

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Constitution Pipeline Company, LLC)	Docket No. CP13-499
)	
Iroquois Gas Transmission System, L.P.)	Docket No. CP13-502

**MOTION FOR STAY PENDING REHEARING
OF CATSKILL MOUNTAINKEEPER; CLEAN AIR COUNCIL; DELAWARE-OTSEGO
AUDUBON SOCIETY; RIVERKEEPER, INC.; AND SIERRA CLUB**

Pursuant to Rule 212 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or the “Commission”), 18 C.F.R. § 385.212, Catskill Mountainkeeper; Clean Air Council; Delaware-Otsego Audubon Society; Riverkeeper, Inc.; and Sierra Club (collectively, “Intervenors”) hereby move for a stay of: (1) the Commission’s December 2, 2014 Order Issuing Certificates and Approving Abandonment (“Order”) granting Constitution Pipeline, LLC (“Constitution”) authorization under section 7(c) of the Natural Gas Act (“NGA”) to construct and operate an approximately 124-mile-long, 30-inch-diameter interstate pipeline and related facilities extending from two receipt points in Susquehanna County, Pennsylvania (“Pipeline Project”), to a proposed interconnection with Iroquois Gas Transmission System (“Iroquois”) in Schoharie County, New York (“Interconnection Project”) (collectively, the “Projects”), and (2) construction and any other land disturbance conducted under the Order while the Commission reviews Intervenors’ request for rehearing.

On December 30, 2014, Intervenors filed a request for rehearing and rescission of the Order (“Rehearing Request”) with the Commission. Petitioners asked FERC to reconsider its decision because the environmental review underlying the conclusions in the Order failed to meet the requirements of the National Environmental Policy Act (“NEPA”), 42 U.S.C. §§ 4321 *et seq.*, and its implementing regulations, 40 C.F.R. pts. 1500–08, and because the Commission’s decision to approve the Projects was not required by the public convenience and necessity as

provided by the NGA, 15 U.S.C. § 717f(e). The Commission granted the Rehearing Request on January 27, 2015, but only to give itself more time to consider the matters raised by Intervenors. Almost a year later, FERC still has not provided a final decision on the Rehearing Request.

Constitution now has sought authorization to proceed with construction by felling trees in the workspaces. If the Commission were to allow Constitution to proceed, construction of the Projects would go forward without the benefit of the meaningful environmental analysis NEPA requires. Construction will adversely affect ecologically important resources in which Intervenors and their members have a significant interest. The felling Constitution seeks to begin in mere days will result in the clearing of huge swaths of forest, permanently fragmenting important tracts of interior forest, jeopardizing threatened species, and increasing the potential for waterway contamination from runoff. Noise, dust, and traffic from future construction activities also will disturb and harm the communities living adjacent to the Pipeline Project's construction areas. Thus, absent a stay, Intervenors, through their members who live and recreate near the construction areas, will be harmed irreparably.

In contrast, Constitution and Iroquois will suffer comparatively little harm and inconvenience by not being permitted to proceed with construction and pre-construction activity until the impacts of their actions are understood properly. Compliance with the law is a cost of doing business that does not trump the harms to the environment and the welfare of Intervenors' members that will occur absent a stay. Constitution and Iroquois have waited more than a year since the Order was issued, and if the Commission acts promptly on Intervenors' Rehearing Request, any additional delay caused by a stay should be minimal. It also is in the public interest that any construction and site preparation activities by Constitution or Iroquois be stayed while FERC reconsiders whether it failed to properly assess the environmental impacts of the Projects

and therefore did not comply with NEPA in issuing the Order. Accordingly, the balance of the equities weighs in favor of granting the stay pending rehearing.

I. Factual Background

On December 2, 2014, the Commission issued an Order conditionally approving the construction and operation of two projects proposed by Constitution and Iroquois. FERC authorized Constitution to construct and operate a 124.4-mile, 30-inch-diameter interstate natural gas transmission pipeline designed to provide up to 650,000 dekatherms per day of transportation service, along with various associated facilities. Order ¶ 1. The Order also conditionally approved Iroquois' request to construct and operate pipeline connection and compression facilities and to lease the incremental pipeline capacity associated with such facilities, located at the eastern terminus of the proposed pipeline in Wright, New York, to Constitution. *Id.* ¶ 2.

