

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

January ___, 2015

6NYCRR 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

Application ID: 4-4350-00008/00012 - Air Title V

Dear Mr. Tomasik:

Regarding 6NYCRR 608.8, public interest review, 401 Water Quality certificate under The Clean Water Act requested by The Constitution Pipeline, if granted this proposal will cause unreasonable, uncontrolled and unnecessary damage to the natural resources within the town of Davenport.

The proposed pipeline construction on the Charlotte Creek area, will create large disturbances along the banks and beds of this stream. In the proposed area of Davenport there are numerous small tributaries and small ponds that offer nesting, feeding, and habitat for birds, fish, amphibians, and wildlife. Species such as Bald Eagle, Blue and Green Herons, Hooded Mergansers, Blue-winged Warblers, Spotted Sandpipers, and Osprey are on the annual spring bird count from this area. Homeowners are numerous on Charlotte Creek and the possibility is high that wells will be impacted by the construction activities of this pipeline such as blasting, tree and bush removals, and use of heavy equipment creating runoff and silt which will affect water quality.

Every spring flooding occurs on this creek, and the ability to predict the frequency and the severity of the floods is impossible. The proposed plan is to construct during time periods that will have the least impact on the environment, including migratory and resident bird populations. However, climate change has shifted our weather patterns often to widely varying temperatures that alternate between severe cold with heavy snows followed by rapidly rising temperatures. These conditions create quick melting, which would delay construction significantly due to ground and stream conditions, thereby putting construction into the time period of having the highest impact to the environment.

The proposed mitigation plan is to put into place "best practices" by a Constitution Pipeline employee or consultant who would oversee the construction in an effort to contain the runoff and silt from the disturbances on the banks and riverbeds. This person would further be checking on the work after any flooding has taken place. Given the above-mentioned unpredictability of the flooding, this would require a full-time employee for the spring months.

Who will be responsible to see that the "best practices" are enforced? Since 2012, 20% of DEC staff has been lost to budget cuts and retirement, and no plans are in place for replacements. These cuts have included 800 agency engineers and enforcement officers in less than four years. Previous DEC commissioners have expressed concern that there is not enough qualified staff to carry out compliances

and enforcement responsibilities which will be needed if permits are approved. Constitution Pipeline employees or consultants will not be held to the same ethics requirements as a DEC employee.

Commissioner Martens has stated that Governor Como has “taken a lot of interest and focus on outdoor recreation, fishing and hunting in particular”. Pipelines in the banks of streams, throughout wetlands, and in the bedrock of our ponds and lakes do not make for a healthy, sustainable environment for outdoor recreation.

This project will negatively impact our local ecosystems. In light of the damages I have enumerated, I ask that you not grant Constitution a 401 permit or convene Adjudicatory Hearings for this project.

Sincerely,

Signature

Print Name

Address