayotte
U.S. Senator

Enclosure: March 25, 2016 letter to Senators Shaheen & Ayotte and Representatives Kuster & Guinta
{see 20160418-5186 above, 12 page letter + links to exhibits "A" through "Q", 131 pages }

Letter was signed by:

NHPLAN:	By: /s/ David Moloney and Maryann Harper
Mason Conservation Commission:	By: /s/ Robert B. Laroche, Chairman
Troy Conservation Commission:	By: /s/ Marianne Salcetti, Ph.D, Chair
Litchfield Pipeline Group:	By: /s/ Richard M. Husband
Temple Ad Hoc Pipeline Advisory Committee:	By: /s/ Bev Edwards and Sean Radcliffe
Mason Pipeline Committee:	By: /s/ Kathleen Chapman
Pelham Pipeline Awareness:	By: /s/ Kaela Law
Pelham Conservation Commission:	By: /s/ Paul Gagnon, Chairman
New Ipswich Pipeline Resistance Citizens Group:	By: /s/ Tim Somero
Winchester Pipeline Awareness:	By: /s/ Sarah Louder and Susan Durling
Temple Energy Committee:	By: /s/ Bev Edwards
NH Pipeline Awareness:	By: /s/ Rob Chesebrough

spective customers and a determination that the project is uneconomic” that “the company would suspend further work and expenditures on the project.” KMTGP further requested “that the commission not take further action in processing the Application, pending Tennessee submitting a status report to the commission no later than May 26,2016.”

FERC must know that the Town of Milford, like many other towns impacted by this application, has expended substantial funds in staff time, legal representation and expert testimony to study the application and to determine the proposed pipeline’s impact on our community. The “suspension” of work by KMTGP requires the Town of Milford to remain vigilant and potentially commit appropriated funds rather than redirect those funds to other programs for our citizens. While we respect the request for an additional month for KMTGP to submit a status report to FERC we must insist that if nothing substantive to the furtherance of the application is filed by KMTGP that FERC dismiss the application with prejudice by the end of business on May 26, 2016.

The Town of Milford, NH would like to go on record stating that FERC must review its pre-filing and application processes. With future applications, the case for need should be determined in a public hearing during the pre-filing process. Grossly incomplete pre-filings and applications, like this as submitted by KMTGP, should be rejected and dismissed upon receipt. Additionally, deadlines should be set and any applicant that is derelict in responding to FERC requests for additional information, as KMTGP was in this case, should have their filings and applications dismissed.

By copy of this letter, the Town of Milford, NH is requesting that the NH Attorney General investigate the details of this application and determine if restitution is due all NH Towns for costs incurred relative to the referenced Docket.

Sincerely,

Mark Bender

Town Administrator

cc: Governor Maggie Hassan

Senator Kelly Ayotte

Senator Jeanne Shaheen

Congressman Frank Guinta

Congresswoman Anne Kuster

Attorney General Joseph Foster

Milford Board of Selectmen:

Mark Fougere, Chairman

Kevin Federico, Vice Chairman

Kathy Bauer, Selectman

Gary Daniels, Selectman

Mike Putnam, Selectman

20160502-0006

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }

Sheila Richardson

35 B? Circle

Hudson, NH 03051

20160502-0007

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }

Sandra Blomberg

93 Turner Avenue

Pittsfield, MA 01201

20160502-0027

{same as 20160418-0070 (SAY “NO” TO THE NED PIPELINE PROJECT!...), signed by: }

Diana Ryder

148 Flower Lane #25

Dracut, MA 01826

BEFORE THE UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Tennessee Gas Pipeline Company, LLC) Docket No. CP16-21-000
Northeast Energy Direct Project)

MOTION OF THE PIPE LINE AWARENESS NETWORK FOR THE NORTHEAST, INC. TO DISMISS AND DENY THE NORTHEAST ENERGY DIRECT PROJECT APPLICATION WITH PREJUDICE AND TERMINATE THIS PROCEEDING IMMEDIATELY

The Pipe Line Awareness Network for the Northeast, Inc. (“PLAN”) hereby moves, pursuant to Rule 212 of the Federal Energy Regulatory Commission (“Commission”) Rules of Practice and Procedure, 18 C.F.R. § 385.212, to dismiss and deny immediately, with prejudice, the Application (the “Application”) of Tennessee Gas Pipeline Company, LLC (the “Company”) filed with the Commission on November 20, 2015 for a certificate of public convenience and necessity, and to terminate the above-captioned proceeding (the “Proceeding”).

The Movant

PLAN is a broad-based coalition of organizations, municipalities, businesses, impacted landowners, citizen groups, legislators, ratepayers and concerned citizens, working to prevent the overbuild of natural gas infrastructure in the Northeast. PLAN seeks to prevent the negative economic and environmental impacts associated with overbuild, and to promote lower-impact energy solutions. PLAN is incorporated as a non-profit under Massachusetts law.

On December 28, 2015, PLAN timely moved to intervene in this Proceeding and, because no objection to PLAN’s intervention was lodged, PLAN is a full party to this Proceeding.

The Proposed Project

On November 20, 2015, the Company filed with the Commission its Application pursuant to sections 7(b) and 7(c) of the Natural Gas Act and the Commission’s regulations thereunder, seeking authority to (i) construct, install, modify, and operate certain pipeline and compression facilities to be located in Pennsylvania, New York, Massachusetts, New Hampshire, and Connecticut, and (ii) to abandon certain facilities, as part of the Northeast Energy Direct Project (“NED” or the “Project”). This Project was proposed, in the Application, to add over 400 miles of pipeline in five states; nine new compressor stations with over 360,000 horsepower (hp) in four states; 1.3 billion cubic feet per day (Bcf/d) of firm capacity (about half of which never was subscribed by any customer, according to the precedent agreements on record); at a cost estimated to exceed \$5 billion to be charged to the Company’s shippers, and ultimately, their ratepayers (to the extent capacity was contracted for by regulated utilities).

The two proposed components of the NED project were as follows: (1) the Supply Path component, comprised of facilities from Troy, Pennsylvania, to Wright, New York (the “Supply Path”), and (2) the Market Path component, comprised of facilities from Wright, New York, to Dracut, Massachusetts and several laterals (the “Market Path”).

Background and Procedural History

Initial Contact Between the Public and the Company

In the beginning of 2014, the Company began sending out land agents to gain survey access along the proposed route of what had been referred to in its internal documents as the “bullet line,” from Wright, New York, to Dracut, Massachusetts. According to many accounts, elected officials – from town select boards to members of Congress – first learned about the project not from the Company, but from landowners who were turning to their elected officials for answers. In the spring of 2014, the Company started to give present-

tations to town select board meetings along the proposed main line and laterals of the then-called Northeast Expansion Project. On information and belief, the Company only agreed to some of these presentations on the condition that members of the public would not be allowed to ask questions.

Towards the end of May, 2014, word spread that the project had been renamed the Northeast Energy Direct, and the Supply Path component has been added.

Pre-Filing and Scoping

On September 15, 2014, the Company filed with the Commission a request to use the Commission's pre-filing procedures for the Project, and on October 2, 2014, the Commission accepted the request and opened Docket No. PF14-22 for the Project. Two months later, on December 8, 2014, the Company filed a revised resource report indicating a major reroute of the Market Path, placing a large portion of the Company's preferred route in southern New Hampshire. On March 13, 2015, the Company filed drafts of all thirteen resource reports, containing over 10,000 "TBDs".

On April 8, 2015, PLAN noted in a comment to the Commission[1] that a significant portion of capacity subscribed for on the Market Path by local distribution companies ("LDCs") was for capacity that was simply replacing contracts for capacity on existing pipelines, rather than addressing any capacity constraints. PLAN also noted that at that time, over a year after initiating contact with landowners along the proposed route, the Company reported that only approximately 30% of landowners had granted permission for the Company's agents to enter their property to conduct surveys for the Project. PLAN urged the Commission to encourage the Company to rethink its pursuit of the Project.

On June 2, 2015, the Company informed the Commission, via letter to the Secretary, that the Company was reducing the scope of its proposed Project, essentially cutting the proposed capacity in half and dropping two segments from the Market Path (a loop and lateral). The Company framed these changes in terms of a reduction in impacts to conservation land and an increased percentage of co-location; however, on information and belief, the Company in fact dropped these segments because it could not secure customers for those proposed segments.

On July 7, 2015, PLAN noted to the Commission, via comment to the Secretary, that the so-called energy crisis that the Company claimed to be addressing through the NED project does not, in fact, exist as described by the Company.[2] By comment dated October 15, 2015,[3] PLAN recommended several alternatives to be evaluated, beyond the required analysis of a "no-build" alternative. PLAN commented that, to the extent that any new supply options are in fact prudent for the LDCs in New England to pursue, alternatives including increased liquid storage and strategic expansion of local distribution systems should be exhausted first, and then targeted expansion of laterals should be considered, rather than saddling the region – and its landowners and ratepayers – with 400 miles of new interstate pipeline and appurtenant facilities.

Application Filing and Further Requests, Protest, and Comments by PLAN

On November 20, 2015, the Company filed its Application with the Commission. After an initial review, on December 3, 2015, PLAN respectfully requested that the Commission reject the Application as incomplete.[4] On December 7, 2015, the Commission accepted the Company's Application. The following day, the Commission issued an information request, noting, among other things, that the Company "did not fully provide adequate data for alternative comparisons". PLAN noted, in a protest filed together with a motion to intervene on December 28, 2015, that "[t]his, and other violations of the Minimum Filing Requirements [under 18 C.F.R. 380, Appendix A and 18 C.F.R. 380.12(I)(2)(ii)] previously noted on this docket, should have barred the Commission from accepting the Application. As such, this proceeding should properly be terminated[.]"[5]

Instead, the Commission allowed the Proceeding to continue, and the Company continued to provide incomplete responses to the Commission's information requests. On February 22, 2016, PLAN informed the Commission[6] that state filings indicated that a large liquified natural gas storage facility was planned as part of the NED project but never disclosed to the public. This fact came to light in a proceeding before the Mas-

sachusetts Department of Public Utilities (“DPU”), DPU Docket No. 16-07 – the only precedent agreement proceeding involving electric distribution companies (each, an “EDC”, specifically, Massachusetts Electric Company and Nantucket Electric Company, together, “National Grid”) seeking capacity on NED.

Application Suspension and Subsequent Events

On April 20, 2016, the Company informed investors and the public that, together with its parent, Kinder Morgan, Inc., it had “suspended further work and expenditures” on the NED project. On April 22, 2016, the Company requested[7] that the Commission take no further action on the Application prior to receiving a status report by the Company, to be submitted by May 26, 2016.

The Company has given notice to its would-be customers on NED that the contracts are being terminated. On April 26, 2016, National Grid moved to withdraw its petition for DPU approval of its EDC precedent agreements, noting, “To the extent that an alternative arrangement can be developed, and such an arrangement is jurisdictional to the Department, [National Grid] will file for approval of such an arrangement if required to do so.”[8] On information and believe, the petition of Liberty Utilities (EnergyNorth Natural Gas) Corp. pending before the New Hampshire Public Utilities Commission, for the largest LDC Supply Path contract, is similarly being withdrawn.

Like so many rodents on a grounded vessel, these would-be customers are indicating that NED cannot go forward. If the Company develops a new project in the region, it can submit a different application to the Commission. However, that will not be the NED project.