Constitution now seeks authorization to commence construction activities by felling an unspecified but likely large number of trees. Construction wants to cut down swaths of forests and remove large amounts of other vegetation. *See, e.g.*, FERC, Final Environmental Impact Statement ("FEIS"), Constitution Pipeline and Wright Interconnect Projects, Dockets CP13-499, CP13-502, PF12-9, at ES-5 (Oct. 2014). Future construction activities will entail excavating miles of open trench, which may be done by blasting. *Id.* at ES-6. Constitution will employ huge equipment and trucks to undertake these activities, creating dust, increasing noise, and inducing heavy truck traffic for months. *See, e.g., id.* at ES-9; 2-25-2-26. Many of the affected areas rely on single-lane, poorly-maintained roads that will be rendered increasingly dangerous by large trucks ferrying construction equipment and workers traveling to and from sites. Declaration of Michelle Fiore ("Fiore Decl.") ¶ 8, attached hereto as Exhibit 1; Declaration of Carolyn Melszer ("Melszer Decl.") ¶ 12, attached hereto as Exhibit 2; Declaration of Meryl Solar ("Solar Decl.")

¶ 7, attached hereto as Exhibit 3. Local waterways will be impacted by increased runoff and may be contaminated by herbicides and fuel or oil used by heavy construction vehicles. *See* FEIS at 4-29; Fiore Decl. ¶ 8; Declaration of John McKeeby (“McKeeby Decl.”) ¶ 11, attached hereto as Exhibit 4.

Intervenors participated in the FERC process from the beginning and throughout the Commission’s proceedings, identifying major deficiencies in FERC’s analysis of the Project’s environmental impacts. *See, e.g.*, Catskill Mountainkeeper et al., Comments on Application of Constitution Pipeline Company, LLC for Certificate of Public Convenience and Necessity, Docket CP13-499 (July 17, 2013); Catskill Mountainkeeper et al., Comments on Draft Environmental Impact Statement for Constitution Pipeline Company, LLC for Certificate of Public Convenience and Necessity, Docket CP13-499 (Apr. 7, 2014) (“DEIS Comments”). The Commission’s errors include: basing its assessment on incomplete information; refusing to take a hard look at the indirect and cumulative impacts of the Project; and failing to properly consider purpose and need, reasonable alternatives, and the impacts of the Northern Energy Direct Pipeline that will follow the same route as the Pipeline Project for more than 100 miles. *See* DEIS Comments; *see also* Application of Tennessee Gas Pipeline Co., LLC for a Certificate of Public Convenience and Necessity to Construct, Install, Modify, Operate, and Maintain Certain Pipeline and Compression Facilities and to Abandon Facilities, at 10–11 (Nov. 20, 2015). For the same reasons, Intervenors filed a timely Rehearing Request with the Commission on December 30, 2014 seeking rehearing and rescission of the Commission’s Order. Catskill Mountainkeeper et al., Request for Rehearing, Dockets CP13-499, CP13-502 (Dec. 30, 2014). Intervenors also filed their opposition on January 11, 2016 to Constitution’s request to fell countless trees without fully complying with the Order and prior to the Commission issuing a

final determination on the Rehearing Request. Catskill Mountainkeeper et al., Answer to Constitution Pipeline Company, LLC's Request for Partial Notice to Proceed, Docket CP13-499 (Jan. 11, 2016).

Almost a year has passed since FERC issued its tolling order on January 27, 2015, granting Intervenors' Rehearing Request but only insofar as the Commission needed more time to develop its response. The January 27 Order did not indicate how much additional time the Commission will need beyond the 30-day response period provided under the NGA. In other matters, FERC has taken widely varying amounts of time to issue final decisions on pending requests for rehearing, but few have been as extensive as the delay in this case.¹ While communities await a decision, the Commission has given project applicants wide rein to undertake extensive construction activities causing the precise environmental harms alleged to have been insufficiently analyzed by FERC. With little sense of when the Commission might issue a final decision that can be challenged in court, affected intervenors understandably become frustrated at their lack of a remedy to address their injuries.

II. Justice Requires That the Commission Stay Its Order.

Under the Administrative Procedure Act, the Commission has the authority to stay its actions when "justice so requires." 5 U.S.C. § 705. The Commission should grant a stay when: (1) the party requesting the stay will suffer irreparable injury without a stay, (2) issuing the stay may not substantially harm other parties, and (3) the stay is in the public interest. *See Ruby*

¹ The delays the Commission has imposed in other projects have varied in duration. For example, the delay in the Corpus Christi liquefied natural gas export terminal application was two months whereas the ongoing delay in the Algonquin Incremental Market Project has lasted more than eight months.

