



Stop the Constitution Pipeline, PO Box 48, East Meredith, New York 13757
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January 11, 2016

Via Mail and Email: eric.schneiderman@ag.ny.gov, nyag.consumerbureau@ag.ny.gov

Attorney General Eric T. Schneiderman
The Capitol
Albany, NY 12224-0341

Re: OAG must protect the people, laws, and resources of NYS by objecting to the Constitution Pipeline Company's request for a partial notice to proceed

Attorney General Schneiderman,

Our public interest group, Stop the Pipeline (STP), is directing this letter to you because the New York Attorney General's Office has intervened in the Federal Energy Regulatory Commission (FERC) process regarding the proposed "Constitution" Pipeline project.

STP would like to make your office aware of an illegal action the Constitution Pipeline Company, LLC (the company), has proposed to FERC in a letter dated Friday, January 8, 2016.¹

The letter asks FERC for a "partial notice to proceed" so that the company can begin cutting over half a million trees along the pipeline route in New York State (NYS) starting January 22nd. The letter requests that the FERC make its decision by January 15th. This action is being requested before the NYS Department of Environmental Conservation (DEC) has decided whether or not to issue a required 401 Water Quality Certificate (WQC), and before the US Army Corps of Engineers (ACE) has decided whether or not to issue a required 404 permit.

Under the Clean Water Act, the DEC has one year from the date of the company's application to make a decision on issuing this 401 WQC, or waive its rights.² The pipeline company supplemented its application for the third time in March 2015, and then resubmitted its application in late April 2015.³ Thus the DEC has until April 2016 to make the decision.

On December 2, 2014, FERC issued a conditional certificate of public convenience and necessity to the company,⁴ however DEC has the power to stop the project under authority which section 401 of the federal Clean Water Act grants to NYS. Section 401 states that the pipeline cannot be built unless DEC certifies that the state's strict water quality standards will not be violated.⁵

FERC's 12/2/14 order to the company also points out that the 401 WQC must come before any construction takes place along the pipeline route.⁶

Of additional concern is that in the attached FERC filing, the company claims that DEC and ACE have given permission for this "non-mechanized" activity and that "None of the other agencies expressed objection to the proposed activities."⁷ However, the fact is that neither the ACE nor the DEC have agreed to the company's proposed actions in writing. The ACE letter referred to in "Attachment A" is from a year ago and concerns a different pipeline (Leidy Southeast Expansion) by a different company (Transcontinental Gas Pipe Line Company). This letter does not concern facts specific to this case. Regarding the company's claims that DEC has agreed to tree felling, no document stating such is supplied. A reference to a January 5, 2016 phone call without a written transcript is all that the company supplied.

Our STP group believes this is simply another example of the company bullying NYS and its agencies, this time by claiming it has agreements and documents in hand which, in fact, do not exist. For if both the ACE and DEC have agreed, why have they not put the agreements with the company in writing?

Of course it is not only our DEC and NYS officials who have been bullied by the company for the past three-plus years. The thousands of NYS landowners, citizens and communities along the proposed pipeline route who may soon have their properties and lives ripped apart by the Constitution pipeline have suffered as well. Most are typical working class Americans who feel fortunate to own their own land. They see themselves as stewards and believe the care they've given to their land over the years has provided environmental benefits for everyone living in what they grew up to believe was a democracy. Now these same lands are being taken by eminent domain so the gas can be exported to increase gas-company profits.

If trees are cut, the pipeline trench dug, and the land blasted, that democratic ideal would also be ripped away from each of us by an opaque and devious energy company that has no respect for the very basis of American democracy: Private Property. We find it especially disturbing that our own government, through a federal agency (FERC), would allow NYS residents and their lands to be abused. Allowing the pipeline company to cut trees before federal and state-mandated permits are granted by the appropriate agencies would not only be undemocratic; it would be government-sanctioned corporate theft.

Here, in the four NYS counties under threat from this pipeline, residents fear that their peaceful rural environment and the pristine headwaters of the region are about to be permanently industrialized by giant energy corporations, all for the purpose of increasing the profits of a multi-billion-dollar out-of-state company. The company has been able to wield great power over us simply because we are of lesser wealth and are under-represented. The weight of your Attorney General's Office could remedy this unacceptable balance of power.

