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COMMONWEALTH OF MASSACHUSETTS

Deerfield, ss.

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BOARD OF HEALTH OF DEERFIELD, *

v. *

KINDER MORGAN, *

* * * * *

SCHEDULED DEPOSITION OF: KINDER MORGAN

Frontier Regional School

113 N. Main Street

South Deerfield, Massachusetts

September 9, 2014 6.32 - 6.56 p.m.

In Attendance:

Carolyn Shores-Ness	Kayce D. Warren
David Wolfrom	Cristobal Bonifaz, Esq.
Mark Gilmore	

Jessica M. DeSantis

Court Reporter

I N D E X

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1 MS. SHORES-NESS: Good evening.
2 We're going to go ahead and get started.
3 Doug, you're taping, right? Okay.
4 Perfect.

5 I'm going to call this hearing to
6 order on September 9, 2014 at 6:32 p.m. in
7 the auditorium of Frontier Regional School
8 in Deerfield, Massachusetts.

9 I want to welcome all of you, and
10 thank you all for coming. Before we begin,
11 the Board of Health would like to make a
12 couple comments and say a few words.
13 Hopefully, you've all signed in as you come
14 in. That's going to be part of the public
15 record, and we really do appreciate you
16 coming. This is a quasi-judicial hearing
17 conducted by the Board of Health of
18 Deerfield to receive testimony from Kinder
19 Morgan regarding the possible health and
20 life impact or lack of health and life
21 impact of the proposed pipeline on the
22 residents of Deerfield.

23 This hearing is being conducted
24 under the powers granted to the Board of

1 Health by the Massachusetts legislation
2 under Mass General Laws chapter 111,
3 section 31, section 143.

4 However, today Kinder Morgan
5 notified by the Board of Health by
6 telephone at approximately 12:30 this
7 afternoon that they will not attend this
8 hearing tonight. We still welcome their
9 cooperation and their willingness to
10 provide written testimony as to the matters
11 that concern us as the Board of Health and
12 that we will bring forward this eveing
13 under the rules set by this hearing by the
14 Board of Health.

15 Before we begin, we'd like to
16 clarify some of the rules for this hearing
17 as follows.

18 First, we are a wonderful community,
19 and we are asking everyone for their
20 cooperation in remaining silent during this
21 hearing. There will be no clapping or
22 booing or anyone violating this rule will
23 have to be asked to leave.

24 Public record will reflect that we

1 are a lovely and gracious community. And
2 that's very important, I think, tonight.

3 Second, we are going to raise a
4 number of issues with Kinder Morgan. Some
5 of these might require expert opinions. We
6 are aware, especially since they are not
7 here to respond, that they will not be able
8 to answer our specific concerns this
9 evening.

10 We are going to remedy that by
11 granting Kinder Morgan 15 days from the
12 date of this hearing. That will be before
13 the end of the business day on September
14 24, 2014, to file with us as the Board of
15 Health a written opinion by an expert, if
16 they deem that necessary, on the technical
17 issues that are raised here tonight.

18 We expect the expert chosen to
19 answer our concerns to be qualified under
20 Daubert to express her or her opinion.

21 For members of the audience, the
22 Daubert standard for admissibility of
23 expert opinions has been set forth by the
24 United States Supreme Court in Daubert

1 verses Merrell Dow Pharmaceuticals. 509 US
2 579, 1993.

3 Thus, any opinion to be introduced
4 by Kinder Morgan must be accompanied by a
5 complete curriculum vitae and cases on
6 which the expert has testified.

7 The Board of Health will reserve the
8 right to determine whether the expert
9 opinion presented meets the Daubert
10 standard.

11 Kinder Morgan is, of course, free to
12 answer any issues presented here by non
13 experts if they chose to do so in the 15
14 days in writing under our five-page rule
15 explained in paragraph three, which
16 follows.

17 Written responses are limited to one
18 spokesperson or expert per issue. All
19 opinions have to be submitted as affidavits
20 signed, sealed, and notarized under oath.
21 Third, the Board of Health realizes that
22 Kinder Morgan is a very large corporation
23 with many resources and; thus, might wish
24 to file in response to each of our concerns

1 thousands of pages of testimony. That is
2 unacceptable to us as Board of Health. Our
3 questions are going to be very precise and
4 can be answered in five pages of testimony
5 per issue by a single respondent or expert
6 per issue.