The Commission Still Has an Opportunity to Make the Right Call with Respect to NED

The Commission has entertained the NED proposal far longer than warranted. The Commission has allowed the Company to abuse the pre-filing process and mislead the public. The Commission improperly accepted an incomplete Application. The Commission failed to review the investment in NED by parent companies of four of the would-be LDC customers, and how such ownership interest in the Project may have caused the LDC subsidiaries to subscribe for more capacity than necessary or reasonable, from a ratepayer perspective.

The Commission has, time and again, allowed the Company to drag out this process without justification. After two and a half years of intensive efforts by the Company, as well as possible selfdealing by investors in the Project, the Company added an inconsequential amount of subscribed capacity to the approximately .5 bcf/day in “firm commitments” it had secured by July of 2013. Those commitments are now withering away. The public – municipalities, thousands of landowners, and others – have expended untold hours and financial resources defending their land, communities and environment against this illconceived and obviously unnecessary Project. As documented in countless filings on this docket, the public has faced deceptive practices and obfuscation from the Company and its agents since the beginning of 2014. The nearly two thousand intervenors in this Proceeding deserve closure, if not restitution.

Since inception, PLAN has opposed the NED project as an extreme overbuild of gas infrastructure. Even by the Commission’s own narrow definition of “necessity”, the “need” was never there. As for “public convenience” – respectfully, the Commission should now begin to rebuild its credibility with the public by denying the Company’s Application immediately, with prejudice, and terminating this Proceeding.

WHEREFORE, for the foregoing reasons, PLAN respectfully requests that the Company’s Application be immediately dismissed and denied with prejudice, and that this Proceeding be terminated.

Respectfully submitted,

Kathryn R. Eiseman
President, Pipe Line Awareness Network for the Northeast, Inc.
17 Packard Road
Cummington, MA 01026
eiseman@plan-ne.org
(413) 320-0747

Footnotes:

- 1 See http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20150409-5015.
- 2 See http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20150708-5011. During the scoping comment period required under the National Environmental Policy Act, PLAN also filed several scoping comments on topics including potential groundwater contamination; noise and air quality; greenhouse gas emissions and climate change; and socioeconomic impacts.
- 3 See http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20151016-5150.
- 4 See http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20151203-5077.
- 5 See http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20151228-5056.
- 6 See http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20160222-5045.
- 7 See http://elibrary.FERC.gov/idmws/file_list.asp?accession_num=20160422-5251.
- 8 See Massachusetts Electric Co., DPU Docket No. 16-07, April 26, 2016 motion to withdraw and April 27, 2016 stamp approval, available at http://web1.env.state.ma.us/DPU/FileRoomAPI/api/Attachments/Get/?path=16-07%2fGranted_Motion_Withdraw_42716.pdf.

20160503-5015

The NED Pipeline is Dead – Please Allow Us to Bury It

I am writing in support of the call for FERC to immediately deny the Kinder Morgan/TGP application for a license of public convenience and necessity for the Northeast Energy Direct (NED) natural gas pipeline project.

For years now, FERC has allowed Kinder Morgan to slide by with:

- Incomplete pre-filing and application details
- Laughably out of date maps (Hello 1980's)
- Resource reports containing tens of thousands of TBDs (To Be Determined)
- Missing FERC-imposed deadlines
- Cascades of misinformation and lies told openly in their public “information” sessions

In addition, Kinder Morgan has been slow or unresponsive to FERC's own requests for further information.

And now Kinder Morgan has finally admitted that the pipeline is a money loser – that despite their having drastically decreased the pipeline capacity and scrambled for over a year to nail down additional contracts, they have failed and the pipeline is not economically viable.

The citizens of New England have been tortured for long enough with the threats to their property, to their environment, to their health and happiness that this pipeline represents. Peoples' lives have been massively disrupted by this ill-conceived project. The pipeline is unneeded – as even Kinder Morgan has grudgingly admitted via their lack of contracts – and exactly as the public has been stating all along.

A suspension of the application is not warranted. If at some future date Kinder Morgan decides to propose a pipeline with a different configuration, then let them submit a new application for their new pipeline proposal and restart the application process. FERC should do the right thing and immediately deny their current application. The NED pipeline is dead – please allow the public to bury it and to get on with their lives.

Nick Miller Groton, MA

20160503-5057

Maria Szmauz, New Ipswich, NH.

I would like to urge the Federal Energy Regulatory Commission to dismiss and deny the Northeast Energy Direct Application filed by Tennessee Gas Pipeline, LLC immediately, and with prejudice, and terminate all

proceedings in this case. Please do not wait until they kindly update you on May 26, 2016.

From Day one of their application TGP has shouted (from the rooftops, through advertisements, through websites, on television, and on and on...) NEED for this pipeline.

Apparently they were either misleading us, or very ill informed. Over the time of this application, the public, including towns, and thousands of landowners, conservation commissions, advocacy groups, environmental groups, and more, have spent countless hours, days, and resources, including hundreds of thousands of dollars, and time they will never get back, to protect themselves against this ill conceived and unnecessary project. That includes your commission who is spending the public's money on scoping and preparing EIS. Isn't one of FERC's responsibilities to prove need? Why is this step not done before all of the above. This process needs revamping at the least. TGP should be made to pay restitution for this inconceivable waste of time and resources.

Throughout this application, information has been incomplete. It included unbelievable quantities of TBD's, unanswered timely requests for information, etc. The company has NOT been transparent. They have obscured information and overblown the benefits to NH. (ie a website saying small towns like New Ipswich would get heating gas from this pipeline with an asterisk at bottom indicating 'perhaps in the future') At an informational meeting in March 2015 Alan Fore stood up and denied having any knowledge of how air quality around a then proposed 91,000 HP compressor station would and could be tested)

What right does this company have to put our lives on hold another month? We are in the precarious dilemma of whether to continue to spend money on timely environmental assessments for our own protection- such as identifying vernal pools, etc. which they have grossly under reported. After May 26th these such assessments will not be possible for another year.

The company have given notice to its would-be customers that their contracts are being terminated. National Grid removed its petition or DPU approval in Mass.

The commission has allowed this incomplete application for too long already, and failed to review the investment in NED by parent companies of the LDC customers, and how overblown their capacity requests were.

Do not let this application abuse us or your commission any longer.

Please do the right thing - your job as I see it. Protect thousands and thousands of Americans and not just one large energy company. DENY THIS APPLICATION WITH PREJUDICE NOW, this very day. Before one more unnecessary dollar or hour is spent.

If in the future TGP feels there is need for such a project - Let them refile a new application. Start the clock over. (Would any one intervener to this docket be allowed a request to stop the application for one month? - If not - do not allow TGP an unequal advantage we would not be given) And please, in the case of a new application, prove need FIRST.

Maria Szmaz
New Ipswich, NH

20160503-5064

May 2, 2016

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Room 1A
Washington, DC 20426

Re: Tennessee Gas Pipeline Company, L.L.C., Docket No. CP16-21-000
Northeast Energy Direct Project

Dear Ms. Bose:

I am writing in support of the call for FERC to immediately deny and dismiss with prejudice the Kinder Morgan/TGP application for a license of public convenience and necessity for the Northeast Energy Direct (NED) natural gas pipeline project.

Throughout the FERC Scoping process for NED, concerned citizens and their representatives filed record numbers of comments and stood at the podium during Scoping Hearings to proclaim, "There is no need for NED". Meanwhile Kinder Morgan/Tennessee gas Pipeline Company spent years trying to mislead the public into believing there was an "energy crisis" and that the NED pipeline was needed. Land custodians also stood strong in their belief that there was no need for NED with massive survey permission denials. Meanwhile FERC's own Eric Tomasi opened Scoping Hearings recommending that residents allow out of state land agents onto their private property. On April 20th Kinder Morgan released a corporate spin for a realization that they couldn't convince customers that this supposed "energy crisis" was real enough to warrant financial risk. FERC should also concede that landowners were indeed correct and there was no reason to allow trespass on private property.

The NED application is still pending. KM/TGP requested a "suspension" but in over a week there has not been response from FERC as to whether the suspension was accepted, granted, or rejected. This is certainly not the first delay requested by KM/TGP for the NED project. On November 6th, 2014 KM/TGP delayed scheduled Open Houses supposedly "to provide affected landowners and communities the necessary time to review Draft Resource Reports 1 and 10 submitted on November 5th." Days later on Saturday November 22nd Kinder Morgan's vice president of public affairs Allen Fore stated, "An amended resource report will identify the New Hampshire power line corridor as our primary route" thereby shifting the NED pipeline route to a completely different state. Clearly the purpose of the delay was not to allow landowners time to review obsolete Draft Resource Reports therefore FERC should scrutinize the use of a "suspension" in the NED application process.

FERC currently has enough information to challenge KM's/TGP's public need and necessity. FERC should deny and dismiss with prejudice the NED application immediately.

Sincerely,

Rob Chesebrough

November 23, 2014

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Room 1A
Washington, DC 20426

Re: Tennessee Gas Pipeline Company, L.L.C., Docket No. PF14-22-000

Open House Delays

Dear Ms. Bose:

In the quote below from the letter addressed to you dated November 6th, Tennessee Gas Pipeline Company, L.L.C. stated the following as reason for public Open House delays.

"As part of the pre-filing process, Tennessee scheduled dates and locations for twelve open houses to be conducted in November and December 2014 (with the first open house to be held on November 12, 2014) for the portion of the Project located between Wright, New York and Dracut, Massachusetts. A list of the open house dates and locations was filed with the Commission on October 21, 2014. This information was also included in the notification letters that were sent to affected landowners and governmental officials. In order to provide affected stakeholders with adequate time to review the draft

resource reports that Tennessee filed on November 5, 2014, Tennessee is postponing the open houses that had been scheduled for November and December 2014. This postponement is consistent with letters that Tennessee received from Representative Jim McGovern and Representative Niki Tsongas requesting a delay in the proposed outreach schedule in order to provide affected landowners and communities the necessary time to review the draft Resource Reports 1 and 10 submitted on November 5, 2014. Tennessee will work with the Commission Staff to establish revised dates and locations for the postponed open houses for the portion of the Project located between Wright, New York and Dracut, Massachusetts and provide notification of those rescheduled open houses to affected stakeholders.”

The following quote from Kinder Morgan’s Allen Fore was published in the NH Union Leader on Saturday November 22nd.

“We plan on or around Dec. 8 to file an amended resource report that will identify the New Hampshire power line corridor as our primary route,” said Allen Fore, vice president of public affairs for Kinder Morgan. “The early analysis from the available data and aerial surveillance is this looks like a very viable and preferable route for us. That’s why we are moving towards a formal reference to this plan when we amend our report in December.”

<http://www.unionleader.com/apps/pbcs.dll/article?AID=/20141123/NEWS05/141129641&source=RSS>

We request that the FERC fully investigate the original delay and determine if the purpose was indeed to offer more time for original stakeholders to review Report 1 and Report 10. If the primary reasons for the delay were to allow Tennessee Gas Pipeline to perform further analysis, notify new stakeholders and propose a different preferred route through a completely different state, then Tennessee has deceived the public through a filing to the FERC. Nowhere in their letter to the FERC does Tennessee mention the public was put on hold for additional analysis. Nowhere in the letter does Tennessee mention needing time to notify additional stakeholders. Nowhere in the letter does it mention Tennessee’s intention to change the preferred route.

