Constitution Pipeline Interagency Meeting
July 10, 2014; 10:00 AM to 12:00 PM
Call in: #888-431-3632; Code 9340150

Introductions: NYSDEC, PADEP, FWS, EPA, FERC, USACE (NAB, LRB, NYD)

Agency Updates – each provide agency role or permits/approvals to issue, status of review, and outstanding issues in the order below.

USACE : Three districts involved, 2 different divisions – Baltimore, Buffalo and New York districts. Decided on an individual permit, NY office is lead. Will issue one permit out of the New York district office for consistency. Received over 1000 comments on the project during the public notice. Comments were sent to applicant and they returned a 53 page document. They grouped issues together to respond to issues rather than each individual comment. Anticipate a lot of back and forth on project. Constitution said they would provide a monthly update on remaining parcels and the extent of resources on the non-accessible/non-surveyed parcels through remote sensing and desktop analysis. Corps still has a lot of field identification to do. Mike D was out a few weeks ago with consultants and DEP to look at mitigation sites. Judy hasn't been to mitigation sites bc they are proposing in-lieu fee instead of on-site mitigation. 25% of landowners have not allowed access so concerns over eminent domain.

FERC: Not on call today but they were invited. Kevin Bowman is the project manager.

NYSDEC: Overview of types of permits that Constitution will need from then. Not a cooperating agency but did comment on the DEIS. Exploring I-88 alternative. Reviewing interior forest mitigation impacts. DEC is still pursuing I-88 alternative extensively. Constitution hasn't convinced them that it isn't constructible. They do not feel that the applications submitted are complete and so can't make any final decisions. They are discussing mitigation plans but they are not satisfied with any mitigation plans yet. They asked Constitution to clearly define which parcels have been surveyed for streams and wetlands and which ones are lacking survey information. Some landowners have decided to do their own survey work rather than allow Constitution on the land. DEC is not comfortable making a decision on lands where surveys/access has not been granted. It is not part of their normal guidelines to make decisions without that information. Normal procedure is that they would want to see access and have surveys done on all parcels before issuing a final permit. They have not had any guidance to the contrary of that. They are considering accepting remote sensing to deem the application complete so that the public can make comments on the proposed activity. They are not okay with using remote sensing for the issuance of the final permit. They are still reviewing the Mig Bird Upland Mgmt plan.

PADEP: Kevin W – two applications for a water encroachment permit for wetland and stream impacts and a water quality and certification application. Also an E&S plan/SPGP before Susquehanna county conservation district. They are an arm of DEP. Mike Luciani is reviewing engineer for water quality permit. Both were on the call. Water quality cert was posted in PA bulletin but they didn't receive any

comments. Certificate is conditional on Constituton obtaining chapter 105 permit and other state permits. Likely will be finished reviewing the application at the end of July and then issue final permit. They don't have to survey ALL lands as a condition of water quality cert but they do need all other permits. They expect to issue a permit without having all the parcels surveyed but the permit would not include the unsurveyed parcels. So issuing permit on known activities/impacts to resources. Then will do amendments as they receive info on other parcels. DEP does not accept remote sensing data. They must be field certified.

FWS: Reviewing project under ESA, MBTA, CWA, BGEPA.

EPA : Lynn is reviewing EIS and John reviews 404 issues.

Extras:
Lynn mentioned the TGP/Kinder Morgan Northeast Energy Direct pipeline (~450 miles from Troy, PA into NY and is crossing the Hudson River so it'll be an individual permit). May parallel the Constitution alignment. They have approached the Corp and DEC already.

Discussion of FERC timeline and difficulty meet 90 day deadline. Role of eminent domain due to some landowner hold-outs discussed (how long will it take, if we can talk to FERC about it before it happens, etc)

We've been given the impression that FERC will accept Constitution's preferred route bc it is justifiable and they have provided enough evidence of alternatives. Corps has concerns about that with admin record so the 3 districts are going to discuss that further. Concerns that Corps and other decisions will differ from FERCs acceptance of the preferred route. Corps doesn't feel that Constitution has provided alternatives under the 404 process. They had sent a letter in May stating this to Constitution. DEP has found that FERC's alternatives analysis were not sufficient so they put together a supplement that includes their comments on the alternatives to show that it fulfills DEP regs. It adds info to your decision document.