7 Thus, for an expert's opinion or a
8 spokesperson's opinion to be considered by
9 the Board of Health, which is presented in
10 writing, it has to be five pages long or
11 less. The curriculum vitae of the expert,
12 and under Daubert qualifications, do not
13 count for the five pages of limit.

14 All that said, we will now proceed
15 with this hearing.

16 I'd like to introduce the
17 individuals here on this stage who will be
18 participating in the hearing.

19 My name is Carolyn Shores-Ness, and
20 I serve as the Chair of the Board of
21 Health.

22 To my left is David Wolfrom, a
23 member of the Board of Health.

24 I would also like to introduce Kayce

1 Warren as a town administrator.

2 And Cristobal Bonifaz, our counsel
3 for the proceedings.

4 Mark Gilmore, our other board
5 member, will be joining us a bit later. He
6 is participating in an emergency drill at
7 Yankee Vernon and will be here as soon as
8 he can. We do have a quorum so we will
9 proceed.

10 I will ask the recorder to swear in
11 all of us at this time.

12 Oh, actually, we don't need to swear
13 ourselves in, I guess. Okay.

14 MR. BONIFAZ: Is there any Kinder
15 Morgan person here?

16 MS. SHORES-NESS: Yeah. Okay. Is
17 there any Kinder Morgan person here?

18 Okay. Unless there is any
19 questions, we will proceed.

20 The Board of Health would like to
21 introduce -- now introduce into the record
22 Exhibit 1, which is a letter the Board of
23 Health wrote to the general counsel of
24 Kinder Morgan dated August 26, 2014.

1 MR. BONIFAZ: Here is a copy for
2 Kinder Morgan over there. That's yours.

3 MS. SHORES-NESS: Our question is:
4 Did you receive the letter from the Board
5 of Health, which, we hope, they will
6 respond in writing.

7 MR. BONIFAZ: And, just, one issue
8 here is that if we have any comments on
9 this, since there are no objections from
10 Kinder Morgan, the document is entered into
11 the record without objections for the truth
12 of the matter asserted on the document and
13 for any other purpose the Board of Health
14 wishes.

15 Okay. Go ahead.

16
17 (Exhibit 1, letter dated August 26,
18 2014, marked)

19
20 MR. WOLFROM: One of the largest
21 concerns that the Board of Health has is,
22 of course, the danger of the explosions or
23 leaks from the proposed pipeline, which
24 might cause health injuries to the

1 residents of Deerfield. It is the Board of
2 Health's understanding from testimony
3 presented by Kinder Morgan at other valley
4 locations, including the Greenfield
5 Community College Auditorium, that the size
6 of the proposed pipeline would be 36 inches
7 to 42 inches in diameter, that the
8 automatic shut-off safety valves will be
9 spaced 10 miles apart, and that the
10 pressure on the line will be between 1,000
11 and 1500 pounds pressure per square inch.

12 We ask that you please respond to
13 this in writing.

14 The Board of Health believes that
15 the major leak that results in an explosion
16 of a pipeline of these dimensions at the
17 pressures used would be a catastrophic
18 event for some residents of Deerfield.

19 Do you agree or not agree with this
20 statement? We are hoping that they would
21 respond.

22 MR. WOLFROM: It is Kinder Morgan's
23 position that the principal purpose of
24 regulations enacted by the federal Energy

1 Regulatory Commission for a pipeline
2 transportation of natural gas is to
3 minimize the chance of a catastrophic leak
4 explosion.

5 Please respond in writing.

6 MS. SHORES-NESS: The Board of
7 Health would like to now introduce into the
8 record Exhibit 2.

9 Would you please mark Exhibit 2.

10 MR. BONIFAZ: Give her a little time
11 to mark.

12
13 (Exhibit 2, report, marked)

14
15 MR. BONIFAZ: Exhibit 2 is a
16 published report from the San Francisco
17 Newspaper describing a catastrophic
18 explosion of a Kinder Morgan pipeline in
19 Walnut Creek, California.

