



United States Department of the Interior

FISH AND WILDLIFE SERVICE

3817 Luker Road
Cortland, NY 13045



October 5, 2012

Mr. Kevin Bowman
Environmental Protection Specialist
Federal Energy Regulatory Commission
888 First Street NE
Washington, DC 20426

Dear Mr. Bowman:

The U.S. Fish and Wildlife Service (Service) has reviewed the Notice of Intent (NOI) to Prepare an Environmental Impact Statement (EIS) for the Planned Constitution Pipeline Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meetings, Federal Energy Regulatory Commission (FERC) Docket No. PF12-9-000, dated September 7, 2012. The applicant, Constitution Pipeline Company, LLC, proposes to construct a new 30-inch natural gas pipeline, approximately 120.6 miles in length, from Susquehanna County, Pennsylvania, to the existing Tennessee Gas Pipeline in Schoharie County, New York. The purpose of the new pipeline project is to transport natural gas obtained from Marcellus shale reserves in Pennsylvania to markets in New York and beyond.

This is the report submitted by the Service and the Department of the Interior pursuant to, and in accordance with, provisions of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), Endangered Species Act of 1973 (ESA) (87 Stat.884, as amended; 16 U.S.C. 1531 *et seq.*), Bald and Golden Eagle Protection Act (BGEPA) (54 Stat. 250, as amended; 16 U.S.C. 668-668d), and the Migratory Bird Treaty Act (MBTA) (40 Stat. 755; 16 U.S.C. 703-712). We may provide additional comments on this project under the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 *et seq.*) or other legislation, as applicable.

The proposed project involves the construction of approximately 120 miles of new pipeline, four new meter and regulation stations, a new compressor station, and various infrastructure needed to support the pipeline. Public meetings to introduce the project, answer questions, and receive feedback were held in multiple locations in the project area in July and September 2012. As a result of those meetings, the applicant is reviewing and adjusting the project design and developing a new pipeline alternative, including a portion which would roughly follow the Interstate 88 highway corridor (Alternative M).

At full capacity the pipeline could transport up to 650,000 dekatherms of natural gas per day. Project documents indicate that the full capacity of the pipeline is currently under contract. However, it is not yet clear where the demand is for the gas that is being extracted in Pennsylvania. Nor, has it been explained how the existing pipeline infrastructure fails to provide adequate service. We are aware of several proposed and existing gas pipeline projects which

deliver natural gas from Pennsylvania to New York (Tennessee Gas 300, Stage Coach to Millennium, Texas Eastern). The FERC should require a more thorough review of these projects as alternatives for delivering gas to southeast New York. Adequate information on project purpose and need should be provided in the EIS.

According to project documents, construction of the pipeline could disturb more than 1,500 acres of land with approximately 700 acres or more being permanently retained for the operation of the project. While several resource categories, such as vegetation and wildlife, threatened and endangered species, and aquatic resources are listed in the NOI, there are no details on what studies would be required to evaluate the proposed project's effects on these resources. The NOI mentions that the project will have potential effects on listed and sensitive species, floodplains, and forests. Importantly, the NOI also includes the evaluation of alternatives as an issue for review.

We recommend a thorough analysis of environmental impacts for all viable alternatives, including upgrades to existing pipeline facilities. If upgraded equipment is capable of providing the service capacity proposed by the Constitution project, then the environmental impacts associated with its construction, operation, and maintenance can be avoided. If it is determined that a new pipeline facility is warranted, we recommend FERC consider the benefits of co-locating it with existing infrastructure, such as highway rights-of-way and utility corridors. This will reduce direct and indirect impacts to wildlife habitat, habitat fragmentation, and human disturbance in natural areas. Regardless of the alternatives reviewed, all should be studied in the same manner so that equal comparison of potential impacts to resources can be made.

Evaluation of aquatic resources is an important issue for projects such as this, and should include both a review of existing information and field collection of data. Water quality information about aquatic habitat is often lacking in environmental reports. We suggest that multiple agencies, such as the New York State Department of Environmental Conservation (NYSDEC), U.S. Environmental Protection Agency, Susquehanna River Basin Commission, and others be contacted to obtain as much existing data as possible. In addition, for those areas where disturbance will occur to aquatic habitat, water quality data should be collected so that potential impacts can be determined, and also to serve as baseline data to compare with post construction conditions should unexpected adverse impacts occur. Data on water quality parameters such as temperature, pH, conductivity, dissolved oxygen, and nutrient levels (e.g., phosphorus, nitrogen) should be collected.

We recommend coordination with the NYSDEC for information on sensitive aquatic species such as the hellbender (*Cryptobranchus alleganiensis*) and freshwater mussels which are known to occur in the Susquehanna River basin. These species may be adversely affected by changes in water quality or habitat disturbance. Surveys may be needed in locations of pipeline crossings of the river or its tributaries.

Wetland studies should include not only a physical description of the habitat but also what fish and wildlife are supported by each area. Evidence of animal use should be documented and a list of species expected to use the wetlands should also be developed. Construction impacts on these areas should be considered, including soil erosion and compaction by equipment, introduction of invasive plant species such as purple loosestrife (*Lythrum salicaria*) and common reed (*Phragmites sp.*), changes to drainage patterns, and the potential for spills of petroleum products. Measures to avoid and minimize these potential impacts should be provided, with special consideration of sensitive aquatic habitat. For example, we recommend the use of horizontal

directional drilling (HDD) to cross under aquatic habitat where feasible. Using HDD can be a means of avoiding and minimizing temporary and permanent impacts to these aquatic habitats. The assessment of wetland impacts should include the potential for indirect impacts, such as altering wetland hydrology on sloped areas. Where surface disturbance is expected, wetland contours should be surveyed to aid in restoration efforts.

