

LANDOWNER WORKSHOP



Presented by:
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Northeast Energy Direct (“NED”)

- Northeast Energy Direct (“NED”) Project proposed by Tennessee Gas Pipeline Company (“TGP”), a subsidiary of Kinder Morgan Energy Partners, L.P.
- High-pressure, 36-inch pipeline with two sections of proposed extension:
 - from Wright, New York to Dracut, Massachusetts
 - from Franklin, Pennsylvania to Wright, New York
- Estimated cost of \$2.75 billion to \$3.75 billion
- Project Status
 - FERC Pre-filing filed September 15, 2014
 - FERC issued approval for pre-filing on October 2, 2014
 - Route change (through NH) filed December 8, 2014
 - Draft ER by pipeline on March 13, 2015
 - Second Draft ER filing anticipated July 24, 2015
 - Notice of Intent and commencement of Scoping Process - filed June 30, 2015
 - Scoping concludes August 31, 2014
 - Estimated FERC Application filing (including final ER): September 2015
 - Proposed Construction Start Date: January 2017
 - Estimated Placed in Service Date: November 2018

Phases of FERC Project Review

- FERC Pre-Filing (largely complete)
 - Pipeline conducts informational open houses
 - Work collaboratively with FERC staff to identify project issues
 - Determine scope of environmental review (EA / EIS)
- FERC Application Review
 - Non-Environmental Review
 - Environmental Review under NEPA
 - Project must be found to be in the “**public convenience and necessity.**”
- Post-FERC Order (rehearing; compliance with conditions) and Judicial Review
 - NGA Section 7(e): statutory authority to place conditions on its Order

FERC Public Scoping Meetings

FERC Public Scoping Meetings		
Date and Time	Location	Location
Tuesday, July 14, 2015 7:00 pm	Towanda Jr./Sr. High School 1 High School Drive Towanda, PA 18848 (570) 265-2101	Burch Hill Catering 1 Celebration Way Castleton-on-Hudson, NY 12033 (518) 732-4444
Wednesday, July 15, 2015 6:30 pm	VFW 386 Main St. Great Bend, PA 18848 (570) 879-4420	Burch Hill Catering 1 Celebration Way Castleton-on-Hudson, NY 12033 (518) 732-4444
Thursday, July 16, 2015 7:00 pm	Foothills Performing Arts Center 24 Market St. Oneonta, NY 13820 (607) 431-2080	Days Inn 160 Holiday Way Schoharie, NY 12157 (518) 295-6088
Tuesday, July 28, 2015 7:00 pm	Taconic High School 96 Valentine Rd Pittsfield, MA 01201 (413) 448-9600	
Wednesday, July 29, 2015 6:30 pm	Nashua Radisson 11 Tara Blvd. Nashua, NH 03062 (603) 888-9970	Greenfield Middle School 141 Davis St. Greenfield, MA 01301 (413) 772-1360
Thursday, July 30, 2015 6:30 pm	Milford Town Hall Town Hall, One Union Square Milford, NH 03055 (603) 249-0600	Central Connecticut State University 1615 Stanley St. New Britain, CT 06050 (860) 832-3200
Tuesday, August 11, 2015 7:00 pm	Dracut Senior High School 1540 Lakeview Ave. Dracut, MA 01826 (978)-957-1500	
Wednesday, August 12, 2015 7:00 pm	Lunenburg High School 1079 Massachusetts Ave. Lunenburg, MA 01462 (978) 582-4115	

Access Agreements

- What is requested and scope
- Deals with access for surveying only
- Procedure when landowner refuses (DPU)

What is an Easement?

- An easement is a limited right to use the land of another for a specific purpose. Unlike a sale of land, an easement contemplates a continuing and long-term relationship between the landowner and the easement holder (the “Pipeline Company”).

Typical Components of an Easement

(1 of 2)

- Scope of the grant:
 - Temporary (construction) - width
 - Permanent, width
 - Future Improvements
- Restoration
- Operation and Maintenance
- Access by Pipeline Company
- Expansion

Typical Components of an Easement

(2 of 2)

- Indemnification/Hold Harmless
- Landowner Rights and Restrictions on Use of Easement Area
- Removal/Abandonment
- Termination
- Dispute Resolution

Construction Activities

(1 of 2)

