



*Working with you to protect the
environment for wildlife*

Good afternoon and thank you for the opportunity to share our perspective from Massachusetts on the Federal Energy Regulatory Commission - FERC.

My name is Jane Winn, and I am Executive Director of Berkshire Environmental Action Team, or BEAT, in western Massachusetts. I am also speaking for Rosemary Wessel, program director of No Fracked Gas in Mass.

For Kinder Morgan's Connecticut Expansion pipeline in Massachusetts, FERC authorized the condemnation of publicly protected conservation land, and preemption of the state process for disposition of that publicly protected conservation land.

In Massachusetts, we have Article 97 of our state constitution that protects conservation lands. Under this provision, a change of use of protected public land is not allowed unless 2/3 of each chamber of our legislature votes to allow the protection to be removed. Even for an easement, this vote is required.

In the case of the Connecticut Expansion pipeline, FERC did not require the pipeline company to honor the state's constitutional process. Instead, FERC punted to the courts the question of the state's authority to protect land, rather than making compliance with Article 97 a condition of the FERC certificate, as many commenters had requested.

The land in question is part of Otis State Forest and was acquired just a decade ago at great expense to the taxpayers. The town of Sandisfield also chose to forgo tax revenue on this land, so that it could gain the benefit of "permanently" protected state forest and a spectacular pond to attract tourists and make the town a more desirable place to live.

The land in question is in Berkshire County, as far from the coast of Massachusetts as you can get. Kinder Morgan, unable to obtain the support or consent of local legislators, convinced a representative from the coast – the opposite end of the state - to introduce a bill to release the protection on this land. There was a hearing in Boston and people from across the state traveled to the state house to fill the room – all with signs announcing where we were each from. No vote was ever taken because of public outrage combined with the principled stance of the committee chair who would not allow the bill to advance because Kinder Morgan never provided information he had requested. Thus the land was not released from protection.

Kinder Morgan sued in local superior court and the judge ruled that the Natural Gas Act preempted our state constitution. To our disappointment, our attorney General has not appealed.

We feel there are many alternatives to going through this conservation land, and we could lose a precious resource, all so that Kinder Morgan can profit. There is NO benefit to Massachusetts. All the gas is going to Local Distribution Companies in Connecticut to be sold to homes and businesses in Connecticut. Many believe this route was chosen as the test case, to see whether Massachusetts' constitutional protections could be preempted under the Natural Gas Act.

BEAT with a Citizens Group have appealed the 401 Water Quality Permit for this pipeline granted by the Massachusetts Department of Environmental Protection, in part because we seek to protect water resources on this conservation land that should be protected under our state constitution. Our appeal will be heard in January.

Thank you for holding this hearing and allowing me to speak for our organizations in Massachusetts.

Jane Winn
Executive Director
Berkshire Environmental Action Team, Inc.