If the reasons for the Open House delays stated in this letter are not genuine then it would represent a dishonorable practice. This deceitful behavior should be further scrutinized when the company involved intends to apply for a Certificate of Public Necessity to take often the most valuable assets of stakeholders through eminent domain. We hope you will address our concerns and fully investigate the authenticity of the Open House delay.

Sincerely,

Rob & Lynn Chesebrough

20160503-5157

Julia V Stockwell, Townsend, MA.

To the FERC Commissioners,

Nick Miller of Groton, MA and Kathryn R. Eiseman of PLAN, a MA non-profit stated the issue most eloquently, there is no need to continue with the NED application until May 26th. We all have all been through enough and it has cost us both monetarily and time-wise to kill this unnecessary and unwanted project. It is time to buried it once and for all. Tennessee Gas and Kinder-Morgan have stated they do not have the commitment for the gas. There is no way they will have any more commitments within the next couple of weeks. So why delay the inevitable, terminate this application, be a responsible Federal agency.

Julia Stockwell, affected land owner - Townsend, MA

20160504-5000

Carol M DiPirro, Merrimack, NH.

May 3, 2016

Kimberly D. Bose, Secretary

Federal Energy Regulatory Commission

888 First Street, NE

Room 1A

Washington, DC 20426

Re: Tennessee Gas Pipeline Company, L.L.C., Docket No. CP16-21-000

Northeast Energy Direct Project

Dear Ms. Bose:

I am writing in support of the call for FERC to immediately deny and dismiss the Kinder Morgan/TGP application for a license of public convenience and necessity for the Northeast Energy Direct (NED) natural gas pipeline project. There is nothing about publicly convenient about this project

Throughout the FERC Scoping process for NED, concerned citizens and their representatives filed record numbers of comments and stood at the podium during Scoping Hearings to proclaim, "There is no need for NED", that NED did not have enough customers to prove need and that the risks outweighed the good. Meanwhile Kinder Morgan/Tennessee gas Pipeline Company spent years trying to mislead the public into believing there was an "energy crisis" based on just one winter. Concerned citizens about the air, water and land also stood strong in their belief that there was no need for NED with massive survey permission denials. Meanwhile FERC's own Eric Tomasi opened Scoping Hearings recommending that residents allow out of state land agents onto their private property. Kinder Morgan hired surveyors that trespassed illegally on land where access had been denied and there are records of calls at the Merrimack police department. On April 20th Kinder Morgan released a corporate spin for a realization that they couldn't convince customers that this supposed "energy crisis" was real enough to warrant financial risk. FERC should also concede that landowners were indeed correct and there was no reason to allow trespass on private property.

The NED application is still pending. KM/TGP requested a "suspension" but in over a week there has not been response from FERC as to whether the suspension was accepted, granted, or rejected. This is certainly not the first delay requested by KM/TGP for the NED project. Please terminate this "suspended" application. They have 7 alternate routes in Merrimack, NH alone and never got all the land owners names right. On November 6th, 2014 KM/TGP delayed scheduled Open Houses supposedly "to provide affected landowners and communities the necessary time to review Draft Resource Reports 1 and 10 submitted on November 5th." Just days later on Saturday November 22nd Kinder Morgan's vice president of public affairs Allen Fore stated, "An amended resource report will identify the New Hampshire power line corridor as our primary route" and shifted the NED pipeline route to a completely different state. Clearly the purpose of the delay was not to allow landowners time to review obsolete Draft Resource Reports therefore FERC should scrutinize the use of a "suspension" in the NED application process.

20160504-5006

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

In the Matter of) Docket No. CP16-21-000
Tennessee Gas Pipeline Company, L.L.C.)
Northeast Energy Direct Project)

MOTION TO DISMISS
OF THE NEW HAMPSHIRE MUNICIPAL PIPELINE COALITION

I. INTRODUCTION

The New Hampshire Municipal Pipeline Coalition ("Coalition") hereby moves to dismiss the Tennessee Gas Pipeline Company, L.L.C.'s ("TGP" or "Company") application for a certificate under Section 7 of the Natural Gas Act for the Northeast Energy Direct pipeline project ("NED Project") filed on November 20,

2015 (the “Application”).[1] The Coalition’s motion to dismiss is filed pursuant to Rules 211 and 212 of the Federal Energy Regulatory Commission (“Commission” or “FERC”) Rules of Practice and Procedure (18 C.F.R. §§ 385.211, 385.212). On January 15, 2016, the Coalition timely filed its motion to intervene and protest (“Motion”) with the Commission in this proceeding without objection, and, accordingly, the Coalition is a full party to this proceeding.

On April 20, 2016, TGP and its parent company, Kinder Morgan, Inc., announced the suspension of all work and expenditures on the NED Project. Among other things, TGP cited the lack of contractual commitments and uncertainty surrounding state regulatory approvals, concluding that further action was unacceptable to shareholders.

In its Application, and as a significant element in support of its request for approval of the NED Project, TGP alleged that it had contractual commitments for the Market Path and the Supply Path segments of the NED Project from “key New England [local distribution companies] and other market participants.” Application at 6. Specifically, the Company referenced its executed precedent agreements with Massachusetts and New Hampshire local gas distribution companies (“LDCs”), i.e., Boston Gas Company, Bay State Gas Company d/b/a Columbia Gas (“Columbia Gas”), The Berkshire Gas Company (“Berkshire”), and Energy-North/dba Liberty Utilities (“Liberty”) in the amount of 417,262 dekatherms per day (“Dth/day”) in the Market Path portion of the NED Project.[2] Similarly, the Company referenced its contracted commitments with Columbia Gas and Berkshire for 89,650 Dth/day of capacity for the Supply Path segment of the NED Project.[3] Moreover, in its respective state filings, the Company highlighted its precedent agreements with Liberty for 78,000 Dth/day of capacity for Supply Path[4], and with Massachusetts Electric Company and Nantucket Electric Company, (together “National Grid”), in an amount up to 100,302 Dth/day for capacity on the Market Path and 60,900 Dth/day for capacity on Supply Path. These contracts form the legal and factual foundation of this filing under well-established precedent.[5]

Notwithstanding its Application, TGP has now terminated the NED Project. As discussed more fully below, as part of its announced suspension, TGP delivered a notice to each LDC and National Grid (“Notice”) exercising its right to terminate the respective precedent agreements with each distribution company. In this Notice, TGP notified the distribution companies that it was “suspending further work on the NED Project, pending contractually-required discussions pursuant to Section 12(b) and 12(e) of the NED [precedent agreements], to determine if an alternative arrangement can be developed.” See Massachusetts Electric Company and Nantucket Electric Company d/b/a National Grid, Motion to Withdraw Petition, D.P.U. 16-07 (April 26, 2016).[6]

In response to the Notice, two major distribution companies have already withdrawn their applications in state regulatory proceedings for approval of NED contracts—signaling that any negotiations with TGP were over and that the precedent agreements had been terminated. See Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities, DG 15-494 (May 2, 2016) (Liberty withdrew its application with the New Hampshire Public Utilities Commission (“NH PUC”) for approval of the Supply Path portion of the NED Project);[7] See also Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities, DG 15-380 (May 2, 2016) (Liberty notified the NH PUC that the Market Path Precedent Agreement in DG 14-380 had been terminated “given that [TGP] will not be pursuing the Northeast Energy Direct Project”);[8] See also National Grid, D.P.U. 16-07 (April 26, 2016) (National Grid withdrew its application with the Massachusetts Department of Public Utilities (“MA DPU”) for approval of both Market Path and Supply Path).[9]

Others have filed motions, which have been granted, to stay ongoing state regulatory proceedings for approval of the NED Project precedent agreements pending negotiations. These distribution companies explained however, that although Section 12(e) of the NED precedent agreements required them to commence “good faith negotiations” with TGP, that the likely outcome would be a subsequent filing from the distribution companies withdrawing their petitions. See Bay State Gas Company d/b/a Columbia Gas of Massachusetts, Hearing Officer Ruling on Request to Stay, D.P.U. 16-12 (April 22, 2016) (The MA DPU suspended the procedural schedule until May 21, 2016);[10] See The Berkshire Gas Company, LLC, Hearing Officer Ruling on Request to Stay, D.P.U. 15-178 (April 26, 2016) (The MA DPU suspended the procedural sched-

ule until May 21, 2016);[11] See Tennessee Gas Pipeline Company, L.L.C., Hearing Officer Ruling on Motion for Stay of Proceedings, D.P.U. 16-01/16-02/16-03 (April 21, 2016) (Proceedings were stayed until May 26, 2016 and all current procedural deadlines were terminated until further notice).[12]

In short, TGP has irrevocably terminated the underlying contractual commitments that provide the fundamental legal basis for this proposal and the required legal contractual prerequisite for the Commission's approval. Under these circumstances, and as a matter of law for the reasons set forth below, the Company's Application should be dismissed and this docket closed and terminated with prejudice.

II. THERE IS NO LEGAL BASIS FOR THE COMMISSION TO APPROVE THIS APPLICATION.

TGP's failure to maintain contractual commitments for NED warrants immediate dismissal of the Application. Under long standing precedents, the Commission indisputably considers these contracts an essential component of its determination of the viability of a project[13] and views service commitments for new capacity as "important evidence of demand for a project".[14] Executed contracts are fundamental to the Commission's review: when "an applicant has entered into contracts or precedent agreements for the proposed capacity," this is taken as "significant evidence of demand for the project." [15] It is axiomatic that the Notice to the LDCs and the demonstrated lack of sufficient contractual commitments obviates the need for the NED Project, and accordingly, the Commission should not continue to devote additional time and resources to its review process.

TGP cannot offer a rational explanation as to how, given its Notice, and the absence of capacity contracts necessary for even the minimum facility design, further review of the NED Project in this proceeding would be warranted. In its submittal to FERC requesting that "FERC not take any further action," it unequivocally states: "as a result of inadequate capacity commitments from prospective customers and a determination that the [NED] Project is uneconomic, [the Company is suspending] further work and expenditures on the [NED] Project. At this time, Tennessee is in the process of determining how best to proceed consistent with existing contracts." See TGP Letter to FERC (April 22, 2016) (emphasis added).

Notwithstanding this unsupported claim about moving forward with existing contracts, there are no existing contracts to consider—at least from a FERC regulatory perspective. TGP has effectively terminated the NED Project and associated contracts, key utility counterparties have accepted the termination, and state regulators have stayed proceedings expecting withdrawal, all thereby precluding any valid basis for further review. On its face, and as a matter of law, in the absence of valid contracts for capacity, there is no demonstrated need for the project—at best, TGP has only provided vague and generalized assertions of speculative need based upon a future "process." See e.g., Turtle Bayou Gas Storage Co., LLC, 135 FERC ¶ 61,223 (2011) (which found the applicant did not demonstrate need where it did not have precedent agreements and provided only vague and generalized evidence of need). Moreover, to what extent TGP would be able to secure additional contractual commitments, if any, remains purely speculative at this stage. Simply put, in this Application, there is no longer a "project" or contracts to be reviewed, and the Commission should dismiss the Application forthwith.[16]

III. THE COMPANY'S REQUEST FOR THE COMMISSION TO NOT TAKE ANY ACTION CREATES UNNECESSARY TAXPAYER EXPENSE TO THE TOWNS.

In its Motion, the Coalition noted its concerns about the unnecessary damage the NED Project would create if approved and constructed. The construction, operation and maintenance of the NED Project would, among other things, damage water resources and aquifers, create unwarranted health and safety problems, and damage property values. Moreover, the damage to communities from the construction and operation of compressor stations is even greater, with threats of significant air and noise pollution and additional health risks. See Motion at 12-18.