Pipeline, L.L.C., 134 FERC ¶ 61,020, at ¶ 15 (2011). Construction will permanently destroy environmental resources—starting with significant swaths of interior forest—that are important to Intervenor and their members. Fiore Decl. ¶ 14; McKeeby Decl. ¶ 11; Melszer Decl. ¶ 8. Future construction activities will cause noise, dust, and traffic impacts that will transform quiet rural portions of Pennsylvania and New York into industrial zones. Solar Decl. ¶ 6; Fiore Decl. ¶ 15. By contrast, staying the Order and delaying any construction activity during the brief time it should take the Commission to decide the Rehearing Request will cause limited harm to companies that have waited more than 13 months since the Order was issued to seek permission to begin construction. Granting this stay request is in the public interest because it will ensure that Intervenor and their members have a remedy at law to address their injuries. Justice therefore requires that FERC grant Intervenor’s request to stay the Order and all construction activities.

A. A Stay Is Necessary to Avoid Irreparable Injury.

Absent a stay pending the Commission’s review of the Rehearing Request, the organizational Intervenor, through their members, will suffer irreparable injury. Constitution has asked for permission to fell trees—including the permanent removal of interior forest—that will forever alter the landscape where Intervenor’s members live and recreate. Fiore Decl. ¶ 8; McKeeby Decl. ¶ 11; Solar Decl. ¶ 4. There is no doubt that Intervenor’s members will suffer injuries that are “both certain and great” and “actual and not theoretical.” *Wis. Gas Co. v. Fed. Energy Regulatory Comm’n*, 758 F.2d 669, 674 (D.C. Cir. 1985); *see also Ruby Pipeline*, 134 FERC at ¶ 17 (applying the definition of “irreparable injury” from *Wisconsin Gas Co.* to a request that FERC stay construction).

Harm to one's interest in the environment almost always is irreparable, because damage to the environment "by its nature, can seldom be adequately remedied by money damages and is often permanent or at least of long duration, *i.e.*, irreparable." *Amoco Prod. Co. v. Vill. of Gambell, Ak.*, 480 U.S. 531, 545 (1987). Without a stay, Constitution will cut down trees; dig and blast trenches through private property, forests, wetlands, and streams; and operate huge trucks and heavy machinery in close proximity to homes. There is no dispute that these actions will result in extensive environmental damage that will permanently change the natural features of the areas around the planned pipeline route. *See, e.g.*, FEIS at 2-7 (acknowledging permanent land impacts).

Construction of the Pipeline Project will forever fragment interior forest and impair waterways and wetlands. The trees Constitution seeks to cut down form some of the last remaining habitat in the area for certain species of birds, such as the killdeer. Melszer Decl. ¶ 8. Many of Intervenor's members live near and recreate in these forests and will be irreparably injured by the loss of the trees, reduction of threatened species' populations, and introduction of invasive species. *See, e.g.*, Fiore Decl. ¶ 14; McKeeby Decl. ¶ 11; Melszer Decl. ¶ 8. Constitution's removal of trees and other vegetation also will cause increasing runoff in already flood-prone areas. *See, e.g.*, McKeeby Decl. ¶ 11.

Future construction activities also threaten waterways and wetlands with potential discharges from construction activity and equipment. *See* FEIS at 4-29; McKeeby Decl. ¶ 11. Digging and blasting trenches close to and in some cases through streams and wetlands will cause sediment to run into and degrade the quality of these waterbodies. Construction vehicles also can leak and spill contaminants such as diesel into sensitive areas. FEIS at 4-89. Moreover, Constitution plans to use herbicides to remove some vegetation, and these chemicals can run off

and affect both surface and ground water, some of which supplies Intervenors' drinking water. Fiore Decl. ¶ 13; Melszer Decl. ¶ 9. Constitution's construction thus will cause damage that cannot be remedied easily, if at all. *See, e.g., League of Defenders/Blue Mountains Biodiversity Project v. Connaughton*, 752 F.3d 755, 764 (9th Cir. 2014) (finding that the logging of thousands of mature trees "cannot be remedied easily if at all" because "[n]either the planting of new seedlings nor the paying of money damages can normally remedy such damage"); *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011) (finding that injury to one's "ability to view, experience, and utilize [recreational areas] in their undisturbed state" was irreparable and weighed in favor of a stay) (internal quotation marks omitted).

