

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

January 21, 2015

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:

New York State is part of the Chesapeake Bay Watershed Program. The Chesapeake Bay Watershed Program tracks the Susquehanna River from its origin in Lake Otsego, as it travels 300 miles through New York State, and continues to follow its tributaries through PA, MD, VA, WV, DE and Washington DC, all the way to the Chesapeake Bay. The Multi-state program started in 1983, in an effort to restore Chesapeake Bay's 'dead zones'. These "dead zones" are caused by excessive nutrients and sediment entering the relatively shallow estuary, causing algae to grow, crowding out native grasses, creating oxygen-starved 'dead zones' where fish, crabs and shellfish struggle to breathe. In order to control this problem, the EPA, through the Federal Clean Water Act, created a legal mechanism to require states to address the severely impaired waters. The Total Maximum Daily Loads Federal Clean Water Act (TMDL) limits the amount of pollutants and sediment the water body can receive and still meet State Water Quality Standards. Construction site storm water management and erosion control is a very real concern. The FEIS does not take into account 100 year floods, which we have had several of in the past few years.

The EPA has a very strict Waste Load Allocation for significant dischargers. According to the DEC, the total land cover in NY making up the Chesapeake Bay watershed area is 76% forested, 21% agricultural and only 3% developed. In a project the size of the Constitution Pipeline, where the primary land use impacted during construction would be forested woodland (55.0 percent, as stated in the executive summary section on Vegetation, Wildlife, Fisheries, and Federally Listed and State-Sensitive Species) much of it situated on steep slopes, there will be large amounts of sediment washed away during heavy rain storms. Constitution states it would reduce the proposed construction right-of-way from 110-foot-wide to 100-foot-wide feet, where feasible. However, clear-cutting hundreds of acres of forest for a permanent easement, much of it across streams and tributaries that feed into the Susquehanna River basin will create unprecedented erosion. These new, foreseeable discharges must be offset. At present there is no provision for this in the TMDL. **We request an Adjudicatory Hearing on the basis of this problem.**

The DEC must protect the public water supplies, wild life habitats and flooding susceptibility along the entire length of the pipeline as it travels through the Chesapeake Bay watershed. Since there is no way this can possibly be done, Do Not Grant Constitution a 401 permit. That is what NYS water quality laws demand.

Sincerely,

Signature \_\_\_\_\_

Name & Address \_\_\_\_\_