For each alternative, we recommend that wildlife habitat be adequately mapped so that impacts to the various cover types can be assessed. This mapping effort can be done in conjunction with other field studies, such as wetland delineations. A more detailed habitat assessment may be requested if listed species or species of concern potentially occur in the project area.

The FERC will be involved with authorizing the proposed project. As you are aware, Federal agencies have responsibilities under Section 7(a)(2) of the ESA to consult with the Service regarding projects that may adversely affect federally listed species or designated "critical habitat," and confer with the Service regarding projects that may adversely affect federally proposed species or proposed "critical habitat." Therefore, the project's environmental documents should describe the project area, known listed species and critical habitat in or near the project site, and whether there will be effects to these resources from the proposed action.

Several federal and State listed species may occur in the project area. Previous correspondence from the Service's Pennsylvania Field Office dated May 29, 2012, revealed that the project is within the range of the Indiana bat (*Myotis sodalis*), a federally listed endangered species. It was requested that the amount of suitable habitat for this species within the project area be provided to determine the necessary survey effort. To date, that information has not yet been provided and, therefore, additional coordination will be required with the Service to determine survey protocols. For federally listed species found in New York, we recommended in a letter dated June 7, 2012, that information from our website* be reviewed. We also indicated that the status of three bat species, Eastern small-footed bat (*Myotis leibii*), northern long-eared bat (*Myotis septentrionalis*), and little brown bat (*Myotis lucifugus*) was being reviewed for future ESA protection. Accordingly, conservation measures may include conducting surveys to locate maternity colonies along the proposed alternatives. Additional coordination with the Service would be needed to determine appropriate survey protocols.

We note that preliminary alternatives are proposed to cross many tracts of forest, some large in size. The fragmentation of forests by utilities, roads, and other development results in the direct loss of habitat and can reduce habitat quality, particularly for interior species such as black bear (*Ursus americanus*), northern goshawk (*Accipiter gentilis*), scarlet tanager (*Piranga olivacea*), and ovenbird (*Seiurus aurocapilla*) among many others. Studies have shown that an edge or corridor through a core forest can negatively affect the habitat for interior species out to 300 feet. Given this information, we recommend the analysis of impacts to intact blocks of forest habitat consider not only the direct but also the indirect effects of fragmentation. Fragmentation of forest not only results in habitat loss, but also can lead to reduction in habitat quality, isolation of individuals, reduced occupancy, reproduction, or survival in a particular species.

In our May 29, 2012, letter, we indicated that FERC should consider the effects of the project on migratory birds as indicated by the MBTA and the requirements of Executive Order 13186, Responsibilities of Federal Agencies to Protect Migratory Birds. Construction of the project would likely encompass the nesting season of migratory birds. Therefore, data on breeding birds should be obtained for the project area. We request that documents which identify ways to limit project impacts to migratory birds and their habitats be provided prior to FERC approval. In

addition, FERC should coordinate with our office to develop conservation measures to benefit migratory birds, if appropriate.

We note that the bald eagle (*Haliaeetus leucocephalus*) is known to occur along the Susquehanna River and nearby areas. This species is protected by the BGEPA and is listed as threatened by the State of New York. Bald eagles have been known to breed in the area and, therefore, disturbance to nesting birds from construction activities is possible. If appropriate, we recommend that surveys for this species be coordinated with the Service.

Movement of construction equipment and soil disturbance can increase the likelihood that invasive plant species will become established in the project area or nearby areas. Invasive plants and animals can be destructive to native biotic populations and are often spread during construction projects. We recommend that the EIS document existing locations of invasive plants, as defined by the NYSDEC, along the proposed pipeline corridors. This information will aid in the development of an invasive species management plan prior to project approval. The EIS should identify best management practices and measures to preclude the spread of invasive species either into or out of the project site during construction. This would include the cleaning of equipment prior to moving between work areas. Monitoring post construction conditions can also serve as a way to ensure that no invasive plants become established.

A cumulative impact analysis of existing pipelines, transmission corridors, roads, and other development should be reviewed to determine the extent of previous impacts to fish and wildlife. It should also include the project that is currently proposed as well as those that are reasonably foreseen in the future. Consideration should be given to future Marcellus shale gas drilling and additional natural gas pipelines and infrastructure which may be required. This information should be provided and discussed in the EIS. While we understand that future development is difficult to predict, some information from Marcellus shale drilling in Pennsylvania may provide insight.

In summary, we recommend FERC and the applicant provide a rigorous environmental review of the Constitution Pipeline Project prior to project approval. Furthermore, the information gathered during this process should inform the project design and lead to measures which avoid and minimize impacts to important resources such as aquatic habitat, listed species, area sensitive species, migratory birds, and native plant communities. The applicant should closely review alternatives available to avoid and minimize impacts to natural resources and provide conceptual mitigation measures for those impacts which cannot be avoided. Project approval should only be considered after this information has been provided to the FERC.

We expect the Service's Pennsylvania and New York Field Offices to stay involved with the project and EIS review and welcome the opportunity to discuss these comments or aspects of the project with you. We hope these comments are useful in your project evaluation. Please contact Tim Sullivan at 607-753-9334 if there are any questions regarding this letter.

Sincerely,

Anne d. Secord

for

David A. Stilwell
Field Supervisor

*Additional information referred to above may be found on our website at:
<http://www.fws.gov/northeast/nyfo/es/section7.htm>

cc: NYSDEC, Albany, NY (S. Tomasik)
EPA, New York, NY (L. Knutson)
USFWS, PAFO, State College, PA (J. Siani)

Document Content(s)

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