Construction of the Pipeline Project also will require months of heavy industrial activity in normally quiet communities. Large trucks and other vehicles transporting equipment and materials to the Pipeline Project sites will increase traffic on poorly-maintained country roads and pose a real danger to local drivers who travel these routes daily. Solar Decl. ¶ 7; Melszer Decl. ¶ 12; Fiore Decl. ¶ 12. Traffic and construction activity—particularly cutting trees and blasting—also will create considerable noise that will disturb residents' quiet enjoyment of their homes and scare away species that Intervenors' members enjoy viewing. Fiore Decl. ¶ 11; Solar Decl. ¶ 6. Dust from increased traffic and soil disturbance will coat nearby homes and other property, causing damage and degrading air quality. Solar Decl. ¶ 5; Fiore Decl. ¶ 10. Aesthetic injuries also will result from the visual blight of felled trees, missing tracts of forest, trenches, and massive industrial equipment. Melszer Decl. ¶ 8. Even if the impacts will last for only the construction period, the injuries Intervenors' members will suffer from construction are irreparable because they cannot be remedied with monetary damages. *See San Luis Valley Ecosystems Council v. U.S. Fish & Wildlife Serv.*, 657 F. Supp. 2d 1233, 1241 (D. Colo. 2009).

While the Order concludes that the Projects' significant environmental impacts can be mitigated, Order ¶ 3, the proposed mitigation measures do not diminish Intervenors' claims of irreparable injuries. The mitigation measures do not stop the destruction of forest; eliminate the dangers posed by truck traffic; or alter the fact that construction at the scale required by the Pipeline Project will transform quiet, rural areas into dusty, noisy construction zones. The purpose of a stay is to preserve the *status quo* pending the Commission's review of its decision. See, e.g., *Alaska v. Andrus*, 580 F.2d 465, 485 (D.C. Cir.), *vacated in part on other grounds sub nom. W. Oil & Gas Ass'n v. Alaska*, 439 U.S. 922 (1978) ("By maintaining the Status quo [sic], while additional environmental studies are performed, or additional alternatives are considered, an injunction ensures that there will be at least a possibility that the agency will change its plans in ways of benefit to the environment. It is this possibility that courts should seek to preserve." (internal quotations and citations omitted)). Without a stay pending review of the Rehearing Request, Constitution and possibly Iroquois will be permitted to complete extensive construction work in advance of FERC's decision on whether the Projects' environmental impacts have been analyzed adequately under NEPA. When a showing of potential environmental injury is combined with a procedural violation of NEPA, "courts have not hesitated to find a likelihood of irreparable injury." *Brady Campaign to Prevent Gun Violence v. Salazar*, 612 F. Supp. 2d 1, 24 (D.D.C. 2009) (internal citation omitted).

B. Granting a Stay Will Not Cause Any Significant Harm.

Constitution and Iroquois will not be harmed significantly by a stay of the Order. The applicants have waited more than 13 months since the Order was issued to ask for permission to begin construction. Any delay caused by the grant of a stay likely would be short-lived, as FERC already has had almost a year to prepare its response to the Rehearing Request. The

minor harm from what should be a brief delay pales by comparison with the permanent environmental damage and other irreparable injuries to community welfare that would occur absent a stay. *See Citizen's Alert Regarding the Env't v. U.S. Dep't. of Justice*, Civ. A. No. 95-1702 (GK), 1995 WL 748246, *11 (D.D.C. Dec. 8, 1995) (finding that potential loss of revenue, jobs, and monetary investment that would be caused by project delay did not outweigh "permanent destruction of environmental values that, once lost, may never again be replicated"). That short-term delay to ensure that the Projects comply with the law is a normal part of doing business, which Constitution and Iroquois easily can bear while the Commission answers serious questions about whether the environmental review mandated by NEPA was sufficient.

C. A Stay Is in the Public Interest.

The public interest weighs heavily in favor of a stay. Granting the stay will prevent irreparable harm to the environment and the community. The stakes are high for the people living and recreating near the Projects: construction will permanently destroy precious natural areas and is a direct threat to their rural quality of life. To subject communities to such impacts while FERC considers the Rehearing Request would deprive Intervenors and their members of the chance to obtain a full remedy under the law.

The public interest also is served by ensuring that FERC complies with NEPA prior to authorizing permanent impacts to the environment. *See Davis v. Mineta*, 302 F.3d 1104, 1116 (10th Cir. 2002) (the public interest in completing a highway project "must yield to the obligation to construct the [p]roject in compliance with the relevant environmental laws"). In enacting NEPA and demanding compliance "to the fullest extent possible," Congress has underscored the public interest in preserving our environment. *See* 42 U.S.C. § 4332; *see also Earth Island Inst. v. U.S. Forest Serv.*, 442 F.3d 1147, 1177 (9th Cir. 2006) (finding that "the

