

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

February 21, 2015

6 NYCRR 608.8

Application ID: 0-9999-00181/00009 - Water Quality Certification

Application ID: 0-9999-00181/00010 - Freshwater Wetlands

Application ID: 0-9999-00181/00011 - Water Withdrawal

Application ID: 0-9999-00181/00012 - Excavation and Fill in Navigable Waters

Application ID: 0-9999-00181/00013 - Stream Disturbance

Dear Mr. Tomasik,

The Federal Energy Regulatory Commission's (FERC), Final Environmental Impact Statement (FEIS), dated October, 2014, for the Constitution Pipeline and Wright Interconnect Projects, mentions the words invasive species (IS) one-hundred eighty-five times. What is an invasive species?

A white paper called the "Invasive Species Definition Clarification and Guidance White Paper", submitted by the Definitions Subcommittee of the Invasive Species Advisory Committee (ISAC), and approved by ISAC on April 27, 2006, defines an invasive species in the Preamble: Executive Order 13112 as "an alien species whose introduction does or is likely to cause economic or environmental harm or harm to human health." In the Executive Summary of the National Invasive Species Management Plan (NISMP) the term invasive species is further clarified and defined as "a species that is non-native to the ecosystem under consideration and whose introduction causes or is likely to cause economic or environmental harm or harm to human health."³

From this paper, the impacts to human health include:

1. Respiratory infections such as West Nile virus in the U.S. which began in the Northeast in 1999 and has since spread throughout the country
2. Poisonous plants

Impacts to Natural Resources include:

1. Declines in wildlife habitat and timber availability
2. Decreased soil stabilization and interrupted forest succession
3. Changes in wildfire frequency and intensity
4. Excessive use of resources - Example: Tamarisk
5. Suppressors - Example: Russian knapweed
6. Decreased carrying capacity for wildlife and livestock

Impacts to Recreational Opportunities and Other Human Values:

1. Decreased property values
2. Decreased sport fishing opportunities
3. Altered business opportunities

4. Altered ecosystems and recreational opportunities

The New York State Invasive Species Management Strategy, Dated August 2011, prepared for New York State Invasive Species Council, New York State Department of Agriculture and Markets and New York State Department of Environmental Conservation, and prepared by Ecology and Environment, Inc., states that The New York State Invasive Species Task Force (Task Force) report to the New York State Legislature of November 2005 noted “Invasive species are a form of biological pollution. They have caused many problems in the past, are causing problems now, and pose threats to our future.” Threats and impacts identified in the Task Force report include economic losses associated with degradation of ecological function and process as well as environmental quality of life of communities across the state.⁴

In 2003 and again in 2008, the NYS Legislature found that invasive plant and animal species pose an unacceptable risk to NYS’s environment and economy. The legislature additionally found that IS have detrimental effects on the state’s freshwater and tidal wetlands, waterbodies and waterways, forests, agricultural lands, grasslands, and other natural systems by out-competing native species, diminishing biological diversity, altering community structure and, in some cases, changing ecosystem processes. The legislature also recognized that IS have adverse impacts on parks and preserves; rare, threatened, or endangered species; water supplies; and recreational and agricultural sectors of NYS’s economy.⁴

According to an article, “When Invasive Species Attack” by Daniel Fisher, Forbes Staff: “A slimy brown algae from Europe properly known as *Didymosphenia geminata*, rock snot is one of the most aggressive invasive species threatening the U.S. today. Just one cell carried in on the sole of a fisherman’s boot can quickly fill a pristine trout-fishing stream with a bank-to-bank mass the consistency of wet toilet paper, smothering food sources that aquatic insects and fish depend on.”² “The U.S. government spent \$1.2 billion fighting invasive species in 2006, the most recent year for which comprehensive statistics are available. Cornell University agriculture expert David Pimentel estimates the total annual cost of invasive species at \$120 billion a year. That’s roughly equivalent to the damage caused by Hurricane Katrina.”²

The FERC FEIS EIS0249F, Oct 2014 -- Vol 1, Executive Summary, ES-6, Page 27, states: “Invasive plant species are a threat to colonize areas disturbed by construction of the pipeline. Potential impacts from invasive species would be minimized due to **rapid revegetation** of the right-of-way during restoration, our recommendation that Constitution extend monitoring for invasive species based on FERC staff’s inspections, and the recommendation to properly clean maintenance equipment during operations.”¹

The importance of rapid revegetation cannot be overly emphasized. The U.S. Army Corps of Engineers published: “PUBLIC WORKS TECHNICAL BULLETIN 200-1-77 30 APRIL 2012; PROPER SEEDING METHODS TO PROMOTE RAPID REVEGETATION OF DISTURBED DEPARTMENT OF DEFENSE LANDS Introduction, Appendix A, SEEDING METHODS OVERVIEW. Construction projects and land rehabilitation efforts frequently focus on what is often referred to as "hard engineering" such as structural and landform changes. Generally, the “soft engineering” efforts such as **seeding and revegetation do not receive the necessary considerations required because project managers are limited by budget and time constraints.**

Therefore, while the Constitution Pipeline Co., LLC may have a well-documented plan as described in Constitution Pipeline Environmental Construction Plan Construction Activities In New York,

ATTACHMENT 11 – NEW YORK INVASIVE SPECIES MANAGEMENT PLAN, it is important to realize that plans on paper do not always make it to the actual efforts in the field as described in the above article by the U.S. Army Corps of Engineers.