20 Please review and let us know
21 whether you are familiar with this
22 explosion.

23 Again, please respond in writing.

24 MR. BONIFAZ: Now, just for the

1 record again. This document is introduced
2 for the -- for the truth of the matters
3 asserted in the documents since there are
4 no objections from Kinder Morgan and;
5 therefore, it will be used in any court
6 proceedings for the truth of what the
7 document contains.

8 MR. WOLFROM: What concerns the
9 Board of Health most of all in the
10 explosions is that Kinder Morgan was found
11 by a court to have committed three felonies
12 by its failure to follow adequately
13 regulatory scheme. In fact, what this
14 article states is that Kinder Morgan was
15 feloniously responsible for the deaths of
16 five people by its failure to have located
17 an elbow to the pipeline.

18 Please respond in writing.

19 MS. SHORES-NESS: We would now like
20 to introduce into the record Exhibit 3.

21 Could the recorder please mark
22 Exhibit 3, please?

23
24 (Exhibit 3, document, marked)

1 MR. BONIFAZ: Again, just for the
2 record. This document is introduced for
3 the truth of the matter asserted in the
4 document since there are no objections from
5 Kinder Morgan.

6 MS. SHORES-NESS: Exhibit 3 on pages
7 four and five list Kinder Morgan's pipeline
8 regulatory violations, as well as 12 very
9 serious pipeline accidents, which occurred
10 between 2004 and 2014.

11 I would like to ask Kinder Morgan to
12 please review these pages and comment on
13 the regulatory violations and the accidents
14 and please submit written testimony as to
15 how each of these accidents and regulatory
16 violations occurred.

17 Simply put, how can Deerfield be
18 protected by regulatory scheme when Kinder
19 Morgan has violated the same regulations on
20 a number of times. I think that's
21 sufficient.

22 MR. WOLFROM: We would now like to
23 introduce into the record Exhibit 4.

24 Would the recorder please mark

1 Exhibit 4.

2 MR. BONIFAZ: One more time, Exhibit
3 4 is introduced without objection from
4 Kinder Morgan; therefore, it is introduced
5 for the truth of the matter asserted on the
6 document for any court proceedings that we
7 may have in the future or for any purpose
8 the Board of Health wishes to embark on.

9 MR. WOLFROM: Exhibit 4 lists on
10 pages 1-6 a number of regulatory violations
11 by Kinder Morgan. Exhibit 4 lists on page
12 7 allegations of bribery, fraud scams and
13 thefts by Kinder Morgan.

14 Exhibit 4 lists on page 8 to 9
15 allegations of Kinder Morgan's pipeline
16 disasters, which resulted in deaths,
17 felonies, and other disasters.

18 Exhibit 4 lists on pages 10 and 11
19 other regulatory violations by Kinder
20 Morgan.

21 Would you like to comment now on all
22 these issues. Please respond in writing.

23 MR. BONIFAZ: Again, as I say
24 before, we are introducing this for the

1 truth of the matter asserted in the
2 document. Thank you.

3 MS. SHORES-NESS: Many residents of
4 Deerfield are aware of the dangers that
5 exist with gas transportation in the
6 pipelines. Many have gas lines in their
7 own homes and there have been many
8 accidental leaks in Deerfield and the
9 region of small pipelines, which have
10 resulted in some fires and an occasional
11 death.

12 What no one in Deerfield can imagine
13 is what would be the result of a
14 catastrophic failure of a 36 to 42-inch
15 line -- inch diameter pipeline Kinder
16 Morgan is proposing that they cut through
17 the Town of Deerfield. Kinder Morgan has
18 stated that Kinder Morgan's pipeline would
19 be controlled by the regulations set forth
20 by the Federal Energy Regulatory
21 Commission, the FERK.

22 Our question to Kinder Morgan is:
23 That given the record of Kinder Morgan of
24 the regulatory violations as introduced

1 here in Exhibits 2-4, what warranty do the
2 Deerfield residents have that; yet, another
3 violation of a regulation might result in a
4 catastrophic event for the residents of
5 Deerfield.

6 Please respond in writing.

7 MR. WOLFROM: The Board of Health is
8 aware that the gas pipelines are dangerous
9 regardless of whether they are Kinder
10 Morgan pipelines or other pipelines. This
11 is a serious concern. And we would now
12 like to introduce five other exhibits into
13 the record.