Towns are charged, as municipal corporations and governmental entities, to protect, in coordination with state officials, the public health and safety, including, public and private drinking water supplies in the region, air quality, and water resources. The Towns are required to enforce all applicable state and local

provisions relating to construction and operation of the NED Project, and ensure that TGP complies with all health, safety and environmental requirements.

Given their responsibilities to protect the health and welfare of their citizens, the Towns have had to allocate and expend funds to evaluate the prospective impacts of the NED Project and ensure that TGP will proceed in compliance with local ordinances and with New Hampshire laws.[17] Specifically, the Towns have had to evaluate, among other things, the NED Project's expected adverse impacts on drinking water supplies, conservation lands (including mitigation), protected areas, air quality, sensitive receptors from sound, and emergency resources. The Towns have actively participated in this regulatory proceeding and related dockets at FERC, in state proceedings evaluating precedent agreement filings, and in New Hampshire Siting Evaluation Commission proceedings. The Towns have had to appropriate funds and engage, at taxpayer expense, experts, legal counsel, and consultants to undertake the evaluations and advocacy necessary to protect their interests and the health and safety of their communities. See Motion at 2.[18]

The Towns are unfairly compelled to continue to expend taxpayer funds while this project remains in suspended animation (as noted above) and TGP seeks to preserve shareholder dollars. By necessity, and until FERC terminates this proceeding, the Towns must engage in vigilant watchfulness and continue to fund consultant contracts, undertake seasonal resource assessments (evaluation of vernal pools and other sensitive areas, for example) and appropriate and allocate funds necessary to protect their interests and safeguard their communities from NED Project implications. The Towns are obligated to sustain these important and necessary activities until FERC denies the Application. The Coalition should be able to focus (and budget appropriately) on matters of concern to its residents that do not involve this ill-advised, ill-conceived and unnecessary gas infrastructure project.

Accordingly, TGP's request that FERC "not take any further action in processing the Application, pending Tennessee submitting a status report to the Commission no later than May 26, 2016" should be rejected and the Application should be dismissed immediately. TGP's unprecedented request is not supported by law and places an undue financial obligation on Towns (and taxpayers) in the continued expenditure of time, resources and funds related to the review and evaluation of a project that TGP concedes is no longer needed or viable.

IV. CONCLUSION

For the reasons stated above, the Application should be dismissed forthwith.

Footnotes:

- 1 The Coalition consists of thirteen towns in New Hampshire: Brookline, Fitzwilliam, Greenville, Litchfield, Mason, Milford, New Ipswich, Pelham, Richmond, Rindge, Temple, Troy and Winchester (collectively, the "Towns").
- 2 See Exhibit I, Precedent Agreements at: http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20151120-5227
- 3 *Id.*
- 4 See Massachusetts Electric Company and Nantucket Electric Company d/b/a National Grid, Exhibit NG-TJB/JEA-1, D.P.U. 16-07 at 19 (January 15, 2016).
- 5 The Coalition does not concede as noted in its Motion that these contracts demonstrate any need for the NED Project. See fn 10, *infra*.
- 6 See http://web1.env.state.ma.us/DPU/FileRoomAPI/api/Attachments/Get/?path=16-07%2fGranted_Motion_Withdraw_42716.pdf
- 7 Link presently unavailable.
- 8 Link presently unavailable.
- 9 See http://web1.env.state.ma.us/DPU/FileRoomAPI/api/Attachments/Get/?path=16-07%2fGranted_Motion_Withdraw_42716.pdf
- 10 See http://web1.env.state.ma.us/DPU/FileRoomAPI/api/Attachments/Get/?path=16-12%2fHO_Ruling_42216.pdf

- 11 See http://web1.env.state.ma.us/DPU/FileRoomAPI/api/Attachments/Get/?path=15-178%2fHO_Ruling_42616.pdf
- 12 See <http://web1.env.state.ma.us/DPU/FileRoomAPI/api/Attachments/Get/?path=16-03%2fRulingonTNrequest-forstay.pdf>
- 13 “The contractual commitments by the foundation shippers to purchase capacity on the new projects provide essential support for the sponsor to proceed with the project. *For example, these contractual commitments help the project sponsor to obtain financing for the construction of the project, and may reduce the cost of that financing by reducing the perceived risk of the investment in the new facilities...An essential component of the Commission’s certificate policy has been to provide both the project sponsor and project participants the opportunity to obtain greater certainty concerning the rate that the participants will pay, so that all parties can make an informed decision as to whether to go forward.* See Revisions to the Blanket Certificate Regulations and Clarification Regarding Rates, 115 FERC ¶61,338 at P 98 (2006) (emphasis added).
- 14 See Certification of New Interstate Natural Gas Pipeline Facilities (Policy Statement on New Facilities), 88 FERC ¶ 61,227 at 61,748 (1999).
- 15 Id.
- 16 In its Motion, the Coalition requested, among other things, that the Commission dismiss the application because of a lack of need for the project as evidenced by “the meager market response of the Project Shippers (“Shippers”) to the Applicant’s proposal” and the availability of “alternatives for the project.” See Motion at 8. The Coalition further noted that “overall, actual new, non-replacement, state-approved capacity contracted for by Shipper Liberty and other LDCs is only 264,302 Dth/day, a totally insignificant level of demonstrated need on a 1.3 Bcf/d pipeline.” See Motion at 8, ft. 9. The Coalition was well aware, even if TGP/Kinder Morgan was not, that the NED Project was not necessary in New Hampshire or required to serve any regional need. The termination of the NED Project as discussed in Section II above has long been warranted and serves the public interest. 7
- 17 This was a particularly challenging task given the significant informational gaps in TGP’s Application. Motion at 14. 8
- 18 The Towns remain confident that their experts would demonstrate that the NED Project is not needed, that viable and less impactful alternatives are available, and that the significant health and environmental impacts associated with the NED Project outweigh any alleged benefits. The Coalition had respectfully requested a formal hearing on the Application, including the environmental impacts of and public need for the NED Project pursuant to 18 C.F.R. § 157.10(a)(1).

**NEW HAMPSHIRE MUNICIPAL
PIPELINE COALITION**

By its attorneys,
Richard A. Kanoff, Esq.
Saqib Hossain, Esq.
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125 Summer Street
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shossain@burnslev.com

Dated: May 3, 2016

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

In the Matter of)	Docket No. CP16-21-000
Tennessee Gas Pipeline Company, L.L.C.)	
Northeast Energy Direct Project)	

CERTIFICATE OF SERVICE

I hereby certify that on this day I have caused to be served electronically a copy of the foregoing document on all parties listed on the official service list compiled by the Federal Energy Regulatory Commission for this proceeding.

NEW HAMPSHIRE MUNICIPAL PIPELINE COALITION

By its attorney,

Richard A. Kanoff, Esq.
Burns & Levinson LLP
125 Summer Street
Boston, MA 02110
Telephone: (617) 345-3210
rkanoff@burnslev.com

Dated: May 3, 2016

20160504-5073

Marilyn Learner, Hollis, NH.

I am writing to affirm and repeat the calls to dismiss and deny with prejudice Kinder Morgan's NED pipeline proposal. The project is not and was never viable and it is time for FERC to terminate this Docket.

Kinder Morgan claimed that NED was needed, necessary and met basic criteria for a Certificate of Public Necessity and Convenience. NED is not and never was needed, and has failed to meet the criteria required for approval.

Kinder Morgan has co-opted, manipulated, and abused the pre-filing and approval process for approximately two+ years and throughout the pre-filing and approval process Kinder Morgan has failed to meet even lenient interpretations of FERC guidelines and requirements.

Kinder Morgan's credibility as a "good corporate partner" was always questionable: they introduced NED as a "federal" project; they manipulated the FERC timeline, then used a "file, then switch the route" tactic; they bullied landowners and spoke partial truths and mis-truths to impacted town leadership and landowners; they championed and advertised the existence of a manufactured energy "crisis;" they repeatedly submitted woefully incomplete and inaccurate information; and they failed to procure the customer contracts they claimed would readily materialize. Bottom line, Kinder Morgan failed to sell the project because the project was a bad idea, and no amount of hype, marketing or bullying could make it a good idea.

Kinder Morgan has asked for a "suspended" application process while they regroup and determine next steps. Suspension is not part of the approval process unless KM is, again, allowed to circumnavigate the rules. Enough is enough! The impacted public deserves the courtesy of a timely, unambiguous, final decision on NED as currently submitted.

NED should not go forward in any configuration. NED is dead, never to be resurrected; Docket CP16-21-000 warrants a death certificate. FERC must dismiss and deny with prejudice.

The public is watching and waiting....

20160504-5074

Andrew P Davis, Stephentown, NY.

To: Federal Energy Regulatory Commission

From: Andrew P Davis, Intervenor

Re: Application for "Suspension"

I oppose the application by KinderMorgan to "suspend" its application under the above docket number as

requested in letters dated April 22 and 26. Having used the resources of the Commission for months, KM now seeks a respite from its own labors until either (1) the market changes in its favor or (2) its own finances recover so that it is able to finance the project.

While KM has been testing the waters, there has been a tremendous outpouring of opposition from municipalities, landowners and the public. The intervenors have spent tens of thousands of dollars in investigating the issues raised by KM and retaining legal and scientific experts. These expenses were incurred solely because KM filed an application that was not grounded on any factual necessity. Indeed, by KM's own testimony, it couldn't sell the idea of its grandiose pipeline to the users along its path but chose to file its petition before it had evidence that it was necessary.

So I ask the commission to deny KM's application for a "suspension" of its petition, as it has not shown that at the time its petition was filed it had a reasonable belief that the project was economically viable. The original petition should be dismissed and denied, with the costs of the Commission to be reimbursed.

In any event, KM should be required to reimburse the out-of-pocket expenses of each and every intervenor, including the time and expenses of each municipality forced to review KM's aborted petition.

Respectfully submitted,

Andrew P Davis
Intervenor

20160506-0010

TOWN OF PELHAM
Office of the Selectmen
6 Village Green Pelham, NH 03076

Tel: (603) 635-8233
Fxx: (603) 635-8274
Email: selectmenpelhamweb.com

April 29, 2016

Federal Energy Regulatory Commission
Att. Norman C. Bay
888 First Street, NE
Washington, D.C. 20426

RE: Northeast Energy Direct
Tennessee Gas Pipeline Company, LLC
Northeast Energy Direct Project
FERC Docket No. CP16-21-000 (Previously No. PF14-22-000)

Dear Mr. Bay,

We learned on April 21, 2016 that Kinder Morgan, Inc. and its subsidiary, Tennessee Gas Pipeline Company, LLC "...have suspended further work and expenditures on the Northeast Energy Direct pipeline project..." the application which is pending before your Commission. Late in the day on April 22, 2016, the applicant furnished our Town with a copy of its correspondence to your Commission by which it requested that FERC stand still on the application until May 26, 2016.

The Town of Pelham is at a point in time when it must either commit substantial sums of money to the proceeding pending before your commission or if this application is to be closed, then to redirect those funds to other beneficial uses for our citizens. Your Commission has repeatedly requested additional material and information from the applicant, without receiving any meaningful response. Although we have no objection to the requested month delay in further action, our Town must insist and hereby moves that if nothing meaningful to the furtherance of the pending application is filed by Kinder Morgan, Inc. and/or Tennessee Gas Pipeline Company, LLC on May 26, 2016, that FERC dismiss the application with prejudice at the end

of business on that date.