preservation of our environment, as required by NEPA . . . is clearly in the public interest”),
abrogated on other grounds by Winter v. Natural Res. Def. Council, Inc., 555 U.S. 7 (2008).
NEPA also is meant “to serve the public and the agency *before* major federal actions occur.”
Found. on Econ. Trends v. Heckler, 756 F.2d 143, 157 (D.C. Cir. 1985) (emphasis in original);
see also Brady Campaign to Prevent Gun Violence, 612 F. Supp. 2d at 24 (citing to *id.*). A stay
will promote the public interest and the goals of NEPA by preserving existing conditions
pending review of whether the Commission’s NEPA assessment was adequate. *See Wild
Rockies*, 632 F.3d at 1138 (recognizing “the public interest in careful consideration of
environmental impacts before major federal projects go forward”); *Found. on Econ. Trends*, 756
F.2d at 157 (finding that NEPA underscores the public interest in vetting environmental
consequences before resources are committed).

III. Conclusion

For all the reasons set forth above, Intervenors request that the Commission grant a stay
of all construction, land-disturbing activity, and tree felling until the Commission makes a
decision on the Rehearing Request.

Respectfully submitted on this 14th day of January, 2016,

/s/ Moneen Nasmith

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Riverkeeper, Inc.; and Sierra Club.

Exhibit 1

DECLARATION OF MICHELLE FIORE

1. I, Michelle Fiore, set forth that I am over the age of 18 years and am competent to attest to the facts contained in this Declaration.

2. I am a member in good standing of Catskill Mountainkeeper, a non-profit advocacy organization dedicated to protecting and preserving the unique and irreplaceable Catskill Region of New York State. The organization represents the citizens of seven counties in New York State—Albany, Delaware, Greene, Otsego, Schoharie, Sullivan and Ulster—as well as both the Upper Delaware and Susquehanna River basins which reach from Cooperstown well into Pennsylvania and include the vast forest preserve of the Catskill Park. Catskill Mountainkeeper is committed to vigorously fighting threats to the region and pursuing opportunities for sustainable growth. It focuses on maintaining the Catskill Region's capacity to provide pure unfiltered water to over 17 million people; continuing as an important food shed that provides local, healthy food to the entire NY metro area; and protecting the area's authentic wilderness so that it can be enjoyed by all.

3. I live at 693 Baldwin Road, Summit, New York in Schoharie County with my husband, three daughters, and two dogs. I have lived here for 18 years. We own 30 acres of property that is zoned for agricultural use.

4. We bought this property and moved here from Long Island because we wanted to raise our kids in a safe and healthy environment. We wanted to live where we can get outdoors and enjoy nature's beauty. We love our home and property and plan to retire here. We've already built a second driveway on our property that we plan to use to access a future smaller retirement home. We want to build that smaller house once our kids are grown, split the property, and sell our current larger house so that we can retire.

5. Our entire family spends a lot of time outdoors and places a great value on preserving our local forests and protecting the species in our area. My husband spends as much time outside as he can. His quality of life depends heavily on being able to enjoy our property and the surrounding area in their current rural state. Our two dogs also run free on our property.

6. The Constitution pipeline will pass directly through our property and at least 70–80 feet of pipeline will be located on our land. In places, the pipeline will be within 800 feet of our current house. Having this pipeline on our property so close to our home will lessen the value of our property, both because of safety concerns and because constructing the pipeline will alter our property.

7. To build the pipeline, Constitution will have to dig a massive trench through our land. This is going to require blasting because there is a lot of shale under our property. The pipeline route also goes right under the second driveway we built for our future retirement house. Constitution said it will try to go underneath the driveway but can't guarantee that the driveway won't be dug up. Building the pipeline is going to also require removing part of a stone wall on our land and displacing a number of large metal sculptures that my husband and his father made and that are on display in our yard. I am concerned that the construction will seriously damage our driveway, stone wall, and my husband's sculptures.

8. Constitution will be cutting down a number of trees on our property. The company also will remove any other vegetation along the route, potentially by using herbicides. One of the reasons we bought this property was the trees on, bordering, and near our land. Some of these trees are extremely old and would take decades to regrown.

9. The construction of the pipeline will drastically undermine our quality of life. Our property will be crawling with strange workers and littered with huge pieces of equipment. I

am concerned for the safety of my daughters and me with so many strangers permitted on our land. I won't be able to tell the difference between who works for the pipeline company and who is a potentially dangerous trespasser. We normally would use our dogs for security, but I can't let the dogs out of the house while construction is ongoing. I would be too worried that they would be harmed by the huge construction equipment, dangerous activities like blasting, or even by the construction workers themselves.