14 MR. BONIFAZ: Let's give her a
15 little time for the recorder to introduce
16 those documents.

17 MR. WOLFROM: Exhibit 5 is a list of
18 460 pipeline accidents in the United States
19 from 2000 to 2009.

20
21 (Exhibit 4, document, marked)

22
23 MR. BONIFAZ: Again, one more time,
24 we're introducing these documents for the

1 truth of the matter asserted since Kinder
2 Morgan has not objected to us introducing
3 these documents into the record. It will
4 be used for any court proceeding we may
5 have in the future or for any other purpose
6 the Board of Health wishes to use them.

7 MR. WOLFROM: Exhibit 6, describing
8 other pipeline accidents in the U.S.

9 Exhibit 7 is a list of pipeline
10 accidents all over the world.

11 Exhibit 8, 6,000 pipeline leaks in
12 the District of Columbia. I could really
13 comment on that one.

14 Exhibit 9, cost of mass consumers of
15 gas leaks amounting to 1.5 billion dollars.

16 Would you please respond in writing.

17 MR. BONIFAZ: Now, let's just hold
18 on a second until -- the recorder is
19 falling behind on putting the documents
20 into the record.

21 We have introduced document 4 so
22 far. We have introduced document 5, 6, 7,
23 8 and 9. The recorder will mark them.

24 And, again, documents 5, 6, 7, 8,

1 and 9 are introduced for the truth of the
2 matters asserted in the documents. Because
3 there are no objections from Kinder Morgan
4 as to whether we can or cannot introduce
5 these documents. So, there is no question
6 about hearsay testimony, no business
7 records or anything else. These are
8 accepted as for the truth of the matter
9 asserted because they didn't object.

10 So, let's just make sure we take a
11 breather here and mark all these 9
12 documents. Give the recorder a little
13 time.

14 These are copies 2-9 for Kinder
15 Morgan in case they show up.

16
17 (Exhibits 5-9, documents, marked)

18
19 MS. SHORES-NESS: All right. Would
20 the recorder please mark Exhibit 10 into
21 the record. And also put Exhibit 10 in the
22 pile for Kinder Morgan should they chose to
23 show up.

24 Exhibit 10 is prepared by the U.S.

1 Energy Information Administration and
2 states that the current consumption of
3 natural gas in Massachusetts is
4 approximately 1.1 billion cubic feet per
5 year.

6 Do you agree or disagree with this
7 U.S. Energy information? And that's the
8 question we would like Kinder Morgan to
9 respond to.

10 MR. BONIFAZ: And, of course, one
11 more time. Exhibit 10 is introduced for
12 the truth of the matter asserted in the
13 document given the fact that Kinder Morgan
14 has not objected to us introducing this
15 document into the record.

16 MR. WOLFROM: Kinder Morgan has
17 publicly stated that it expects to
18 transport through the pipeline 2.2 cubic
19 feet per year.

20 Do you agree or disagree with this
21 statement? Please respond in writing.

22 MS. SHORES-NESS: The gas that
23 Kinder Morgan expects to transport through
24 Massachusetts is fracked gas. Is this

1 correct? That's the question we would ask
2 Kinder Morgan to respond to, please.

3 MR. WOLFROM: Would the recorder
4 please mark now Exhibit No. 11.

5 Exhibit 11 is a description found in
6 the internet on how fracked gas is obtained
7 from deep locations across the United
8 States. And information provided in
9 Exhibit 11 describes in one paragraph that
10 fracked gas is produced by fracking the
11 scale with a brew of chemicals.

12 Do agree or disagree with these
13 statements?

14 MS. SHORES-NESS: I have a further
15 question. I have read each fracked uses
16 between 80 and 300 tons of chemicals?

17 Is this true? I would like you to
18 respond in writing.

19 MR. BONIFAZ: And, again, Exhibit 11
20 is introduced for the truth of the matter
21 asserted in the document.

22
23 (Exhibits 10-11, documents, marked)
24

1 MR. WOLFROM: Would the recorder
2 mark Exhibit 12, list of chemicals used for
3 fracking.

4 What warranty do we have that none
5 of these chemicals will be in the pipeline?

6 MR. BONIFAZ: Again, for the record,
7 Exhibit 12 is introduced for the truth of
8 the matter asserted. And I just want to
9 point out that the chemicals used for
10 fracking include Petroleum Distillates,
11 Ethylene Glycol, antifreeze,
12 Polyacrylamide, Petroleum Distillate,
13 Hydrotreated light, Petroleum Distillate,
14 propanol, Methanol, Formic Acids, and other
15 chemicals.