Despite the uphill battle we face, STP believes our DEC will act to defend its laws and the citizens of NY by denying the company a 401 WQC. However, to do that the DEC will need the NY Attorney General's Office to ensure that FERC is not allowed to usurp NYS powers before the DEC's duly mandated deadline of April 2016.

Therefore, STP is asking the Attorney General's office to file a formal motion objecting to this request for a partial notice to proceed.

Time is of the essence. We ask that you act immediately on behalf of thousands of NYS land-owners, all state residents, and in defense of NYS law with regard to this matter.

Respectfully submitted,
Stop the (Constitution) Pipeline

C: Basil Seggos - DEC Commissioner
Patricia Desnoyers - DEC Senior Attorney, Office of General Counsel
Chris Hogan - DEC Section Chief, Division of Environmental Permits
Stephen Tomasik - DEC Project Manager, Division of Environmental Permits

¹ Attached, FERC generated pdf, Constitution_Request_for_NTP_Tree_Felling_2016-0108, http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20160108-5125.

² 33 U.S.C. § 1341(a)(1) (2012).

³ ENB - *Statewide Notices 4/29/2015*, N.Y. ST. DEPARTMENT OF ENVTL. CONSERVATION (April 29, 2015), http://www.dec.ny.gov/enb/20150429_reg0.html

⁴ 20141202-4011, FERC pdf, http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20141202-4011

⁵ New York State Department of Environmental Conservation, Water Quality Standards and Classifications, <http://www.dec.ny.gov/chemical/23853.html>

Part 703 Surface Water and Groundwater Quality Standards and Groundwater Effluent Limitations, [https://govt.westlaw.com/nycrr/Browse/Home/NewYork/NewYorkCodesRulesandRegulations?guid=I070d30d0b5a111dda0a4e17826ebc834&originationContext=documenttoc&transition-Type=Default&contextData=\(sc.Default\)](https://govt.westlaw.com/nycrr/Browse/Home/NewYork/NewYorkCodesRulesandRegulations?guid=I070d30d0b5a111dda0a4e17826ebc834&originationContext=documenttoc&transition-Type=Default&contextData=(sc.Default))

⁶ 20141202-4011, FERC pdf, http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20141202-4011, page 37, section 117.

⁷ Attached, FERC generated pdf, 20160108-5125(31134196), http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20160108-5125, pages 4 and 5.



CONSTITUTION PIPELINE

Constitution Pipeline Company, LLC

2800 Post Oak Boulevard (77056)

P.O. Box 1396

Houston, Texas 77251-1396

713/215-2000

January 8, 2015

Federal Energy Regulatory Commission

888 First Street, N.E.

Washington, D.C. 20426

Attention: Kimberley D. Bose, Secretary

Reference: Constitution Pipeline Company, LLC (“Constitution”)

Constitution Pipeline Project

Docket No. CP13-499-000

Request for Partial Notice to Proceed

Ladies and Gentlemen:

The Federal Energy Regulatory Commission (Commission or FERC) issued an Order Issuing Certificate dated December 2, 2014 (Order) under Docket No. CP13-499-000 to Constitution Pipeline Company (Constitution) approving the Constitution Pipeline Project (Project). On December 3, 2014, Constitution accepted the Commission’s Order pursuant to Section 157.20(a) of the Commission’s Regulations. On May 19, 2015, Constitution filed with the Commission an Implementation Plan documenting how Constitution will comply with the Environmental Conditions provided in the Order.

In accordance with the Order and the U.S. Fish and Wildlife Service (USFWS) recommendations to avoid adverse impacts to migratory birds and ensure the Project components and conservation measures occur as outlined within the Biological Opinion for the Northern long-eared bat issued on December 31, 2015, Constitution must fell trees located within the workspace required for construction of the proposed Project between November 1 and March 31. These measures are intended to comply with USFWS recommendations and the Project specific Biological Opinion.

Constitution is therefore requesting written authorization (“Notice to Proceed”) from the Director of Office of Energy Projects to commence limited, non-mechanized tree felling activities necessary to comply with these conservation measures in the certificated

workspace, in addition to the workspace identified in those variances requested within the Implementation Plan and described in Attachments B and C to this request.

