NH Municipal Pipeline Coalition

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September 14, 2015

The Honorable Gregory H. Friedman
Inspector General
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, D.C. 20585

Re: Oversight of FERC and Approval of Gas Pipelines

Dear Mr. Friedman,

We write to you regarding the interstate gas permitting process administered by the Federal Energy Regulatory Commission (FERC) pursuant to the Natural Gas Act of 1938 (NGA). As the New Hampshire Municipal Pipeline Coalition, we represent 14 towns and thousands of residents with concerns about the FERC process in general and specifically regarding the Kinder Morgan (KM) Northeast Energy Direct (NED) Project – Docket No. PF14-22-000.

Our intent here is not to debate this proposed pipeline, but rather share our concerns about FERC's handling of the interstate natural gas permitting process for Kinder Morgan's application. Indeed, our concerns echo those previously sent to you July 15, 2015 by the bi-partisan New Hampshire Congressional Delegation. In that letter, they asked you for specific explanations about citizen access to accurate information and that citizen participation be considered a credible part of this proposed pipeline's Scoping process.

For several months, our experiences with FERC officials have left us and many New Hampshire residents confused and frustrated about the integrity of the permitting process and, by extension, whether citizen voices will be heard and considered. As examples, during meetings with our Coalition, the Nashua Regional Planning Commission (NRPC) and at the local Scoping Meetings, Eric Tomasi, FERC Project Manager stated:

- FERC does not report to the President or Congress. FERC "reports to the courts."
- FERC staff does not review the "need" for a pipeline. The Commissioners make a determination of "need" in their ***final*** review.
- FERC could simply approve all pipelines proposed for New England and let the market decide what actually gets built.

We request that you and your office respond to the following requests:

1.) Please clarify the lines of authority and oversight of FERC. What provides the regulatory oversight for FERC to protect the constitutional rights of citizens and landowners? FERC has broad powers to approve interstate pipelines, preempt state and local authority, exercise eminent domain and restrict state rights for oversight. Is this consistent with the intent of the Natural Gas Act?

The threat of eminent domain to implement this project raises serious apprehensions as expressed by the Congressional delegation in their letter to you. We share these concerns given the New Hampshire Constitution specifies protections in: **Article 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.

2.) How are we assured by your office that this eminent domain power, protected by the New Hampshire Constitution, is not abused?

We are deeply concerned about the true "need" for the NED Project as noted in the second bullet point from Mr. Tomasi. Need should be addressed very early in the process, in a highly public and transparent way, ***before*** Environmental Impact Studies are even started. There are at least three competing pipelines proposed for New England with Kinder Morgan's NED as the only "greenfield" project, while the other two (Spectra and Portland Natural Gas) utilize existing pipeline rights-of-way and would be completed at much lower cost and environmental impact.

3.) We request a fully transparent analysis be required of FERC that evaluates the true "need" of the three new pipeline projects in the region: Kinder Morgan's NED, Spectra's Access Northeast, and a pipeline expansion by Portland Natural Gas.

We believe that if FERC simply approves all three pipeline projects, as suggested in Mr. Tomasi's third bullet, it is ignoring its regulatory responsibility. Further, it would result in a significant overbuild of pipeline infrastructure that would unnecessarily impact our environment, pose threats to our water supply, and leave rate payers paying the unneeded cost for years to come.

We ask that you utilize the full authority of your office to investigate the scope of FERC's authority to ensure that landowner rights are preserved; consumer safeguards are in place to prevent predatory practices as detailed in the NGA; comparative low cost/low impact analyses are conducted on all competing pipeline proposals and that there is adequate oversight of FERC by our duly elected federal officials.

Thank you for your attention to our request and we look forward to your prompt response.

Sincerely,

James O'Mara
Town Administrator
Amherst

Tad Putney
Town Administrator
Brookline

Susan Silverman
Board of Selectmen
Fitzwilliam

Kelley Collins
Town Administrator
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Wendy Juchnevics-Freeman
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Roberta Oeser
Board of Selectmen
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John Kieley
Pipeline Task Force
Temple

Nancy Harrington
Town Council
Merrimack

Tom Matson
Board of Selectmen
Troy

Charlie Moser
Board of Selectmen
Mason

cc: Chairman Norman Bay, FERC
Governor Maggie Hassan
Senator Jeanne Shaheen
Senator Kelly Ayotte
Representative Ann McLane Kuster
Representative Frank Guinta