

## For Immediate Release - March 17, 2017

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BOSTON -- In the many ongoing proceedings regarding the Connecticut Expansion pipeline proposed by the Tennessee Gas Pipeline Company (TGP), an important legal victory has just been won for Clean Water Act advocacy in the context of Natural Gas Act proceedings. This decision has potential ramifications for interstate gas pipeline proceedings nationwide.

The United States Court of Appeals for the First Circuit has rejected TGP's legal arguments with which the company sought to cut short the Massachusetts state agency review of the company's water quality application filed for the Connecticut Expansion Project. ([Link to court decision](#))

Last July, the Citizen Petitioners -- 16 individuals, together with the Berkshire Environmental Action Team -- appealed an initial Massachusetts Department of Environmental Protection (MassDEP) water quality certification issued by the MassDEP Western Regional Office. In accordance with Massachusetts law, that appeal was filed with the MassDEP Office of Appeals and Dispute Resolution.

TGP responded by suing all of the Citizen Petitioners in federal district court, asserting that MassDEP lacked jurisdiction to continue with its administrative process because of a section in the Natural Gas Act that the company claimed preempted further state agency review.

Thus, the Petitioners filed their First Circuit appeal in August out of precaution, to preserve all rights of appeal. The Petitioners asked that their own court appeal be dismissed as premature because the MassDEP proceeding remained ongoing. On Wednesday, the First Circuit did dismiss the appeal, as the Petitioners had requested, allowing the MassDEP review process to continue through to a final decision by the commissioner.

Kathryn Eiseman, president of the Pipe Line Awareness Network for the Northeast (PLAN), explains: **"This case helps define the limits to the preemptive powers of the Natural Gas Act, and highlights the pivotal role that key state decision-making processes play in interstate pipeline permitting."**

The three-justice panel that heard the case and ruled against TGP included retired United States Supreme Court Justice David Souter. The Court refers to TGP's various arguments as "[p]ushing back on ... [a] common sense conclusion" and of "little if any persuasive force".

The Citizen Petitioners were represented at the First Circuit by [Richard Kanoff](#) of Burns & Levinson LLP.

The Connecticut Expansion Project would degrade or destroy over ten acres of wetlands in the Commonwealth of Massachusetts, much of it in Otis State Forest in Sandisfield. The project is intended to serve three gas utilities in Connecticut.

-- [Link to all 401 appeal filings](#)

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