Constitution proposes to fell trees and vegetation at or above ground level, using equipment that will not rut soils or damage root systems. The contractor will not be allowed to use mechanized clearing methods or heavy equipment. Trees will be felled in a manner so as to avoid watercourses and waterbodies. Constitution will access the approved workspace from roadways crossed by the Project. Waterbodies and wetlands will be crossed on foot. Equipment such as chainsaws and fuel may be carried in hand held carts. Mats and bridges will not be used. Felled trees will be left in place until construction begins, which will be after receipt of all applicable permits and approvals and FERC's issuance to Constitution of a separate notice to proceed to begin construction and earth disturbance activities.

Constitution has each applicable state and federal permit required for non-mechanized tree felling as identified in the table below. Constitution is not requesting to proceed with construction of the Project; it will do so once applicable permits are received.

Federal Permits and Authorizations Required for Non-mechanized Felling of Trees

| Administering Agency | Permit or Authorization | Status |
|-------------------------------|--|---|
| FERC | Certificate of Public Convenience and Necessity | Issued December 2, 2014 |
| USFWS | Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act | EIS and FERC Order Requirements met through Implementation Plan May 19, 2015 |
| USFWS | Section 7 Consultation | USFWS Threatened and Endangered Species Opinion filed to FERC on September 17, 2015 concerning the Indiana bat, Dwarf Wedgemussel and northern Monkshood. USFWS Biological Opinion issued December 31, 2015. |
| NYSOPRHP- SHPO PHMC - SHPO | Section 106, National Historic Preservation Act Consultation | Programmatic Agreement Executed November 10, 2015 |

NYSOPRHP- SHPO = New York State Office of Parks, Recreation and Historic Preservation – State Historic Preservation Office
 PHMC - SHPO = Pennsylvania Historical and Museum Commission – State Historic Preservation Office

Non-mechanized felling of trees and vegetation above the ground surface by hand rotary cutting and chain sawing, which does not substantially disturb the root system nor involve mechanized pushing, dragging, or re-deposition of soil material (as proposed in this request) is not a federally regulated activity under Section 404 of the Clean Water Act (CWA), as this activity will not involve substantial earth disturbance or the placement of dredged or fill material in Waters of the United States.

With regard to similar proposed actions, the U.S. Army Corps of Engineers (USACE) has stated that activities that involve only the cutting or removing of vegetation above the ground surface (e.g., mowing, rotary cutting, and chain sawing) where the activity neither substantially disturbs the root system nor involves mechanized pushing, dragging, or other similar activities that redeposit excavated soil material, are not regulated under Section 404 of the Clean Water Act, as they do not involve a discharge of dredged and/or fill material, and that therefore these activities do not require a permit from the USACE.

Attachment A contains letters granting similar approvals dated January 28, 2011 from USACE Baltimore District regarding Tennessee Gas Pipeline's 300 Line Project, and February 25, 2015 from the USACE Philadelphia District regarding Transco's Leidy Southeast Expansion Project.

Likewise, because this activity does not involve a discharge of dredged and/or filled material, no state certification is required for this activity, in that Section 401 of the CWA only applies to activities "which may result in any discharge into the navigable waters." Nor is this activity subject to any other federal authorization subject to New York or Pennsylvania permitting requirements.

During the course of performing the non-mechanized tree felling, as well as any other activity associated with the Project, Constitution will avoid culturally sensitive areas as detailed within the Section 106 Programmatic Agreement. Each of these areas, as well as the physical barriers and markings demarcating "no access" will be identified to the inspectors and work crews during the environmental training and during tree felling activities.

Also, in accordance with Condition No. 5 of the Order, Constitution is providing this written request for approval of Project changes submitted since the submission of the Implementation Plan on May 19, 2015. Constitution respectfully requests the Commission review the changes identified in Attachments B and C, and provide its approval for incorporation of these changes as part of this Notice to Proceed. The tables in Attachments B and C provide a description of the existing land use/cover type, documentation of landowner approval, cultural resources potentially affected or federally listed threatened or endangered species potentially affected, and whether any other environmentally sensitive areas are within or abutting the area. The project changes are also depicted on corresponding aerial based 11x17 map sheets at a scale of 1:2,400 and identify each route realignment or facility update, contractor yards, access roads, and other areas that would be used or disturbed and have not been previously identified. In Attachment D, Constitution is also providing locations where workspace removal or reductions have occurred since filing of the May 19, 2015 Implementation Plan.