10. Throughout construction, we will experience dirt and dust from the equipment, the digging, and the blasting. We will have to keep our windows closed, even during the summer months, to limit the dust that enters our home. The dust also will coat everything around the construction site, and cause damage to our house, cars, and any other possessions we have outside. The dust also will harm and possibly kill nearby plants and animals and make it harder for me and my family to breathe.

11. Construction activities also will be extremely noisy. We will have to live through blasting, tree clearing, and the use of heavy machinery right near our home. I am concerned that nothing in FERC's Order allowing construction to proceed keeps Constitution from constructing at night. The noise from Having a major industrial construction zone in our front yard will drastically undermine our quality of life.

12. Building the pipeline will drastically increase the number of large trucks and other traffic on our rural roads. Workers will need to get to and from the sites and heavy equipment will need to be hauled in. More traffic likely will make it dangerous to drive and be near the streets in our neighborhood. Our road is a 2½-mile horseshoe, so increased traffic is a particular problem on the tight turns. If there are any road closures, my family and I will need take a 2½-mile detour to get to the nearest main road.

13. I also am extremely concerned about Constitution using herbicides to remove vegetation from the pipeline path. We live right over an aquifer and draw water from a well. We've had problems in the past with our water being contaminated by e. coli when our neighbor pumped waste into a stream that was 800 feet away from our property. It took months to resolve and showed that what goes into the stream ends up in our drinking water. I am very worried that herbicides used by Constitution will runoff into the water bodies on or near our property and make our well water hazardous to my family's health.

14. Our family values the rural quality and natural beauty of our area. The pipeline is going to have a very negative effect on the local forests and animal populations. Constitution is going to cut down a huge number of trees and drive away or even cause the death of local animals. Use of herbicides in the area could contaminate local waterways and harm plants and animals.

15. The construction of this pipeline is going to fundamentally undermine our ability to use and enjoy our property, neighborhood, and to maintain the quiet, rural lifestyle we moved here to experience. Construction can't be allowed to proceed while FERC is considering Catskill Mountainkeeper and others' requests that it reconsider its decision to allow this pipeline to be built.

Executed on January 12, 2016


Michelle Fiore

Exhibit 2

DECLARATION OF CAROLYN MELSZER

1. I, Carolyn Melszer, set forth that I am over the age of 18 years and am competent to attest to the facts contained in this Declaration.

2. I have been a member in good standing of the Sierra Club, a 501(c)(3) not-for-profit, volunteer-led environmental organization for the last five years. The Sierra Club is actively engaged in working to protect the health and wellbeing of the communities in New York. Sierra Club's mission is to explore, enjoy and protect the wild places of the Earth; to practice and promote the responsible use of the Earth's resources and ecosystems; to educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives. Sierra Club's mission includes protecting and restoring the quality of wild places, such as national parks, forests and wilderness areas, enjoyed by our members for their scenic views and vistas.

3. I live at 581 Baldwin Road, Summit, New York in Schoharie County with my husband. We own 5.6 acres of property. I have lived here for 32 years; this is where we raised our children. Our son lives next door on 22 acres.

4. We love the country and the rural area we live in. We are very fortunate to be surrounded by natural beauty and love to see wildlife passing through our property. We also enjoy listening to and seeing all the species of birds that nest in or travel through our county. We greatly value living in a quiet and forested area. We have a stream with pristine water running through our property.

5. The Constitution pipeline will pass about half a mile from our property. Our neighbor whose pond feeds into the stream on our property has agreed to allow the pipeline onto his land. I am worried that runoff from the construction on our neighbor's property will end up

in his pond and flow into our now-pristine stream. Our son also lives closer to the pipeline route and I am worried that his health will be impacted by the construction of the pipeline.

6. To build the pipeline, Constitution will have to dig a massive trench through our area and from one end of our town to the other. The construction of the pipeline is really going to undermine our quality of life. The noise, dust, and traffic from construction will drive off tourists and destroy our community's quiet atmosphere.

7. Construction activities will be extremely noisy. I have no doubt that we will be able to hear the tree clearing and blasting activities from our home and that this will disturb us and prevent us from opening windows and enjoying the outdoors during the warmer months.

8. I am very worried about how construction is going to affect the forests, waterways, and animals in our area. Constitution will be cutting down a large number of trees in our neighborhood and town. This is going to scar our community and create a very negative visual impact. The killdeer birds nest right in the middle of a field that is going to be used for the pipeline and the construction will destroy this nesting area. The noise and dust of construction could drive away or badly harm other local wildlife that my husband and I enjoy being able to see from our property.

