

Stephen M. Tomasik  
DEC - Division of Environmental Permits  
625 Broadway, 4th Floor  
Albany, NY 12233-1750

\_\_\_\_\_, 2015

**RE: Constitution Pipeline**  
**Application ID: 0-9999-00181/00009 - Water Quality Certification**  
**Application ID: 0-9999-00181/00010 - Freshwater Wetlands**  
**Application ID: 0-9999-00181/00012 - Excavation and Fill in Navigable Waters**  
**Application ID: 0-9999-00181/00013 - Stream Disturbance**

Dear Mr. Tomasik:

I urge DEC to deny the 401 certificates requested by Constitution Pipeline (CP) on the grounds that the applicant has failed to adequately protect the many waters and wetlands that this linear project would traverse. In its November 7, 2012 scoping comments to FERC, DEC wisely called for the use of Horizontal Directional Drilling (HDD) to minimize impacts, stating:

*For streams and wetlands the preferred method for crossing is Horizontal Directional Drilling (HDD) because it has the advantages of minimizing land disturbance, avoiding the need for dewatering of the stream, leaving the immediate stream bed and banks intact, and reducing erosion, sedimentation and Project-induced watercourse instabilities. (NYSDEC Scoping Comments, Nov 7, 2012.)*

The proper use of HDD not only protects stream, but also littoral zones, wetlands, and adjacent uplands, letting vegetation and habitat remain undisturbed for an extended distance. Furthermore, with HDD pipelines are usually buried deeper beneath the stream bed and for a longer lateral distance, thereby reducing the risk of washout and pipe exposure.

**Disturbingly, although the Constitution Pipeline is proposed to cross 91 wetlands and 277 streams, no commitment whatsoever has been made to use HDD in the final EIS for the project.** In fact, plans by CP became worse between the draft EIS and final EIS because the few crossings where HDD had been planned have now been changed to Direct Pipe. Direct Pipe is a cheaper, inferior trenchless technique involving shallow burial and more surface disturbance. The consequences of this are dramatic. Comparing Table 2.3.2-1 of the draft and final EIS documents, the proposed trenchless area of wetlands at Bennerville Creek has been reduced from 1600 to 700 feet, the trenchless wetland area at mile 88 has been reduced from almost 3200 to 530 feet, and the trenchless area of a wetland near Middlebrook Creek has been reduced from 2000 to 400 feet. **No additional mitigation appears to have been proposed to compensate for this either.** Furthermore, dry crossing and the open trenching of wetlands is proposed as the “alternative” method if Direct Pipe fails. This means that almost all—if not all—crossings within the entire project will be trench installations—the most intrusive method possible.

It is also unacceptable that CP intends to bury its pipeline only 60 inches below stream beds that are in soil, and a mere 24 inches (2 feet) where consolidated rock is present. (FEIS Table 2.3.1-1) For much of the proposed corridor which is dominated by rocky terrain, this means that pipe would be buried only slightly beneath stream beds, where moving water could readily wash away loose backfill and cause scouring. Shallow installations are highly unlikely to withstand the passage of time, erosion, and changing weather conditions, resulting in pipe exposure and eventually leakage or rupture. Since natural gas contains not only methane, but also hazardous

chemicals like benzene, this could also threaten water quality and downstream drinking water supplies. Likewise, the location of streams can shift over time due to seasonal floods that have become more pronounced in recent years. This can lead to washout around shallow buried pipe landward of the original channel. DEC raised a similar concern in its 2012 scoping comments, stating:

*NYSDEC has witnessed pipeline installations where pipeline became exposed because stream water flowed behind the installed rip-rap and exposed the shallow section of pipe adjacent to stream. Extending the setback of the deep bury would provide a significant buffer against this scenario. (NYSDEC Scoping Comments, Nov 7, 2012; footnote 3.)*

Although DEC states in its scoping comments that there should be an extended length on each side of stream beds where the pipeline is buried deeper, CP has made no commitment to do this. In addition to physical damage caused by exposure, shallow burial may cause adverse thermal impacts due to pipeline heat, potentially harming trout which require cold water and other species that rely on high levels of dissolved oxygen.

The use of shallow open-trenching for nearly all of the water and wetland crossings of this proposed 124 mile long project, and the very limited use of Direct Pipe, will undoubtedly cause problems in the future. These present unacceptable and unmitigated threats to aquatic and wetland ecosystems, water quality, and downstream water supplies. Furthermore, DEC should recognize that the Tennessee Gas Pipeline Company (TGP) has proposed an additional pipeline project next to the Constitution Pipeline, which would essentially double the number of water and wetland crossings along this corridor. **Construction of the Constitution Pipeline would clearly enable subsequent approval of this TGP pipeline, so the impact of both projects must be considered cumulatively.**

Because CP has failed to address these many concerns, the project is in violation of DEC's high standards for the protection of water resources and the aforementioned 401 certificates must be denied. The difficulty or cost of necessary precautions, including HDD, is no excuse when the waters of New York State are at stake. Ultimately, the fact that Constitution has proposed a "greenfield" project with extensive impacts demonstrates that the proposed corridor is inappropriate.

Thank you for considering these comments. I also specifically request that an adjudicatory hearing be held so that these serious issues can be fully evaluated.

Sincerely,

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Signature

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Name

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Address