In response to Ordering Condition 6h, Constitution is providing the schedule for this activity in Attachment E. Constitution respectfully requests authorization by January 15, 2016 in order to comply with USFWS recommendation as well as the Biological Opinion and meet the Project in-service date in 2016. Constitution understands that, if granted, this Notice to Proceed would be limited to the specific activities listed in this request.

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
January 8, 2015
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Constitution has provided notice of this request to the USFWS, the USACE lead New York District, USACE Baltimore and Buffalo Districts, Pennsylvania Department of Environmental Protection (PADEP), New York State Department of Environmental Conservation (NYSDEC), and the Susquehanna County Conservation District (SCCD). Each agency was consulted directly with respect to tree felling activities as further described in the Project background document included in Attachment F.

If you have any questions regarding this filing, please contact Lynda Schubring at 713-215-2491 or by email at lynda.schubring@williams.com.

Respectfully,

CONSTITUTION PIPELINE COMPANY, LLC
By Williams Gas Pipeline Company, LLC,
Its Operator



Lynda Schubring, PMP
Environmental Project Manager

cc: Kevin Bowman, Environmental Project Manager, Division of Gas – Environment
and Engineering
USFWS
USACE
NYSDEC
PADEP
SCCD

Attachment A – USACE Letters Granting Tree Felling Approvals

Attachment B – Route and Workspace Variance Requests since the May 19, 2015
Implementation Plan Submittal - Tables and Alignment Sheets

Attachment C – Access Road Variance Requests since the May 19, 2015 Implementation
Plan Submittal - Tables and Alignment Sheets

Attachment D – Workspace Removal and Reductions since the May 19, 2015
Implementation Plan Submittal - Tables and Alignment Sheets

Attachment E – Tree Felling Schedule

Attachment F – Project Background and Tree Felling Activities



CONSTITUTION PIPELINE

Attachment F

Project Background and Tree Felling Activities

Attachment F

Project Background and Tree Felling Activities

Constitution Pipeline Company LLC (“Constitution”) provides this document in connection with the request to the Federal Energy Regulatory Commission (“FERC”) for a Partial Notice to Proceed for non-mechanized tree felling activities for the length of the Project.

Project Background

Constitution filed an application with FERC under section 7(c) of the Natural Gas Act, 15 U.S.C. § 717f(c) on June 13, 2013. FERC conducted an extensive public process seeking comments on the application from regulatory agencies and all interested parties. Over the course of the proceedings through the issuance of the Final Environmental Impact Statement, the FERC received and considered more than 4,000 comments concerning various aspects of the Project.

On December 2, 2014, FERC found the Project to be in the public interest and approved its construction and operation, Certificate Order, Docket No. CP13-499-000, 149 FERC ¶ 61,199 (2014), <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=13699722#>.

The Certificate Order directs Constitution to place the facilities in service by December 2, 2016, which coincides with the start of the peak winter heating season, and which requires construction to take place starting in the early spring and through the summer of 2016. The Project will result in the delivery of up to 650,000 Dth per day of natural gas supply to meet the increased needs of customers in New York and New England. Once complete, Constitution Pipeline will immediately become a key piece of natural gas pipeline infrastructure in the Northeast, creating an important connection between consumers and reliable supplies of clean-burning, affordable natural gas. The Project will help address inadequate pipeline infrastructure that had exposed New England and New York consumers to high natural gas prices and, significantly higher electric-generation costs. It also will provide new natural gas service for areas currently without access to natural gas. In 2013, Constitution and Leatherstocking Gas Company, LLC announced plans to install delivery taps along the Project’s proposed route to facilitate local natural gas service to homes and businesses in southern New York and northern Pennsylvania. This would include service to the Amphenol Aerospace Plant in Sidney, New York, as well as service to the Raymond Corporation plant in the Village of Greene. In addition, the Project will expand access to multiple sources of natural gas supply and enhance service reliability in New York and New England for the benefit of both current and new customers.

Through January 1, 2016, Constitution has spent more than ***\$350 million dollars*** in connection with the Project. After the pipeline is placed into service, Constitution will pay annual property taxes of approximately \$12 million dollars and will continue paying property taxes for the life of the pipeline.