9. The company also will remove some other vegetation along the route with herbicides. I am very concerned that the herbicides could runoff into local waterways and contaminate them. Our town relies on well water, which starts as surface and ground water. I worry that the herbicides could make our well water harmful to my family's health.

10. The dust from construction will coat everything around the sites where they are digging trenches and doing other work, and cause damage to passing cars and nearby plants. We will need to drive by the trenches several times a day because that's the most direct way for us to

access the main road. I am worried that dust and debris from the construction sites or from passing construction vehicles could damage our car and potentially affect our breathing.

11. Building the pipeline will cause a massive increase in the number of large trucks and other traffic on our two-lane roads. Those roads already are in bad shape and there is no money to fix them. These trucks are going to make the problem worse.

12. The main road in and out of town, State Route 10, is in very poor condition and there is no money to repair this New York State road. This construction will make the road worse and will make travelling hazardous. Our own road, Baldwin Road, is an oil and stone road, not made for heavy traffic and construction trucks will destroy it. My husband and I are going to be a lot less safe having to share narrow and poorly-maintained roads with these huge vehicles. With only one-lane for each direction of traffic, trying to pass a big truck is a huge danger. My husband also is a first responder and the congestion caused by the increased traffic could delay his ability to respond to medical emergencies and make it more dangerous for him to do so.

13. Our town has suffered considerable economic hardships and is a mess. We need something to draw people back, but this pipeline is going to do the opposite. My friend tried to sell her son's property in Summit. The sale was turned down twice specifically because the pipeline was going through the property. The pipeline is going to damage our natural resources and decrease our property values. This pipeline is the last thing people in this area need.

Executed on January 9, 2016


Carolyn Melszer

Exhibit 3

DECLARATION OF MERYL SOLAR

1. I, Meryl Solar, set forth that I am over the age of 18 years and am competent to attest to the facts contained in this Declaration.

2. I am a member in good standing of the Clean Air Council, a non-profit organization dedicated to protecting and defending everyone's right to breathe clean air. The Clean Air Council works through a broad array of related sustainability and public health initiatives and uses public education, community action, government oversight, and enforcement of environmental laws to improve environmental health in the mid-Atlantic region. The Clean Air Council also is committed to fostering clean energy sources using non-polluting technologies.

3. I live on 5 acres of property at 39 Hall Road in New Milford, Pennsylvania. My home is directly at the intersection of PA-492 and Hall Road, two normally quiet thoroughfares. Thirteen years ago, I took my savings and bought this property and its beautiful country house as a present to myself for retirement. I moved here for the rural quality of life, including the fresh air and the tranquility.

4. The Constitution pipeline will go directly adjacent to the back of my property. It will require cutting down trees and altering the rural landscape that led me to move here. My home is less than 2,000 feet from the Constitution pipeline right-of-way.

5. To get to the area where the pipeline will be constructed via the closest access road, trucks and other major equipment will need to turn off of PA-492 onto Hall Road, passing directly by my house. My front door is less than 50 feet from the road. Having trucks and other construction equipment pass so close to my home will cause a huge disruption to my quality of life. The exhaust from these vehicles will contaminate the air I breathe. The dust and exhaust will coat my home's exterior and cause damage. The dust, fumes, and poor air quality also will


keep me from opening my windows during the warmer months and enjoying the fresh air I moved here to experience.

6. Constitution's building activities also will transform my neighborhood from a peaceful rural area into a noisy industrialized construction zone. The increased truck and other traffic will create a lot of round-the-clock noise that will keep me from enjoying the outdoors or opening my windows. The pipeline trench digging, blasting, and tree cutting also will cause a lot of noise and make it impossible for me to enjoy my property.

7. Hall Road is a narrow dirt road and the large trucks and construction equipment passing on it will cause wear and tear to the road itself and damage to the adjacent property. My property borders both sides of the road. Passing wide trucks that end up on the shoulder of the road will tear up the grass and soil on my property. Even if they stay on the road itself, these vehicles kick up rocks and other debris that lands on my property, kills the grass and other vegetation, and keeps anything from growing. In short, Constitution's construction activities will cause significant harm to both me and my property.

I declare, under penalty of perjury, that the foregoing is true and correct.

Executed on January 12, 2016



Meryl Solar

Exhibit 4

DECLARATION OF JOHN MCKEEBY

1. I, John McKeeby, set forth that I am over the age of 18 years and am competent to attest to the facts contained in this Declaration.