Thank you for your time and consideration.

Respectfully Submitted,

Brian McCarthy/Town Administrator

CC: Pelham Board of Selectmen

20160506-0034

TOWN OF
TEMPLE, NEW HAMPSHIRE
03084
OFFICE OF THE SELECTMEN

May 3, 2016

Mr. Norman C. Bay, Chairman

Federal Energy Regulatory Commission

888 First St. NE

Washington, D.C. 20426

Re: Tennessee Gas Pipeline Company, LLC

Docket No. CP 16-21-000

Northeast Energy Direct Project

Dear Chairman Bay:

We are the Selectmen of the Town of Temple NH and represent the citizens of our Town.

Kinder Morgan/Tennessee Gas pipeline (KM/TGP) gave notice of intent to pursue the Northeast Energy Direct (NED) pipeline on September 14, 2014. Additionally, on November 20, 2015 KM/TGP filed a certificate application (application) in the above referenced docket with the Federal Energy Regulatory Commission (FERC). That application remains open and pending before FERC.

The Town of Temple has timely moved to intervene in this proceeding and because no objection to Temple's intervention was lodged, the Town is a full party to this proceeding.

We were notified by KM/TGP on April 20, 2016 that due to "inadequate capacity commitments from prospective customers and a determination that the project is uneconomic" that "the company would suspend further work and expenditures on the project."* KM/TGP further requested on April 22, 2016 "that the Commission not take further action in processing the application pending Tennessee submitting a status report to the Commission no later than May 26, 2016."

FERC should understand that the Town of Temple, like many towns impacted by this application, has expended substantial sums in staff time, legal representation and expert advice to fully understand the impact of this project on our community, particularly the health and safety of our residents. Because the "suspension" of this project is only temporary, we are required to continue to expend Town funds for these purposes.

Rather than place the Town in a position where we must continue to expend funds, we request that FERC dismiss this application with prejudice immediately. Both KM/TGP and FERC have discontinued work on this project but the affected towns are put in a position where the discontinuance of our work would place our citizens at risk.

We also suggest that FERC review its pre-filing and application processes. Not requiring proof of need in advance and accepting grossly incomplete pre-filing and application documentation is not prudent. It is unacceptable that FERC has been given grossly incomplete responses to its own questions.

By copy of this letter to the NH Attorney General, we are requesting a thorough review of the KM/TGP application process to date to determine if restitution is due NH towns for the costs incurred relative to this docket.

Sincerely,

George Willard, Chairman

Ken Caisse, Selectman

Gail Cromwell, Selectman

c.c. Attorney General Joseph Foster

Governor Maggie Hassan

Senator Kelly Ayotte

Senator Jeanne Shaheen

Representative Frank Guinta

Representative Ann Kuster

20160506-5050

S.A. Matthews, New Ipswich, NH.

Dear Sirs,

Please accept this comment on the shameful way in which Kinder Morgan and their subsidiary, Tennessee Gas, continue to obfuscate on their application to FERC for the NED project.

Yet again they introduce delay and indecision into the process by prevaricating over whether (or how) to proceed.

Please tell them that the system is not there for them to play with but to adhere to. They have caused huge amounts of stress to the people in the path of their proposed pipeline. I would ask that FERC says “enough” and issues a decision to terminate the application immediately so that the “victims” of KM and TGP’s vague and casual approach can be given some peace and closure.

Regards

S.A. Matthews

20160506-5077

Lisa D Oden, New Ipswich, NH.

Please dismiss and deny the Northeast Energy Direct Application filed by Tennessee Gas Pipeline, LLC (TGP) immediately, and with prejudice, and terminate all proceedings in this case. Please do not wait until they kindly update you on May 26, 2016.

TGP has stated that this pipeline WAS going to happen no matter what. The said there was NEED for this pipeline. Subsequently, over the time of this application, the public, including towns, and thousands of land-owners, conservation commissions, advocacy groups, environmental groups, and more, have spent countless hours, days, and resources, including hundreds of thousands of dollars, and time they will never get back, to protect themselves against this ill-conceived and unnecessary project. That includes FERC who is spending the public’s money on scoping and preparing EIS.

Isn’t one of FERC’s responsibilities to prove need? Why is this step not done before all of the above. This process needs revamping at the very least. TGP should be made to pay restitution for this inconceivable waste of time and resources.

Throughout this application, information has been incomplete with unbelievable numbers of TBD’s, unanswered timely requests for information, etc. The company has NOT been transparent and they have obscured information and overblown the benefits to NH. This begs the question: What right does this company have to put our lives on hold another month? We are in the precarious dilemma of whether to continue to spend money on timely environmental assessments for our own protection. Some of these assessments may not be possible for another year if we wait until May 26th, such as identifying vernal pools.

TGP has given notice to its contracted customers that their contracts

are being terminated. One of those customers, National Grid, removed its petition for DPU approval in Massachusetts. Please DENY THIS APPLICATION WITH PREJUDICE NOW, this very day, before one more unnecessary dollar or hour is spent.

If in the future TGP feels there is need for such a project, then they can submit a new application. Would any one intervenor to this docket be allowed a request that the application be put on hold for one month? If not, please do not allow TGP an unequal advantage that would not be given to anyone else. And please, in the case of any new application, ask that they prove need FIRST.

20160509-0020

{same as 20160210-0011 (STOP THE NED PIPELINE! Protect NH land from Eminent Domain!), signed by:}
Julia Steed Mawson 17 South Shore Dr Pelham, NH 03076

20160509-5011

karen guadagni, new ipswich, NH.

This Application needs to be denied / dismissed with prejudice.

Kinder Morgan could not prove “need” with customer contracts, the project isn’t viable, NED approval must be denied, and the docket must be killed. ASAP!

DO YOUR JOB !

20160509-5057

Richard M. Husband
10 Mallard Court
Litchfield, NH 03052

May 9, 2016

Norman Bay, Chairman
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426:

**RE: Federal Energy Regulatory Commission Docket No. CP16-21
Northeast Energy Direct (“NED”) pipeline project application**

Dear Chairman Bay:

I am a resident of Litchfield, New Hampshire, one of the numerous New Hampshire towns which would be seriously and irreparably damaged by the above-referenced proceeding pending before the Federal Regulatory Energy Commission (“FERC”). As described in the motion to intervene filed by the NH Municipal Pipeline Coalition representing more than a dozen of these towns, including my own:

“... Damage to water resources is inevitable from pipeline construction, resulting largely from stream crossings and construction in sensitive areas near aquifers. Moreover, many of the homes and businesses along the route have private wells and septic systems that require protection from construction activities. The NED pipeline will cut through numerous water bodies, wetlands and aquifers along its route across New Hampshire and potentially compromise, among other areas, the following:

- Souhegan River, which it will cross six times
- Brooks and streams (22 in 15 towns)
- Aquifers (13)
- Ponds/lakes (11, largest, Scott Pond, is 134 acres)
- Wetlands (over 27, numerous vernal pools)

- Municipal water systems ...
- Private wells ...
- Numerous watersheds, including the headwaters of Tully Brook, East Asheulot, Miller [sic] River, and Middle Connecticut

Among many foreseeable impacts, blasting, horizontal drilling and other construction operations would impact many of these water resources ... Of particular concern is the hydrogeology of the region, where a massive underground pipeline corridor could serve as a conduit for groundwater contamination between aquifers, river basins and other water resources that would otherwise be isolated from one another ... “

Although the above is a good summary of some of the devastation that would be caused by the NED project in New Hampshire alone, numerous other harms could be cited, with two horrific examples immediately coming to mind: (1) a compressor station is planned under the project for New Ipswich, which would result in the emission of carcinogens, air toxins and other pollutants damaging the regional airshed, and cause health problems such as headaches, nosebleeds, nausea, asthma and rashes for citizens living up to a mile or more away; and (2) the entire Town of Greenville’s water supply would be placed at risk by NED, as it would be exposed to contaminants from the compressor station, to be sited on land which drains generally into Greenville’s reservoir, only one-half mile away.

The project would cause the same damage throughout every impacted state in the Northeast.

NED has gone on long enough. The project has been suspended for more than three weeks; please terminate the FERC proceedings immediately, denying and dismissing the underlying application with prejudice in a way such that New Hampshire and the region never has to see the project, or any variation thereof, again.

Thank you for your time and courtesy in this matter.

Sincerely,

Richard M. Husband

20160509-5064

karen miller, new ipswich, NH.

NED/Tennessee Gas Pipeline, Docket # CP 16-21-000 approval must be dismissed and denied with prejudice! Suspension is not a option as Kinder Morgan could not prove “NEED” with customer contracts. The project is not viable! DO NOT RESUSCITATE, NED!

20160510-0010

United States Senate
Washington, DC 20510

KELLY A. AYOTTE
NEW HAMPSHIRE

May 6, 2016

The Honorable Norman C. Bay
Chairman
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

Dear Chairman Bay:

I write to call for prompt and full consideration of the New Hampshire Municipal Pipeline Coalition’s Motion to Dismiss the Tennessee Gas Pipeline Company, L.L.C.’s (TGP) application for a certificate for its proposed Northeast Energy Direct (NED) pipeline project.

The New Hampshire Municipal Pipeline Coalition contends that the required legal contractual commitments

for pipeline capacity no longer exist as a result of actions taken by TGP and several local distribution companies. Furthermore, the Municipal Coalition makes a compelling argument that their taxpayers will continue to suffer harm for as long as the NED project remains in suspense.

I urge the Commission to promptly address the Municipal Coalition's Motion to Dismiss. As I have written in the past, I am troubled that the Commission's process has failed to answer and address the comments and questions of all local residents and our congressional delegation in a detailed, transparent, and timely manner. This failure has compelled these Municipalities to expend valuable local tax dollars to employ experts, legal counsel, and engage in evidence collection. Because they had not received confirmation that the Commission's process would protect their health, safety, and other local interests, they were obligated to do so.

I look forward to your prompt response.

Sincerely,
Kelly A. Ayotte
U.S. Senator

20160510-0011

**Congress of the United States
House of Representatives**

ANN MCLANE KUSTER
2nd District, New Hampshire

May 9, 2016

Norman C. Bay
Chairman, Federal Energy Regulatory Commission
888\$ First Street NE
Washington, DC 20426

RE: FERC Docket No. PF14-22-000

Dear Chairman Bay:

I write to request that the Federal Energy Regulatory Commission (FERC) dismiss and deny the Tennessee Gas Pipeline Company, L.L.C.'s ("TGPM) application for a certificate under Section 7 of the Natural Gas Act for the Northeast Energy Direct pipeline project (MNEDM) filed on November 20, 2015.

Kinder Morgan, Inc., the parent company of TGP, informed investors and the public on April 20, 2016 of the "suspension of all work and expenditures" on the NED project. Kinder Morgan's announcement of indefinite suspension of the NED project was based on, among other things, the lack of contractual commitments and uncertainty surrounding state regulatory approvals. TGP's request for approval hinged on a significant contractual commitment for the Market Path and the Supply path segments of the NED project from New England states and other market participants.