According to a study prepared for Constitution by the Center for Governmental Research in June 2013, construction of the Project is forecasted to result in a minimum of approximately:

- 1,300 direct jobs in the construction industry and 275 spillover jobs supported by additional spending activity associated with the construction phase of the Project;
- \$130 million of direct labor income, \$26 million going to residents of the region;
- \$12 million in spillover income, about \$11 million going to the region; and
- \$17 million in sales and income tax revenue from increases in income (both direct and spillover) and project spending.¹

Constitution’s Request for a Partial Notice to Proceed

Constitution is requesting that FERC grant Constitution’s request to begin limited activity for which Constitution has all required regulatory permits. It is critical for Constitution to begin this activity at this time to protect migratory birds and the federally listed threatened Northern long-eared bat consistent with the terms set by FERC and the United States Fish and Wildlife Service (“USFWS”). Specifically, Constitution may only fell trees during limited timelines, as set forth in the conditions of the Certificate Order and the Biological Opinion issued by the USFWS. In order to meet the required in service date, Constitution must fell trees now.

Constitution has possession of all of the right of way areas where tree felling will occur, and the affected landowners have either received agreed compensation for the rights of way, or payment of compensation has been secured by bonds filed with and approved by the United States District Court for the Northern District of New York. The areas where tree felling will occur have already been surveyed and staked. The Project does have an impact on forested lands in Pennsylvania and New York, and Constitution has agreed to voluntarily provide \$8.6 million of conservation funding to USFWS for the restoration and preservation of habitats for migratory birds as a conservation measure for the direct and indirect impacts to interior forest habitat on the Project.

Constitution has provided notice of the filing of this request for Partial Notice to Proceed and has consulted with agencies directly concerned with tree felling activities, as outlined below.

Non-Mechanized Tree Felling

Felling activities will not commence unless and until the Federal Energy Regulatory Commission grants Constitution’s request for the Partial Notice to Proceed.

The following is a description of the proposed tree felling activity:

¹ “The Economic Impact of the Constitution Pipeline,” Center for Governmental Research (June, 2013), at i, available at <https://constitutionpipeline.files.wordpress.com/2013/07/economic-impact-study-updated-7-15-13.pdf>.

- Constitution will fell trees and brush, at or above ground level, using equipment that will not rut soils or damage root systems.
- The activity will involve only the cutting or removing of vegetation above the ground surface through rotary cutting and chain sawing, with felled trees left in place.
- The activity will be conducted by hand, and will not substantially disturb the root system nor involve mechanized pushing, dragging, skidding or other similar activities that result in soil or land disturbance or redeposit excavated soil material.
- Contractors will not be allowed to use mechanized clearing methods or heavy equipment.
- Trees and vegetation will not be felled into watercourses and waterbodies.
- Mats and bridges will not be placed within or along the banks of waterbodies or in wetlands. All crossings will be completed on foot.
- Constitution will access the certificated right-of-way and access roads from roadways crossed by the Project. Equipment such as chainsaws and fuel may be carried in hand held carts.
- Felled trees will be left in place until construction begins, which will be after Constitution receives additional pending permits and authorizations for the project and FERC issues Constitution a Notice to Proceed to begin construction and earth disturbance activities.
- No trees will be felled in or adjacent to New York State jurisdictional wetlands, and in certain areas involving stream crossings.
- No trees will be felled on lands for which easements have not been obtained, or for which payment has not been made or secured by the posting of bonds.
- All work will comply with USFWS recommendations concerning the Migratory Bird Treaty Act and the project specific Biological Opinion for the Northern long-eared bat.
- Constitution will avoid culturally sensitive areas as detailed within the Section 106 Programmatic Agreement. Each of these areas, as well as the physical barriers and markings demarcating “no access” will be identified to the inspectors and work crews during the environmental training and during tree felling activities.
- Third party compliance monitors will have access to observe and monitor tree felling activities in accordance with the Third Party Monitoring Plan for the

Project, which has been reviewed by the applicable agencies and is summarized below. All tree felling will also be closely monitored by Constitution's environmental inspectors.