2. I am a member in good standing of Riverkeeper, Inc., a nonprofit organization committed to protecting the environmental, recreational, and commercial integrity of the Hudson River and its tributaries, and safeguarding the drinking water of nine million New York City and Hudson Valley residents.

3. I live at 2031 Burtonsville, in the Village of Burtonsville, in Montgomery County. I have lived at that address since 1989. My home is located directly on Schoharie Creek. Schoharie Creek flows into the Mohawk River, the largest tributary of the Hudson River. My home is located downriver from the location where the Constitution pipeline would cross Schoharie Creek.

4. I am deeply committed to protecting the water quality of the Hudson River watershed. I am the Executive Director of the Schoharie River Center ("SRC") and am very involved with all aspects of the Center's activities, including spending a large amount of time on and around Schoharie Creek. The SRC is a not-for-profit organization dedicated to educational and cultural programming about Schoharie Creek and the communities which make up the Schoharie Creek Valley. The Center also sponsors an Environmental Study Team ("EST") program, which engages middle school and high school age youth to work with ecologists and aquatic biologists to study, monitor, and improve the water quality of local streams, rivers, and lakes. While learning about their environment, EST members go hiking, swimming, biking, cross-country skiing, snowshoeing, canoeing, and kayaking, on and around Schoharie Creek. As the Executive Director of the SRC, I also am the program director for the Center's award winning EST Environmental Education and Youth Development program. In this capacity I

provide direct outdoor-based experiential education programming to youth ages 12–18 years, and oversee the day-to-day operations of the SRC and its environmental education, cultural, and arts programming.

5. As Executive Director of the Center, I also have worked hard to address the large problem of sedimentation in Schoharie Creek. Particularly after the flooding damage caused by Hurricane Irene, there are large deposits of clay along the banks of the Creek that have been exposed. Once exposed, these clay deposits liquefy when it rains and runoff into Schoharie Creek, compromising the water quality of the Creek. The sediment also flows into the Mohawk River, which has had to undergo dredging to maintain navigability. Individuals at the SRC and I have been trying to reduce this problem by replanting vegetation along clear areas of the Creek's bank. This work has been done along an 18-acre natural forest and wooded riparian area nature preserve owned by the SRC in Burtonsville, where we have planted close to 3000 native trees and other plants in an effort to reduce stream bank erosion and sedimentation on the Schoharie. In addition, volunteers from the SRC and our EST programs have assisted in riparian area replanting and restoration projects on the Schoharie Creek near the villages of Blenheim and Breakabeen.

6. I spend a lot of my time in and around Schoharie Creek. From the late Spring throughout the Summer and into the Fall, I spend time fishing, kayaking, and swimming in the Creek. I routinely am by or in the Creek during these months at least 6 times per week. Enjoying the beauty and tranquility of the Creek, including observing local wildlife like our population of bald eagles, is something I do on almost a daily basis.

7. I often frequent the area of the Schoharie Creek where Constitution plans to construct its pipeline crossing. This area of the Creek is wide and deep and is particularly good

for fishing. It also is an area where I can easily gain access to the Creek for activities such as canoeing, kayaking, nature study, and water quality monitoring.

8. Constructing a pipeline crossing across Schoharie Creek and the right-of-way leading to and from the Creek will greatly impair my use and enjoyment of the Creek.

9. The use of heavy construction equipment, including equipment to allow for trenchless crossing of the Creek, will create noise and impair my ability to fish and kayak in Schoharie Creek. The noise and dust of construction also will drive away important wildlife such as bald eagles.

10. Constitution's construction of the pipeline crossing and the right-of-way will further interfere with my boating and other recreational activities on the Creek by restricting water access to the existing public access point adjacent to its planned pipeline route.

11. Moreover, I believe that Constitution's construction activities and removal of vegetation near Schoharie Creek will adversely impact the Creek's water quality and undermine SRC and my efforts to improve the water quality of the Schoharie. The removal of additional trees and other vegetation around Schoharie Creek will increase the amount of sediment that reaches the Creek from run-off. By clearing trees and using heavy construction equipment so close to the Creek, Constitution also will create channels in the surface that make it easier for contaminants like agricultural run-off to reach Schoharie Creek. The presence of heavy construction equipment so near the Creek also dramatically increases the risk that pollutants from these machines, such as diesel, will end up in Schoharie Creek. I live and recreate downstream from the site where Constitution's pipeline will cross the Creek and will be negatively impacted by any spill into or negative water quality impact on Schoharie Creek from Constitution's construction of the portion of its pipeline near and across the Creek.

I declare, under penalty of perjury, that the foregoing is true and correct.

Executed on January 11, 2016


John McKeeby