Upon Kinder Morgan's suspension announcement for the NED project, local distribution companies, such as National Grid and Liberty Utilities, have withdrawn their application in state regulatory proceedings for approval of NED contracts. The termination of contractual obligations to TGP by local distribution companies has withered the legal basis for the continuation of the NED project, and demonstrates that the project is not needed,

Since the inception of the proposed NED pipeline, many constituents and small towns in my district have committed significant financial resources and time towards this proceeding that is before FERC. While Kinder Morgan has deemed the NED pipeline uneconomic and requested that FERC not take any further action in processing the application, local municipalities in my district are at a point where they must decide if additional financial resources are needed for legal representation during the proceeding. By dismissing the application with prejudice, FERC can provide these small municipalities with closure and certitude that will allow them to direct funding towards projects that will truly benefit their communities.

Carol Jameson, Selectman
Kathryn McWhirk, Selectman
Christin Daugherty, Selectman

Cc: Governor Maggie Hassan
Senator Kelly Ayotte
Senator Jeanne Shaheen
Congresswoman Ann McLane Kuster
Congressman Frank Guinta
Representative Benjamin Tilton
Representative James McConnell

20160510-0056

A Family Action Petition: opposing NED; the Miller Family, 161 Ashburnham Rd, New Ipswich, NH 03071 (PF14-22)

20160510-0057

A Family Action Petition: opposing NED; the Duffer Family, 49 James Farm Rd, Lee, NH 03861 (PF14-22)

20160510-5123

Louise A. Delehanty, Pelham, NH.
Federal Energy Regulatory Commission
Washington, D.C..

RE: Northeast Energy Direct
Tennessee Gas Pipeline Company, LLC

Dear Chairman Norman C. Bay,

I would like to present a few questions to the FERC.

Are American citizens criminally penalized for not paying taxes owed to the United States Internal Revenue System by the April 15 deadline each year? YES

Can American citizens deceive their government by choosing which information they will provide or ignore when filling applications to register or operate vehicles? NO

Does the United States government permit "To Be Determined" as an answer when applying for a Passport? NO

Now, I would like to turn our attention to Tennessee Gas Pipeline Company, L.L.C. and the NED project. Does Tennessee have a special pass on filing requests with the FERC in a timely manner?

Is all the information requested by the FERC, including TBDs, due on the timeline set by the FERC?

Can Tennessee Gas decide how and when it will answer requests set forth by your governmental agency? I cannot answer these questions because only the FERC can provide the reasons as to why Tennessee Gas has been allowed to set their own rules and regulations.

Thank you.

Louise A. Delehanty

20160511-0014

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }
Charlotte Farddman 7 River Woods Drive P115 Exeter, NH 03833

20160511-0015

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }

Charlotte Farddman 7 River Woods Drive P115 Exeter, NH 03833

20160511-0016

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }

Brenda Sargent 19 Fitts Farm Dr Durham, NH 03824

0160511-0017

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }

Mary J. Tyler 5 Point of Rocks Terrace Stratham, NH 03885

0160511-0018

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }

Brenda Sargent 19 Fitts Farm Dr Durham, NH 03824

20160511-0019

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }

Brenda Sargent 19 Fitts Farm Dr Durham, NH 03824

20160511-0020

{same as 20160406-0024 (STOP the NED Pipeline! PROTECT OUR WATER!...), signed by:}

Brenda Sargent 19 Fitts Farm Dr Durham, NH 03824

20160511-0021

{same as 20160210-0011 (STOP THE NED PIPELINE! Protect NH land from Eminent Domain!), signed by:}

Charlotte Farddman 7 River Woods Drive P115 Exeter, NH 03833

20160511-0022

{same as 20160210-0011 (STOP THE NED PIPELINE! Protect NH land from Eminent Domain!), signed by:}

Hildamay Clements 6 Stoneybrook Lane Kingston, NH 03848

20160511-0023

{same as 20160210-0011 (STOP THE NED PIPELINE! Protect NH land from Eminent Domain!), signed by:}

Charlotte Farddman 7 River Woods Drive P115 Exeter, NH 03833

20160511-0024

{same as 20160210-0011 (STOP THE NED PIPELINE! Protect NH land from Eminent Domain!), signed by:}

Charlotte Farddman 7 River Woods Drive P115 Exeter, NH 03833

20160511-0025

{same as 20160210-0011 (STOP THE NED PIPELINE! Protect NH land from Eminent Domain!), signed by:}

Earle Tyler 5 Point of Rocks Terrace Stratham, NH 03885

20160511-0026

{same as 20160210-0011 (STOP THE NED PIPELINE! Protect NH land from Eminent Domain!), signed by:}

Charlotte Farddman 7 River Woods Drive P115 Exeter, NH 03833

Dear Ms. Watson:

Enclosed please find an invoice in the amount of \$30,151, which includes all direct expenses incurred by the Town of Brookline during 2015 and 2016 related to the proposed Northeast Energy Direct (NED) pipeline.

We appreciate that Kinder Morgan has come to realize the project's level of long-term contracts do not support the required investment by your shareholders. In a similar vein, we are not comfortable having our taxpayers bear the burden of Kinder Morgan's exploratory efforts to build a pipeline through our town.

In fairness, the costs of such a venture should be borne by the company in a position to financially benefit from the project - not us.

Sincerely,

Tad Putney
Town Administrator

Attachment

cc: Federal Energy Regulatory Commission via CP16-21

**TOWN OF
BROOKLINE, NEW HAMPSHIRE
SELECTBOARD**

P.O. BOX 360 - 1 Main Street
BROOKLINE, NH 03033-0360

Telephone (603) 673-8855, ext. 213

Fax (603) 673-8136

Selectboard@brookline.nh.us

http://www.brookline.nh.us

Invoice

May 11, 2016

Kinder Morgan East Region Natural Gas Pipelines

Kinder Morgan Building

1001 Louisiana Street

Houston, TX 77002

2015 and 2016 costs related to Northeast Energy Direct (NED) Pipeline:

• Environmental Study: \$15,500

• Legal: 14,651

Total Due: \$30,151

Make check payable to: Town of Brookline, PO Box 360, Brookline NH 03033

20160512-0006

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

May 11, 2016

OFFICE OF THE CHAIRMAN

The Honorable Ann McLane Kuster

U.S. House of Representatives

Washington, D.C. 20515

Dear Congresswoman Kuster:

Thank you for your April 1, 2016, letter regarding Tennessee Gas Pipeline Company, L.L.C.'s, proposed

Northeast Energy Direct Project (Docket No. CPI 6-21).

On April 22, 2016, Tennessee filed a letter requesting that the Commission not take any further action in processing its application until it files a status report no later than May 26, 2016. Tennessee states that it has suspended work and expenditures on the project as a result of inadequate capacity commitments from prospective customers and a determination that the project is uneconomical.

Commission staff is no longer processing the project application. If Commission staff determines it is appropriate to continue processing Tennessee's application, it will fully consider your concerns about public health impacts of air emissions from the proposed compressor stations.

If I can be of any further assistance in this or any other Commission matter, please let me know.

Sincerely,
Norman C. Bay
Chairman

20160512-0007

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

May 11, 2016

OFFICE OF THE CHAIRMAN

The Honorable Kelly A. Ayotte
United States Senate
Washington, D.C. 20510

Dear Senator Ayotte:

Thank you for your December 10, 2015, and February 11, 2016, letters regarding Tennessee Gas Pipeline Company, L.L.C.'s, proposed Northeast Energy Direct Project (Docket No. CP 16-21).

On April 22, 2016, Tennessee filed a letter requesting that the Commission not take any further action in processing its application until it files a status report no later than May 26, 2016. Tennessee states that it has suspended work and expenditures on the project as a result of inadequate capacity commitments from prospective customers and a determination that the project is uneconomical.

Commission staff is no longer processing the project application. If Commission staff determines it is appropriate to resume processing Tennessee's application following the forthcoming status report, we will fully consider your comments on public need and safety.

If I can be of any further assistance in this or any other Commission matter, please let me know.

Sincerely,
Norman C. Bay
Chairman

20160512-0008

TOWN OF MILFORD
TOWN ADMINISTRATION

Mr. Norman C. Bay, Chairman FERC
888 First Street, NE
Washington, DC 20426

April 29, 2016

RE: Tennessee Gas Pipeline Company, L.L.C.,
Docket No. CP 16-21-000 Northeast Energy Direct Project

Dear Mr. Bay

I write on behalf of the elected Board of Selectmen of the Town of Milford, NH and all residents of the Town of Milford, NH. Kinder Morgan Tennessee Gas Pipeline (KMTGP) gave notice of intent to pursue the Northeast Energy Direct Pipeline (NED) on September 14, 2014. Additionally, on November 20, 2015, KMTGP filled a certificate application (application) in the above referenced docket with the Federal Energy Commission (FERC). That application remains open and pending before FERC.

We were notified by KMTGP on April 22, 2016 that due to “inadequate capacity commitments from prospective customers and a determination that the project is uneconomic” that “the company would suspend further work and expenditures on the project.” KMTGP further requested “that the commission not take further action in processing the Application, pending Tennessee submitting a status report to the commission no later than May 26, 2016.”

FERC must know that the Town of Milford, like many other towns impacted by this application, has expended substantial funds in staff time, legal representation and expert testimony to study the application and to determine the proposed pipeline’s impact on our community. The “suspension” of work by KMTGP requires the Town of Milford to remain vigilant and potentially commit appropriated funds rather than redirect those funds to other programs for our citizens. While we respect the request for an additional month for KMTGP to submit a status report to FERC we must insist that if nothing substantive to the furtherance of the application is filed by KMTGP that FERC dismiss the application with prejudice by the end of business on May 26, 2016.

The Town of Milford, NH would like to go on record stating that FERC must review its pre-filing and application processes. With future applications, the case for need should be determined in a public hearing during the pre-filing process. Grossly incomplete pre-filings and applications, like this as submitted by KMTGP, should be rejected and dismissed upon receipt. Additionally, deadlines should be set and any applicant that is derelict in responding to FERC requests for additional information, as KMTGP was in this case, should have their filings and applications dismissed.

By copy of this letter, the Town of Milford, NH is requesting that the NH Attorney General investigate the details of this application and determine if restitution is due all NH Towns for costs incurred relative to the referenced Docket.

Sincerely,

Mark Bender
Town Administrator

cc: Governor Maggie Hassan
Senator Kelly Ayotte
Senator Jeanne Shaheen
Congressman Frank Guinta
Congresswoman Anne Kuster
Attorney General Joseph Foster
Milford Board of Selectmen:
Mark Fougere, Chairman
Kevin Federico, Vice Chairman
Kathy Bauer, Selectman
Gary Daniels, Selectman
Mike Putnam, Selectman

20160512-0010

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }

Charlotte Farddman

7 River Woods Drive P115

Exeter, NH 03833

20160512-5040

Tick Tock, FERC

Twenty two days ago, on April 20, 2016, Kinder Morgan told the world that it had “suspended further work and expenditures” on the NED project. Two days later they requested that FERC take no further action on its application until it submitted a status report, promised by May 26, 2016.

Enough already with this ill-conceived project. Kinder Morgan has finally been forced to admit that the pipeline is not needed - as the public has been stating all along. It’s a loser for them and it certainly has been a loser for thousands of New England residents.

But until this application is denied by FERC, it will continue to torture:

- Hundreds directly affected by the pipeline and compressor stations
- The many town officials, conservation commissioners, land trustees, etc. who are dealing with this monstrous, unneeded infrastructure project
- All citizens concerned about our environment and our energy future.

FERC should immediately deny the application with prejudice. This has already been allowed to go on for much too long. It’s time to finally kill and bury this project.

