Testimony on House Bill 3690,
An Act relative to the conveyance of an easement in the town of Sandisfield, Massachusetts
Before the Joint Committee on State Administration and Regulatory Oversight
Public Hearing November 10, 2015

The Honorable Joan B. Lovely
Senate Chair, Joint Committee on
State Administration & Regulatory Oversight
State House, Room 413A
Boston, MA 02133

The Honorable Peter V. Kocot
House Chair, Joint Committee on
State Administration & Regulatory Oversight
State House, Room 22
Boston, MA 02133

Madam Chair, Mr. Chair, and Committee Members,

Thank you for the opportunity to comment. My name is Leigh Youngblood. I am the executive
director of Mount Grace Land Conservation Trust, which has helped protect hundreds of
Article 97 public lands.

It is well-known that the FERC deck is stacked in favor of approving natural gas pipelines. The
Commonwealth need not make the process even easier for Kinder Morgan, especially not at the
expense of public trust assets held in its care on behalf of citizens.

Several parcels of Article 97 land are the subject of this Bill, one conserved in 1934 and
Spectacle Pond, conserved in 2007. Soon Kinder Morgan will seek a vote on, literally, between
100 to 200 additional Article 97 parcels for the NED project.

In relation to interstate natural gas pipelines, Article 97 has a unique role. Because of federal pre-
emption, even if this Bill is defeated, the easements could still be taken by Kinder Morgan using
eminent domain powers, assuming an approval certificate is eventually granted by FERC.

But, FERC’s own policy, PL-99-3, states:

“The strength of the benefit showing will need to be proportional to the applicant’s
proposed exercise of eminent domain procedures.”

In other words, the legislature’s defeat of Article 97 bills for interstate pipelines simply raises the
bar against which Kinder Morgan must prove the net benefits of a project.
It is worth revisiting the purpose and history of Article 97 of our Constitution:

In part, it provides that:

"The people shall have the right to clean air and water, ..., and the natural, scenic, historic, and esthetic qualities of their environment;

and[,] the protection of the people[‘s] right to the conservation ... of... natural resources is hereby declared to be a public purpose."

Retired Senator Robert D. Wetmore was in the House of Representatives when he sponsored the Article 97 legislation. Senator Wetmore served a total of twelve years in the House and ten terms in the Massachusetts Senate, beginning in 1965. Because of his leadership, Article 97 received unanimous approval in a joint session of the Legislature on Aug 5th, 1970. And then in November 1972 the voters approved Article 97 by referendum.

I am here, today, to urge the Committee to defeat Bill 3690.

Distinctive public resources should not be sacrificed for projects of questionable merit when less destructive alternatives are available. Please, do your part to raise the bar on the burden of proof before sacrificing the rights of the people and prior public commitments.

Thank you,

Leigh Youngblood
Executive Director

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