16 And the question Mr. Wolfrom raises
17 is whether or not some of these chemicals
18 might be used in the pipeline.

19 MR. WOLFROM: One of the major
20 concerns that I have as a member of the
21 Board of Health is that if these chemicals
22 are coming through the pipeline, and we do
23 have a leak, especially in the area of the
24 town that it's going through, a number of

1 our residents have shallow wells, which
2 rely on spring water. And this would
3 easily contaminate all the wells on the
4 north end of town, on both east and west
5 Deerfield, which obviously would be a major
6 catastrophe for the Town of Deerfield.

7 MR. BONIFAZ: I think that -- did
8 you want to ask questions about the -- when
9 the pipeline is left underground what may
10 contaminate it?

11 MR. WOLFROM: A question we have of
12 Kinder Morgan is can they guarantee that
13 this pipeline coming through Deerfield will
14 not disturb the aquifer in the northern
15 part of Deerfield as well as contaminate
16 that water supply.

17 Please respond in writing.

18
19 (Exhibit 12, document, marked)

20
21 MS. SHORES-NESS: We have covered
22 many of the critical topics with exhibits
23 and questions. We have had our attorney
24 review the questions that are relevant and

1 that were received in the last couple of
2 days. He has selected the health-related
3 questions and topics that have not already
4 been covered.

5 MR. BONIFAZ: Yeah, we received a
6 number of documents. We have to remember
7 what the jurisdiction of this Board of
8 Health is. The jurisdiction of the Board
9 of Health is only to do with health issues.
10 We have received some comments, which are
11 outside the jurisdiction of the Board of
12 Health, and we don't want to deal with
13 that.

14 We also have received comments about
15 the compression station, is that what they
16 call, compressor stations. And we are not
17 going to deal with that either because
18 there is no plan to put a compressor
19 station in Deerfield. So, that's a matter
20 for somebody else to take care of so we are
21 not going to deal with that.

22 As far as -- Tom Russell sent us a
23 few pages of comments dealing with the
24 compression station. Some of the other

1 issues have been covered already, and there
2 is no reason to go over them again.

3 I believe that I have gone over all
4 the questions that were submitted, and I
5 think that Carolyn and David have covered
6 all the topics. So, there is no need to
7 have any further testimony for the
8 audience.

9 MS. SHORES-NESS: As noted in the
10 beginning of the hearing, we will be
11 granting Kinder Morgan 15 days from the
12 date of this hearing to respond to our
13 questions introduced.

14 All written responses are due at
15 4.00 on September 24th, 2014.

16 This hearing will be adjourned while
17 the Board of Health collects responses from
18 Kinder Morgan.

19 MR. WOLFROM: I move that this
20 hearing be adjourned at this time and that
21 Kinder Morgan be allowed to respond within
22 15 days period previously noted in the
23 rules of the hearing.

24 MS. SHORES-NESS: I second that

1 motion. Is there any further discussion?

2 MR. WOLFROM: No.

3 MS. SHORES-NESS: All those in
4 favor, say I.

5 MR. WOLFROM: I.

6 MS. SHORES-NESS: I.

7 Thank you everyone very, very much
8 for attending this hearing. We appreciate
9 your cooperation, your patience, and your
10 time to come out tonight. We are all
11 concerned, and please be assured that we
12 will be following up on this. Please, make
13 sure, as you exit, that you have signed in
14 as part of the public record.

15 And, again, thank you for being part
16 of the wonderful community of Deerfield.

17
18 (Hearing concluded)

19

20

21

22

23

24

COMMONWEALTH OF MASSACHUSETTS

Deerfield, ss.

I, Jessica M. DeSantis, Court Reporter, do
hereby certify that the foregoing testimony is
true and accurate to the best of my knowledge and
ability.

WITNESS MY HAND, this 25th day of September,
2014.

Jessica M. DeSantis

jmd