And here are a couple of final questions for members of FERC to consider:

- In the future, wouldn’t it make sense to require that a pipeline company actually demonstrate that there is indeed a need for a pipeline before they are allowed to so massively disrupt the lives of so many members of the public?
- And just who is it that the citizens and towns that have been injured by this turkey of a project can see about being compensated for their lost time, their lost money and their lost peace of mind – all of which have occurred as a direct consequence of Kinder Morgan’s ill-conceived plans?

Nick Miller Groton, MA

20160512-5089

Town of Nassau
29 Church Street
Post Office Box 587
Nassau, New York 12123
518-766-3559
Facsimile: 518-766-4422
supervisor@townofnassau.org

OFFICE OF THE SUPERVISOR
David F. Fleming, Jr.

May 2, 2016

Hon. Norman C. Bay, Chairman
Federal Energy Regulatory Commission
888 First Street, NE
Washington, D.C. 20426

Re: Northeast Energy Direct Project
FERC Docket No. CP 16-21-000

Dear Chairman Bay:

The Town of Nassau has been advised that Kinder Morgan, Inc. and its subsidiary, Tennessee Gas Pipeline Company, LLC has suspended further work and expenditures on the Northeast Energy Direct pipeline (NED) proposal. We have also been advised that this applicant has requested that FERC freeze its further review until the application provides additional information relating to this suspension by May 26, 2016.

electric power system reliability in New England; and

WHEREAS, the Knox Town Board is committed to reducing the production of greenhouse gases in our Climate Smart Community, to combating global climate change, and to promoting and protecting public health and safety by all reasonable means;

Now therefore be it

RESOLVED, That the Town of Knox joins the American Medical Association and the Medical Society of the State of New York in recognizing the potential impact on human health and the environment and requests the State of New York to perform a comprehensive Health Impact Assessment regarding risks associated with natural gas pipelines; and it is further

RESOLVED, That the Town of Knox shares the State of New York's concerns about climate change and greenhouse gas emissions, and requests the State of New York. to perform a comprehensive assessment of greenhouse gas impacts that may be released by existing and proposed natural gas transportation infrastructure in New York state including pipelines and compressor stations and that the Governor order the NYS Department of Environmental Conservation to suspend issuance of state permits pending completion of the comprehensive Health Impact Assessment and the comprehensive assessment of greenhouse gas impacts; and it is further

RESOLVED, That the Town of .Knox joins the Massachusetts Office of the Attorney General in recognizing that the pipeline is not needed and urges the Federal Energy Regulatory Commission to not issue a certificate of public convenience and necessity authorizing construction and operation of the proposed Northeast Energy Direct pipeline; and it is further

RESOLVED, That the Knox Town Clerk. send copies of this resolution to: Governor Andrew Cuomo; New York State Department of Environmental Conservation Acting Commissioner . Basil Seggos; New York State Department of Health Commissioner Howard Zucker; State Senators Neil Breslin and George Amadore; Assemblywoman .Patricia Fahyand Assemblymen John McDonald m and Phil Steck; Senators Kirsten Gillibrand and Charles Schumer; Congressman Paul Tookoj and Federal Energy Regulatory Commission Commissioners Norman Bay, Tony Clark, Colette Honorable, and Cheryl LaFleur.

Date of Adoption: April 12, 2016

Name of Town Supervisor: Vasilios Lefkaditis

Name of Municipal Clerk: Tara Murphy

20160516-5391

**Franklin Regional
Council of Governments**

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

May 11, 2016

Kinder Morgan (KM) has announced the suspension of the NED pipeline project (CP16- 21-000). The Franklin Regional Council of Governments is requesting that FERC immediately deny or dismiss with prejudice the Application of the KM - TGP for the NED pipeline project for the following reasons:

- 1) There is no lawful provision for KM - TGP to request a "suspension of an Application." FERC's regulations do not permit a "suspension" but only provide for requests to amend or withdraw an Application. It is our understanding that the rationale for this is because it is inappropriate to allow "site-banking" that would allow an applicant to preserve rights for the future. Accordingly, FERC may not allow a suspension of an Application.

- 2) KM-TGP has had more than adequate time to find subscribers for its project during the pre-filing process. Based on the data from pre-filing, KM-TGP should never have filed the NED Pipeline Application to begin with. By doing so it has wasted enormous amounts of the public's time and resources including federal taxpayers' dollars. KM-TGP does not deserve any more time to amend or withdraw their application.
- 3) Allowing the pipeline to remain in abeyance will create a cloud over landowners, who will have great difficulty selling their property so long as the pipeline threat remains.
- 4) Without adequate need, FERC cannot grant the Certificate of Public Convenience and Necessity. KM-TGP has publicly stated that it does not have enough customers for the NED pipeline and therefore there is no public need. The Natural Gas Act requires a showing of public need and the willingness of the applicant to move forward with the project which is clearly not the case here.

For these reasons the Franklin Regional Council of Governments respectfully reiterates its request for the FERC to immediately deny or dismiss with prejudice the Application (CP16-21-000) of the KM-TGP for the NED pipeline project. We would greatly appreciate a written response from FERC to our request.

Sincerely,

Linda Dunlavy, Executive Director
Franklin Regional Council of Governments
Bill Perlman, Chair - Executive Committee
Franklin Regional Council of Governments

12 Olive Street, Suite 2, Greenfield, MA 01301-3318 • 413-774-3167 • www.frcog.org

20160517-0024

{duplicate of 20160516-5391 above}

20160518-5015

Paul Stevens, New Ipswich, NH.

RE: Docket CP-16-21-000

Kinder Morgan/TGP has given up on the NED pipeline. The members of the New Ipswich Pipeline Resistance and I strongly urge the FERC to do the same. In financial statements Kinder Morgan has indicated they have re-allocated money away from NED.

The FERC must not recognize the concept of "suspended" as originated by Kinder Morgan. Kinder Morgan cannot claim authorship of FERC rules.

We require the FERC dismiss and deny with prejudice the Kinder Morgan/TGP application for the Northeast Energy Direct pipeline.

It is time to close Docket CP-16-21-000 permanently.

Thank you

Paul Stevens

20160519-0008

State of New Hampshire
House of Representatives
Concord

May 11, 2016

The Honorable Norman Bay, Chairman
Federal Energy Regulatory Commission

888 First Street, NE
Washington, DC 20426

RE: Federal Energy Regulatory Commission (“FERC”) Docket No. CP16-21

Dear Chairman Bay:

I am a resident of Brookline, New Hampshire, serving my third term as a member of the New Hampshire House of Representatives, representing Hillsborough - District 26, comprised of the towns of Brookline and Mason, previous House Majority Leader and a candidate for election as Congressman for the 2nd Congressional District of New Hampshire. I submitted earlier correspondence to the Commission in February 12, 2015. In that letter I stated that, with the increasing number of changes to existing natural gas projects in the region, there was no need for the Northeast Energy Direct Project.

The above-referenced proceeding, seeking the issuance of a certificate of public convenience and necessity for the Northeast Energy Direct (“NED”) high-pressure gas pipeline project, was commenced November 20, 2015. Although “suspension” of the project was announced April 20, 2016, nearly three weeks ago, the applicant has not withdrawn its request for certification. Rather, by letter dated April 22, 2016, the applicant has only requested that the FERC “not take any further action” in the matter pending its submission of a “status report” by May 26, 2016. The applicant acknowledges in the same letter that the NED project has “inadequate capacity commitments from prospective customers” and is “uneconomic,” and has since irrevocably terminated the only two customer contracts it ever had for the project. In other words, the applicant acknowledges that there is no public “necessity” allowing for certification of the project, there is no financial rationale for moving forward and it has forever closed the door, but would like the proceeding to remain open for some unspecified period of time.

As has been stated in numerous comments and echoed in two motions to dismiss filed since the announced “suspension” of the NED project, including a motion to dismiss filed by the New Hampshire Municipal Pipeline Coalition (“Coalition”), consisting of 13 towns including Brookline and Mason, the applicant’s request is grossly unfair and without legal or factual support. Towns opposing the project, as intervenors in the proceeding or otherwise, will continue to incur associated legal expenses, as well as costs related to evaluation of the impacts of the project to assess how best to protect their communities from project implications. Moreover, there is no precedent for proceeding on a terminated project.[1] In fact, from its filing of a patently incomplete application to begin with, through its final admission that there was never any hope for the NED project, it is clear that the applicant has always proceeded in bad faith.

Please add this letter to the pile of requests for closure of FERC Docket No. CP16-21, and immediately grant the pending motions to dismiss, denying and dismissing the underlying application, with prejudice, and without right of the applicant, or its affiliates, to submit an application for the same or similar project with the FERC.

Thank you for your courtesy and attention to this matter.

Sincerely,

Representative Jack Flanagan
Hillsborough, District 26

1 as is stated in the Coalition’s motion to dismiss:

“TGP’s failure to maintain contractual commitments for NED warrants immediate dismissal of the Application. Under long standing precedents, the Commission indisputably considers these contracts an essential component of its determination of the viability of a project and views service commitments for new capacity as ‘important evidence of demand for a project.’”

See Motion to Dismiss of the New Hampshire Municipal Pipeline Coalition filed May 4, 2016, p. 5 and cases cited therein under footnotes 13 and 14.

20160519-0012

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

May 17, 2016

OFFICE OF THE CHAIRMAN

The Honorable Niki Tsongas
U.S. House of Representatives
Washington, D.C. 20515

Dear Congresswoman Tsongas:

Thank you for your March 22, 2016, letter regarding Tennessee Gas Pipeline Company, L.L.C.'s, proposed Northeast Energy Direct Project (Docket No; CP 16-21).

On April 22, 2016, Tennessee filed a letter requesting that the Commission not take any further action in processing its application until it files a status report no later than May 26, 2016. Tennessee states that it has suspended work and expenditures on the project as a result of inadequate capacity commitments from prospective customers and a determination that the project is uneconomical.

Commission staff is no longer processing the project application. If Commission staff determines it is appropriate to resume processing Tennessee's application following the forthcoming status report, we will fully consider your comments on public need and safety.

If I can be of any further assistance in this or any other Commission matter, please let me know.

Sincerely,
Norman C. Bay
Chairman

20160519-0013

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

May 17, 2016

OFFICE OF THE CHAIRMAN

The Honorable Kelley Ayotte
United States Senate
Washington, D.C. 20510

Dear Senator Ayotte:

Thank you for your April 20, 2016, letter forwarding a letter from New Hampshire Pipeline Awareness Network regarding Tennessee Gas Pipeline Company, L.L.C.'s, proposed Northeast Energy Direct Project (Docket No. CP16-21).

On April 22, 2016, Tennessee filed a letter requesting that the Commission not take any further action in processing its application until it files a status report no later than May 26, 2016. Tennessee states that it has suspended work and expenditures on the project as a result of inadequate capacity commitments from perspective customers and a determination that the project is uneconomical.

Commission staff is no longer processing the project application. If Commission staff determines it is appropriate to resume processing Tennessee's application following the forthcoming status report, it will fully consider the comments provided by the New Hampshire Pipeline Awareness Network.

If I can be of any further assistance in this or any other Commission matter, please let me know.

Sincerely,

Norman C. Bay
Chairman

20160519-0017

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

May 16, 2016

OFFICE OF THE CHAIRMAN

The Honorable James P. McGovern
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman McGovern

Thank you for your February 25, 2016, letter regarding Tennessee Gas Pipeline Company L.L.C's, proposed Northeast Energy Direct project (Docket No. Cp16-21).