Also, can we believe that the FERC staff completed inspections when more than 20% of the pipeline route has not been field surveyed? See: The FERC FEIS EIS0249F, Oct 2014 -- Vol 1, Introduction, Section 1.2, page 1-5: “Constitution has field surveyed approximately 534 of 707 land tracts, or about 76 percent of the total number of tracts (approximately 94 miles) along the project route.”

The Constitution Pipeline Co., LLC has indicated in Constitution Pipeline Environmental Construction Plan Construction Activities In New York, ATTACHMENT 11 – NEW YORK INVASIVE SPECIES MANAGEMENT PLAN, on page 3-6 and 3-7: The following herbicides are being considered for use: Roundup Rodeo (Glyphosate), Garlon (Triclopyr), and Transline (Clopyralid).⁷

According to an article from ecowatch.com, written by Alexis Baden-Mayer, Organic Consumers Association, dated January 23, 2015, Monsanto, who invented the herbicide glyphosate (Roundup), has falsified data on Roundup’s safety. In the nearly 20 years of intensifying exposure, scientists have been documenting the health consequences of Roundup and glyphosate in our food, in the water we drink, in the air we breathe, and where our children play. They’ve also found the following health problems which they attribute to exposure to Roundup and/or glyphosate: Attention Deficit Disorder (ADD), Alzheimer’s disease, anencephaly (birth defect), Autism, brain cancer, breast cancer, Celiac disease and gluten intolerance, chronic kidney disease, colitis, depression, diabetes, heart disease, hypothyroidism, Inflammatory Bowel Disease (“Leaky Gut Syndrome”), liver disease, Lou Gehrig’s Disease (ALS), Multiple Sclerosis (MS), non-Hodgkin lymphoma, Parkinson’s disease, pregnancy problems (infertility, miscarriages, stillbirths), obesity, reproductive problems, and respiratory illnesses.

Monsanto’s Roundup has been found in 75% of Air and Rain Samples.⁵

While no data was found for Triclopyr regarding human reproductive problems or birth defects, the National Pesticide Information Center General Fact Sheet for Triclopyr states that there have been studies on animals which indicate Triclopyr: in rabbits and rats has caused changes to the liver and kidneys, and has low potential for reproductive problems; to birds it is slightly to practically non-toxic; **to fish, it is practically to highly toxic**; and is practically non-toxic to bees.⁶

Additionally, “Superfund Amendments and Reauthorization Act of 1986 Title III (Emergency Planning and Community Right-to-Know Act of 1986) Sections 311 and 312 indicates: Immediate (Acute) Health Hazard, Delayed (Chronic) Health Hazard” for the herbicide Triclopyr.

The Material Safety Data Sheet (MSDS) for all of the herbicides described above and being considered by Constitution Pipeline state that these products are a “Hazardous Chemical” as defined by the OSHA Hazard Communication Standard 29 CFR 1910.1200.

Given the impacts that this project will cause regarding invasive species, and the likelihood of long-term effects from exposures to the herbicides mentioned, I therefore recommend that the New York

State Department of Environmental Conservation deny a 401 water quality certificate to the Constitution Pipeline for this project.

Thank you for listening, and I hope you will help.

Sincerely,

Signature _____

Name _____

Address _____

¹ - FERC FEIS 0249F, Vol. 1, Oct 2014, Docket Nos.: CP13-499-000; CP13-502-000; PF12-9-000

² - Article - "When Invasive Species Attack" by Daniel Fisher, Forbes Staff:

<http://www.forbes.com/2010/04/12/rock-snot-zebra-mussel-carp-business-invasive-species.html>

³ - Invasive Species Definition Clarification and Guidance White Paper, Submitted by the Definitions Subcommittee of the Invasive Species Advisory Committee (ISAC), Approved by ISAC April 27, 2006;

<http://www.invasivespeciesinfo.gov/docs/council/isacdef.pdf>

⁴ - The New York State Invasive Species Management Strategy, Dated August 2011, Prepared for: New York State Invasive Species Council, New York State Department of Agriculture and Markets and New York State Department of Environmental Conservation, sand Prepared by Ecology and Environment, Inc.;

http://www.dec.ny.gov/docs/lands_forests_pdf/ismgmtstrategy.pdf

⁵ - 15 Health Problems Linked to Monsanto's Roundup; <http://ecowatch.com/2015/01/23/health-problems-linked-to-monsanto-roundup/>

⁶ - National Pesticide Information Center General Fact Sheet for Triclopyr;

<http://npic.orst.edu/factsheets/triclogen.pdf>

⁷ - Constitution Pipeline Environmental Construction Plan Construction Activities In New York, ATTACHMENT 11 – NEW YORK INVASIVE SPECIES MANAGEMENT PLAN. November 2013