Third-Party Compliance Monitoring Program

Constitution will commit to using the FERC third-party compliance monitoring program (the "Compliance Monitoring Program") during tree felling. Under this program, a contractor has been selected and is managed by FERC staff to provide environmental compliance monitoring services (the "Third Party Monitor"). Constitution has developed a Third Party Monitoring Plan (the "Monitoring Plan") to facilitate environmental compliance in conjunction with FERC and memorialize the Compliance Monitoring Program. In creating this Monitoring Plan, Constitution consulted with and incorporated comments from the FERC, the U.S. Army Corps of Engineers, the New York Department of Environmental Conservation, and the Pennsylvania Department of Environmental Protection. The Monitoring Plan details the Third Party Monitoring Firm's role and responsibilities and explains how Constitution will interact with the Third Party Monitors, as well as other federal and state regulatory agencies within their jurisdictional and permitting responsibilities.

In addition to Constitution's environmental compliance and inspection program, the FERC Third Party Monitoring Firm will monitor compliance with all applicable regulatory approvals and authorizations during tree felling, including, for example, the Biological Opinion. FERC staff also conducts periodic compliance inspections and oversees environmental compliance with all permits and approvals. *See* Final Environmental Impact Statement, Docket CP13-499, Accession No. 20141024-4001 at 2-31.

Timing of the Proposed Tree Felling Activity

This work is being proposed now in order to comply with the timing restrictions established by the USFWS in its Biological Opinion, which directs Constitution to conduct felling activities between November 1 and March 31. In addition to complying with the tree felling activities set forth above, and to the extent not inconsistent with those activities, Constitution will conduct its activities in conformance with the Final Environmental Impact Statement and the Implementation Plan, including the Tree Clearing Plan and the Best Management Practices set forth in the foregoing documents. *See* Docket CP13-499, Accession Nos. 20141024-4001, 20150519-5135.

The table at the end of this memorandum lists the status of the key major permits, approvals, and consultations applicable to the proposed Project.

Notification to Federal and State Agencies

On the dates listed below, Constitution communicated with the following agency personnel, advising the respective agencies that Constitution is proposing to engage in the tree felling activities described above, pending FERC's approval of Constitution's request for Partial Notice to Proceed. USFWS agreed with the decision to proceed with tree felling this winter in

order to comply with its Biological Opinion. None of the other agencies expressed objection to the proposed activities.

Pennsylvania Department of Environmental Protection – Telephone call with Environmental Group, and Waterways and Wetlands Program Northeast Regional Office (January 4, 2016).

New York Department of Environmental Conservation – Telephone calls with counsel’s office and project management (January 5, 2016).

United States Army Corps of Engineers – Telephone calls with the Operations Division, New York District and Upstate New York Section Regulatory Field Office (January 5, 2016). Telephone call with Buffalo District (January 6, 2016). Telephone call with Baltimore District (January 7, 2016).

United States Fish and Wildlife Service – Telephone call with Field Supervisor (January 6, 2016).

Susquehanna County Conservation District – Telephone call with Conservation District Manager (January 7, 2016)

Approvals and Consultations Applicable to the Constitution Pipeline Project

| Agency | Permit/Approval/ Consultation | Agency Action | Constitution Status |
|----------------|--|---|---|
| Federal | | | |
| *FERC | Certificate of Public Convenience and Necessity | Determine whether the proposed project is in the public interest, and consider issuance of a Certificate. | Issued December 2, 2014 Docket #CP13-499-000 |
| FERC | Implementation Plan | Compliance with Environmental Condition No. 6 of Certificate Order stating Constitution's proposed compliance with conditions. | Submitted May 19, 2015 |
| FERC | Contractor Yard 5B Concrete Pipe Coating Facility | Notice to Proceed Authorization | Issued September 18, 2015 |
| USACE | Section 404, CWA Permit | Issuance of a Section 404 permit for discharges of dredged or fill material into waters of the United States, including jurisdictional wetlands. | Consultation began in August 2012 Application submitted August 23, 2013 Final Supplements submitted September 15, 2015 (NY) and October 30, 2015 (PA) |
| *USFWS | Section 7 ESA Informal Consultation | Concurrence with FERC's findings of "not likely to adversely affect" three federal listed threatened and endangered species. | Issued September 17, 2015 |
| *USFWS | Section 7 ESA Formal Consultation, Biological Opinion | Finding of not likely to "jeopardize the continued existence" of the federally listed Northern long-eared bat and establish conditions of avoidance and incidental take. | Issued December 31, 2015 |