On April 22, 2016, Tennessee filed a letter requesting that the Commission not take any further action in processing its application until it files a status report no later than May 26, 2016. Tennessee states that it has suspended work and expenditures on the project as a result of inadequate capacity commitments from prospective customers and a determination that the project is uneconomical.

Commission staff is no longer processing the project application. If Commission staff determines it is appropriate to resume processing Tennessee's application following the forthcoming status report, it will fully consider your request for a formal evidentiary hearing and comments on public need.

If I can be of any further assistance in this or any other Commission matter, please let me know.

Sincerely,
Norman C. Bay
Chairman

20160519-0027

Response to US Representative James McGovern's 2/25/16

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

May 16, 2016

OFFICE OF THE CHAIRMAN

The Honorable James P. McGovern
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman McGovern:

Thank you for your February 25, 2016, letter regarding Tennessee Gas Pipeline Company L.L.C's, proposed Northeast Energy Direct Project (Docket No. CP16-21).

On April 22, 2016, Tennessee filed a letter requesting that the Commission not take any further action in processing its application until it files a status report no later than May 26, 2016. Tennessee states that it has suspended work and expenditures on the project as a result of inadequate capacity commitments from prospective customers and a determination that the project is uneconomical.

Commission staff is no longer processing the project application. If Commission staff determines it is appropriate to resume processing Tennessee's application following the forthcoming status report, it will fully consider your request for a formal evidentiary hearing and comments on public need.

If I can be of any further assistance in this or any other Commission matter, please let me know.

Sincerely,
Norman C. Bay
Chairman

20160519-0038

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }
Karen M Miller 161 Ashburnham Rd New Ipswich, NH 03071

20160519-0039

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }
Paul Stevens 156 Timbertop Rd New Ipswich, NH 03071

20160519-0041

{same as 20160304-0014 (Our Health Matters...Comprehensive Health Impact Assessment...), signed by: }
Paul Stevens 156 Timbertop Rd New Ipswich, NH 03071

20160519-0042

Karen M Miller, 161 Ashburnham Rd, New Ipswich, NH 03071: Deny Application and terminate all proceedings!!!

20160520-0007

{same as 20160210-0011 (STOP THE NED PIPELINE! Protect NH land from Eminent Domain!), signed by: }
Wilfred Wollheim 8 Strout Ln Durham, NH 03824

20160520-0008

{same as 20160406-0024 (STOP the NED Pipeline! PROTECT OUR WATER!...), signed by: }
Maria Niswonger 8 Strout Ln Durham, NH 03824

20160520-0009

{same as 20160406-0024 (STOP the NED Pipeline! PROTECT OUR WATER!...), signed by: }
Wilfred Wollheim 8 Strout Ln Durham, NH 03824

20160523-0006

BOARD OF SELECTMEN
P.O. BOX 725
FITZWILLIAM, NH 03447
(603) 585-7723 Fax: (603) 585-7744
email: fitzwillismnh@fitzwillism-nh.gov

April 29, 2016
Federal Energy Regulatory Commission
Atten: Norman C. Bay, Chairman
888 First Street, NE
Washington, DC 202426

**Re: Northeast Energy Direct
Tennessee Gas Pipeline Company, LLC
Northeast Energy Direct Project**

20160524-0051

{same as 20160202-0036 (STOP THE NED PIPELINE & COMPRESSOR STATION...), signed by: }

Aimee Rondeau

82 Leo Avenue

Dracut, MA 01826

20160525-0036

{same as 20160406-0024 (STOP the NED Pipeline! PROTECT OUR WATER!...), signed by:}

Paul Stevens

156 Timbertop Rd

New Ipswich, NH 03071

20160525-0037

{same as 20160406-0024 (STOP the NED Pipeline! PROTECT OUR WATER!...), signed by:}

Paul Stevens

156 Timbertop Rd

New Ipswich, NH 03071

20160525-0038

{same as 20160406-0024 (STOP the NED Pipeline! PROTECT OUR WATER!...), signed by:}

Paul Stevens

156 Timbertop Rd

New Ipswich, NH 03071

20160525-0039

{same as 20160406-0024 (STOP the NED Pipeline! PROTECT OUR WATER!...), signed by:}

Paul Stevens

156 Timbertop Rd

New Ipswich, NH 03071

20160525-0042

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

May 17, 2016

OFFICE OF THE CHAIRMAN

Administrator Brian McCarthy

Town of Pelham

6 Village Green

Pelham, NH 03076

Dear Administrator McCarthy:

Thank you for your April 29, 2016, letter regarding Tennessee Gas Pipeline Company, L.L.C.'s, proposed Northeast Energy Direct Project (Docket No. CP16-21).

As you note, on April 22, 2016, Tennessee filed a letter requesting that the Commission not take any further action in processing its application until it files a status report no later than May 26, 2016. Tennessee states that it has suspended work and expenditures on the project as a result of inadequate capacity commitments from prospective customers and a determination that the project is uneconomical.

Commission staff is no longer processing the project application. Commission staff will determine if it is appropriate to resume processing Tennessee's application following the forthcoming status report.

If I can be of any further assistance in this or any other Commission matter, please let me know.

Sincerely,

Norman C. Bay

Chairman

20160525-0061

{same as 20160202-0036 (STOP THE NED PIPELINE & COMPRESSOR STATION...), signed by: }

Melissa Iannuzzo

15 Green St

Dracut, MA 01826

Dth/day in firm commitment on their 1.2 Billion Dth/day capacity, to make the project 'viable'. After two years of solicitation, including 3 open seasons to appeal to electric distribution companies, nearly half of the gas making up their inadequate commitment was 'replacement gas' (already being supplied within the existing system).

In a time when Paris climate accords are highlighting the urgent need for real action on ending our reliance on fossil fuels, the FERC is still following a mandate to help oil and gas expand their footprint (and thus, their emissions). How can our regulatory agencies be helping to prop up dirty projects like NED, when we have clean technologies that can be used to bend our emissions curve in the right direction? Its because the agencies are set up to help the industries, not the citizenry. This needs to change.

I ask that you dismiss this permit request with prejudice due to its speculative nature and its failure to provide any compelling case for need. This private applicant came very close to being given the right to take private and conserved land through eminent domain in 18 southern New Hampshire towns, Pennsylvania, New York and Massachusetts with no compelling reason but their own bottom line.

This is not the kind of solution ratepayers are looking to invest in - not when the cost of renewables and even next generation nuclear power, is coming down and offering viable solutions to our energy problems - without contributing to climate disruption.

Which agency factors in the cost of that disruption to their plans and considers the effects on human and animal populations if we continue business-as-usual thinking? It appears only WHO, IPCC, and NSA are discussing where the world's populations end up if we continue to put fossil fuel emissions into the air at current or increasing rates (the path we're on).

The Department of Energy needs to help rethink the mission of FERC if individual citizens are going to have any hope of avoiding the worst climate scenarios - and the incredible cost that goes with them.

As a taxpayer, a ratepayer, and a citizen, I call on FERC and the Department of Energy - to move beyond their business-as-usual regulatory framework that makes us all complicit in foolhardy energy policy. Events must proceed from the present reality.

The NED crisis appears to be averted - but the fact remains that the world can no longer accept FERC's rubber stamping of oil and gas projects. The process needs reform consistent with the threat we face from our energy choices. We must have greater oversight to restrict expansion, with the goal of slowing emissions; no more tinkering around the edges.

Please dismiss CP16-21-000 with prejudice to provide formal closure for the hundreds of citizens who have worked so hard to get your attention in this matter.

Regards,

Kat McGhee, M.Ed, PMP
237 Hayden Road
Hollis, NH 03049
603-465-2033
kmcghee257@gmail.com

CC:

U.S. Department of Energy
Attention: Dr. Ernest Moniz, Secretary of Energy
Electronic submission: The.Secretary@hq.doe.gov
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

20160606-0200 John Puffer

{same as 20160406-0024 (STOP the NED Pipeline! PROTECT OUR WATER!...), signed by:}

20160608-4002

DEPARTMENT OF THE ARMY

U.S. Army Corps of Engineers, ATTN, CENAN-OP-RU
Upstate Regulatory Field Office
1 Buffington St., Building 10, 3rd Fl. North
Watervliet, New York 121894000

Regulatory Branch

Upstate New York Section

SUBJECT: Permit Application Numbers NAN-2014-00751-USH, LRB-2014-00528, and NAE-2014-00644
by Tennessee Gas Pipeline Company, LLC
Northeast Energy Direct Pipeline

Gina Dorsey

Director EHS - Project Permitting

Tennessee Gas Pipeline Company, LLC

1001 Louisiana Street, Suite 1000

Houston, Texas 70022

Dear Ms. Dorsey:

On November 25, 2015, you submitted a request for Department of Army authorization for the discharge of fill material into waters of the United States, including wetlands, to facilitate the construction of approximately 420 miles of pipeline (new pipeline, looping pipeline segments, and laterals) in Pennsylvania, New York, Massachusetts, New Hampshire, and Connecticut (the Project). Additionally, as part of the Project, you proposed to construct new compressor and meter stations and modify existing compressor and meter stations along the proposed and existing pipeline system. There would also be construction of appurtenant facilities, including mainline valves, cathodic protection, and pig facilities through the Project area. This request was submitted to the U.S. Corps of Engineers (Corps) New York and Buffalo Districts, the Baltimore District, and the New England District.

In a letter dated February 24, 2016, this office requested information necessary to properly evaluate the application. On March 24, 2016, this office received a portion of the information requested. However, this submittal failed to provide all the necessary information previously requested.

In a letter dated May 23, 2016, submitted to the Federal Energy Regulatory Commission (FERC), you provided notice of your withdrawal of your certificate application. In another May 23, 2016, letter to this office, you indicated that the project was not being pursued at the current time and that the Corps application could be withdrawn. In light of this, we are closing our files on Application No. NAN-2014-00751-USH. In addition, the Buffalo District and the New England District will be closing their files on Application Nos. LRB-2014-00528 and NAE-2014-00644, respectively. Baltimore District shall be contacting Tennessee Gas Pipeline Company, LLC, directly regarding the status of the Corps application for the Pennsylvania portion of the project.

You are reminded that a Department of the Army permit may be required for any work in the future. If you decide to implement any project in the future, please submit a timely and completed application for our review. The action taken at this time will in no way adversely affect your future request or any other applications you may submit for work in waters of the United States.

In order for us to better serve you, please complete our Customer Service Survey located at:

<http://www.nan.usace.army.mil/Missions/Regulatory/CustomerSurvey.aspx>

If any questions should arise concerning this matter, please contact Brad Sherwood, of my staff; at (518) 266-6355.

Sincerely,

Amy L. Gitchell

Chief, Upstate New York Section

cc: S. Ryba, CENAN-OP-R

D. Kozlowski, CELRB- TD-R

M. Crawford, CELRB-Auburn (LRB-2014-00528) W. Chandler, CENAB-OP-RPA

M. Dombroskie, CENAB-OP-RPA (NAB-2015-00252-P12)

J. McCarthy, CENAE-R

K. Kotelly, CENAE-R (NAE-2014-00644)

J. Haggerty, CENAD, Regulatory FERC Coordinator E. Tomasi, FERC

J. Mansky, AECOM

S. Tomasik - NYSDEC, Albany MADEP (via email)

NHDES (via email)

CTDEEP (via email)