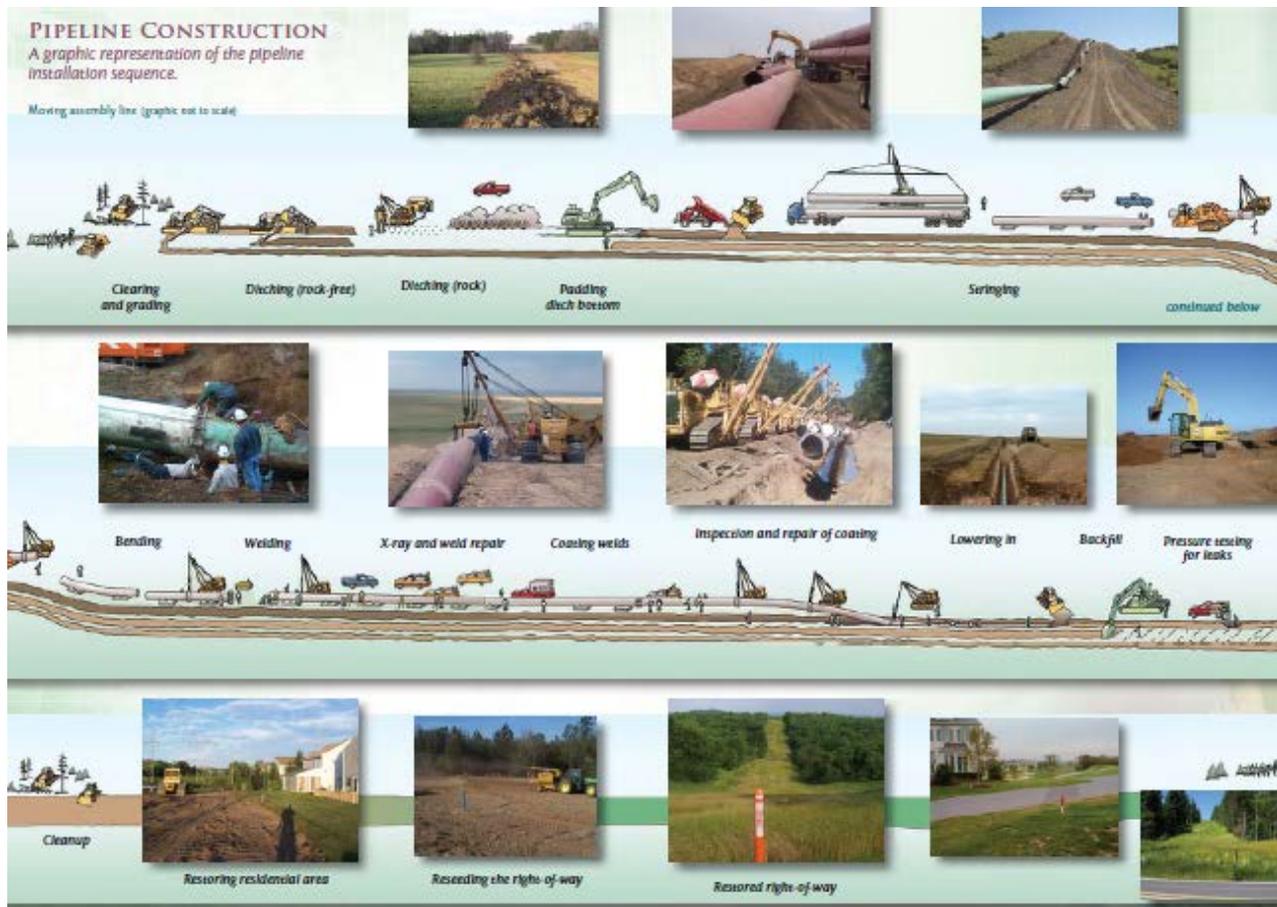
- Depth of pipeline (typically 36 inches)
- Ask for greater depth if warranted
- Materials and substances allowed
- Erosion
- Restoration and reseeded (choice of materials, replanting)

Construction Activities

(2 of 2)

- Special issues and concerns (wells, foundations, septic systems, etc.)
- Staging areas
- Signage
- Stop work/if something is damaged

Pipeline Construction



Payments to Landowner

- Payment for property interests
- Linear foot versus acreage basis
- Temporary easement and permanent easement
- Payments for damages
- Payments for costs to landowner
- Surveys, appraisals, attorney fees, recording fees
- Confidentiality provisions
- Taxation
- Permanent easement and damages: capital gains
- Temporary easement (less than 30 years): ordinary income
- Why you need an itemized statement

Lands Already Subject to Conservation Restrictions and/or Article 97

- Look at terms of existing restriction and approvals required
- Strongly discourage easement in already conserved lands – conflict
- Does FERC Certificate (approval) trump need for Article 97 or other approvals?
- Limited circumstances under which Secretary of EOEEA will grant a release

Permanent and Temporary Easements Distinguished; Special Issues

- Width
- Termination of temporary easement
- Written timeline for use
- No warranty of title by landowner
- Maximum pressure size
- Above ground facilities

Operation and Maintenance of Pipeline

- ROW maintenance (cutting, spraying etc.)
- Inspection (PIGs, etc.)
- Notification/issues
- Indemnification and scope

Limitations on Landowner Rights

- Planting and Landscaping
- Crossings
- Grant of future easements by landowner

Replacement and Expansion

- Limit to a single line
- Limit Assignment of Easement

Abandonment

- What is abandonment in place
- What constitutes abandonment
- What happens (removal, restoration), address both below and above-ground structures

Eminent Domain Process (1 of 2)

- Necessity of Taking, Section 7(h) of the Natural Gas Act

Eminent Domain Process (2 of 2)

- Just compensation
- Valuation (how determined)
 - per foot
 - damage to remaining property

Closing Thoughts