Approvals and Consultations Applicable to the Constitution Pipeline Project

| Agency | Permit/Approval/ Consultation | Agency Action | Constitution Status |
|--|--|--|---|
| *USFWS | Migratory Bird Treaty Act | Provide comments to prevent taking or loss of habitat for migratory birds. | EIS and FERC Order requirements met through Implementation Plan May 19, 2015 |
| *USFWS | Bald & Golden Eagle Protection Act | Provide comments to prevent taking or loss of habitat for bald and golden eagles. | EIS and FERC Order requirements met through Implementation Plan May 19, 2015 |
| Susquehanna River Basin Commission | Water Allocation Permit | Issuance of a Water Allocation Permit for withdrawal of surface water and groundwater. | Issued June 4, 2015 |
| State of Pennsylvania | | | |
| PADEP Regional Bureaus of Watershed Management | Section 401 Water Quality Certification | Issuance of a Section 401 permit for discharge to waters of the United States. | Issued September 5, 2014 |
| PADEP Regional Bureaus of Watershed Management | Chapter 105 | Issuance of a Chapter 105 permit for wetlands and water obstructions. | Issued March 2015 Permit modification application submitted and PADEP completeness review notice received January 2016 |
| PADEP Bureau of Land and Water Conservation Division of Stormwater Management and Sediment Control | Chapter 102 | Issuance of a Chapter 102 permit. | Issued December 2014 Major Modification approval issued December 2015 |
| PADEP Bureau of Water Quality Protection | CWA Section 402 National Pollutant Discharge Elimination System & General Permit for Hydrostatic Test Water Discharges | Issuance of a Section 402 & hydrostatic test water discharge permit. | Received October 21, 2015 |

Approvals and Consultations Applicable to the Constitution Pipeline Project

| Agency | Permit/Approval/ Consultation | Agency Action | Constitution Status |
|---|--|---|--|
| PFBC | Permit for Use of Explosives in Commonwealth Waters | Permit for blasting in waterbodies. | Issued August 2015 |
| *Pennsylvania Historical and Museum Commission Bureau of Historic Preservation | Section 106, NHPA Consultation | Review and comment on the project and its effects on historic properties. | Issued November 2015 |
| Susquehanna County Soil Conservation District | Erosion and Sediment Control General Permit (ESCGP-2) | Erosion and sediment control permit associated with PADEP Chapter 102 | Issued December 2014 Major Modification approval issued December 2015 |
| State of New York | | | |
| NYSDEC | Joint Permit including: Article 15, Article 24, and CWA Section 401 | Issuance of Water Quality Certification and other permits. | Consultation ongoing; applications submitted August 2013 |
| NYSDEC | Article 15 Title 33 | Permit hydrostatic test water withdrawal | Applications submitted April 29, 2014 |
| NYSDEC | State Pollution Discharge Elimination System Program General Permit for Stormwater Discharges from Construction Activities (GP-0-15-002) | Authorization to discharge stormwater, including non-stormwater discharges incidental to construction activities (incl. hydrostatic test water discharge and trench dewatering) | Notice of Intent submitted April 29, 2014 (Preliminary) June 5, 2015 (Final) December 11, 2015 (Revised) |
| NYSDEC | SPDES Multi Sector General Permit for Stormwater Discharges from Industrial Activity (GP-0-12-001) | Authorization to discharge stormwater, including non-stormwater discharges incidental to concrete coating of pipe. | Permit Received October 2, 2015. Coating operations is complete. |

Approvals and Consultations Applicable to the Constitution Pipeline Project

| Agency | Permit/Approval/ Consultation | Agency Action | Constitution Status |
|--|--|--|-----------------------------|
| NYSDEC Division of Fish, Wildlife and Marine Resources Bureau of Wildlife's Endangered Species Program | New York State Rare Species Program | Consultation on state-listed rare species. | Consultation ongoing |
| *New York State Office of Parks, Recreation and Historic Preservation, State Historic Preservation Office | Section 106, NHPA | Review and comment on the project and its effects on historic properties. | Issued November 2015 |

*Federal Permits and Authorizations Required for Non-mechanized Felling of Trees