



TOWN OF DEERFIELD

Board of Selectmen and Board of Health
8 Conway Street
South Deerfield MA 01373
Voice: 413.665.1400
Facsimile: 413.665.1411
Website: www.deerfieldma.us

Via Certified Mail Return Receipt Requested

August 26, 2014

Joseph Listengart
General Counsel
Kinder Morgan
1001 Louisiana St, Suite 1000
Houston, TX 77002

Re: Kinder Morgan Pipeline Proposal for Western Massachusetts

Dear Mr. Listengart:

The purpose of this letter is to inform you that on September 9, 2014 at 6:30 pm the Board of Health of Deerfield Massachusetts will hold a hearing to evaluate whether or not the proposed pipeline by your company presents an unacceptable health danger to the resident of Deerfield Massachusetts.

The Board of Selectman "BOS" of Deerfield has requested a number of times for representatives of your company to come to an open meeting of the Select Board and describe what Kinder Morgan is proposing which might impact the Town of Deerfield.

On August 20, 2014 at the request of residents of Deerfield the BOS held an open meeting and after considering what appeared to be the wishes of the majority of town residents issued a not binding petition to Massachusetts and Federal authorities not to allow the construction of the proposed pipeline for a variety of reasons.

Residents of the town requested at this meeting that the Board of Health "BOH" of Deerfield conduct hearings on the possible negative health impacts this pipeline could have on the town's residents. The Board of Health agreed to conduct the requested hearings and has scheduled a hearing for September 9, 2014 at 6:30 pm in the Frontier Regional School Auditorium, 113 North Main Street, South Deerfield MA.

Boards of Health in Massachusetts have been granted unlimited power by the legislature to stop any activity in a town viewed as possibly harming the residents of the town. This unlimited power was upheld by the Supreme Court of Massachusetts in *Arthur D. Little, Inc. v. Commissioner of Health and Hospitals of Cambridge* 395 Mass. 535; 481 N.E.2d 441; 1985 Mass. LEXIS 1720 (1986).

The Board of Health of Deerfield has very serious concerns regarding health impacts by the proposed pipeline on the residents of the town. The burden of proof that the pipeline presents no health risks to any citizen of Deerfield rests with Kinder Morgan. *Stately Homes, Inc. v. Richard A. Escobas, Jr., et al.*, 17 Mass. L. Rep. 349; 2004 Mass. Super. LEXIS 44 (2004). Given these facts we are urging Kinder Morgan to present testimony, at the scheduled September 9, 2014, as to why Kinder Morgan believes that the proposed pipeline presents no health risks to residents of the Deerfield. Kinder Morgan has publicly stated their belief that *The Natural Gas Act* 15 U.S.C. § 717 is the only law to which they have to abide for the constructions and installation of the pipeline through Deerfield. Kinder Morgan is wrong. There is nothing in the *Natural Gas Act* which pre-empts BOH's in Massachusetts to negate or regulate the installation of the pipeline if the BOH were to find that such action could be detrimental to the health of any resident of Deerfield, and any such action taken by a BOH is not pre-emptible by the Federal Government. *Arthur D. Little Id.*

As you are aware the *Federal Energy Regulatory Commission* "FERC" has been granted powers by Congress to regulate gas pipelines throughout the United States. This power granted by Congress to FERC to regulate gas transportation, prices etc., is based on principles which are anathema to the responsibilities of Boards of Health in Massachusetts. FERC's regulations are generated balancing risks with costs whereas Boards of Health are not bound by such principles.

The BOH of Deerfield has learned from presentations given by Kinder Morgan in other towns a number of facts regarding the pipeline which are of concern to BOH.

1. Kinder Morgan has made public the fact that the walls of the pipeline projected for Deerfield are only 60% as thick as similar walls of pipelines used in more congested areas. The use of this cheaper pipeline is based on monetary assignments to values of possible life loses, in case of accidents, versus costs of the thicker pipelines. This is unacceptable to the BOH as the BOH values the loss of one life at infinite value not the one million dollars or so assigned by FERC for each death the result of an accident.
2. Kinder Morgan has stated publicly that it is just a transportation company and does not know the chemical composition of the fracked gas transported through the pipeline. This is unacceptable to the BOH of Deerfield. The BOH of Deerfield needs to know the composition of a gas which can possible leak and injure residents of Deerfield. As you are aware the fracking process is achieved by the pumping of vast amounts of toxic chemicals to break the underground shale and release or convert the shale into gas. These chemicals become part and parcel of the transported gas and the BOH needs to know what these chemicals are in order to properly protect the residents of Deerfield.
3. The installation of the pipeline through Deerfield involves the digging of a wide and deep channel through areas where the water table is high. The water will eventually rust the pipeline and release additives of the pipeline which will contaminate the shallow water wells used by many residents of Deerfield.

4. The one hundred feet wide swath of land the pipeline needs for its regular maintenance will require extensive use of herbicides for the life of the pipeline. Given the proximity of many Deerfield homes to the pipeline these herbicides will eventually contaminate the same shallow water wells

The BOH wants testimony on these issues before considering granting a permit to Kinder Morgan for the construction and operation of the pipeline through Deerfield and will expect from Kinder Morgan detailed answers to the issues raised here as well as to other issues dealing with possible health impacts on the residents of Deerfield.

Sincerely

A handwritten signature in cursive script, reading "Carolyn Shores Ness".

Carolyn Shores Ness
Chair Board of Health

Cc: Norman Bay Chairman Federal Energy Regulatory Commission

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PS Form 3800, August 2006 See Reverse for Instructions	

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administrator

From: administrator <administrator@town.deerfield.ma.us>
Sent: Wednesday, August 20, 2014 8:58 PM
To: rcharbonnier@comcast.net
Cc: 'Kayce D. Warren'
Subject: Invitation to attend Board of Health Public Hearing

Good Evening Rick,

The Board of Health will be holding a Public Hearing on Tuesday, September 9, 2014 at 6:30 pm to discuss the health and safety issues posed by the Northeast Expansion Project proposed by Kinder Morgan and its subsidiary Tennessee Gas Pipeline Co. We invite you to attend this meeting to present the views of Kinder Morgan on the subject.

I will be sending out a formal letter, but wanted to give you a heads up. Is there a particular person to whom I should address the invitation? If so, could you forward that information to me at your earliest convenience?

Thanks very much.

Sincerely,
Kayce D. Warren
Interim Town Administrator
Ph: 413-665-1400 ext. 104
Fax: 413-665-1411

The Secretary of State deems email a public document.