



DELAWARE-OTSEGO AUDUBON SOCIETY, INC.

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Federal Energy Regulatory Commission
Washington, DC

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I am submitting these comments on the Constitution Pipeline and Wright Interconnect Projects Draft Environmental Impact Statement on behalf of the Delaware-Otsego Audubon Soc. Our organization had earlier provided comments on The Environmental Report for the Federal Energy Regulatory Commission application for the Constitutional Pipeline as part of a larger submission by Earthjustice.

In our submission, we raised concerns over large blocks of relatively unbroken forest habitat that will be fragmented by the pipeline right of way, and the negative impacts this will have on interior forest birds. Much of the route of the pipeline passes through mature or near-mature forest. The DEIS documents that the right-of-way will fragment 36 miles of interior forest. Construction of the pipeline will be the largest single act of forest fragmentation in the region. A review of the maps of the pipeline route indicates it follows ridge tops in many areas, and crosses steep slopes in others. These areas targeted for the pipeline are largely undisturbed woodland due to elevation and inaccessibility. Most flatter and lower land in the region has already been deforested for agriculture and other development. The forests to be bisected by the right-of-way are the last remaining large forest tracts in the area in many cases. The pipeline corridor will affect over 300 interior forested tracts.

We documented in our earlier submission that this sort of fragmentation has major negative impacts on nesting forest birds, many of which are already in decline and at risk. Many studies show that creating corridors and forest edges in larger tracts increases the rates of nest predation and parasitism. Birds affected include numerous neotropical migrants such as Wood Thrush and Scarlet Tanager, as well as resident woodland birds. The fragmented forested areas represent much of the breeding habitat for these species in the region traversed by the pipeline. In turn, central New York is an important stronghold for breeding habitat for these species. The importance of the remaining undisturbed forest lands cannot be overstated.

The US Geologic Survey's Breeding Bird Survey—the longest and most consistent study of breeding bird populations—documents significant downward trends in interior forest birds over the past 45 years. In New York State, these include average annual declines of 1.6% for Eastern Wood-Pewee; 3.3% for Wood Thrush; 1.9% for Veery; 1.2 % for Black-throated Blue Warbler; and 1.3% for Scarlet Tanager. Numerous other species show similar declines, and all inhabit woodlands to be impacted by the pipeline.

In addition, the calculations of impacted areas of forest provided in the DEIS are misleading. Although the acreage of these areas may appear small, their deep linear intrusion into previously undisturbed forest magnifies the negative effects of the corridor on birds many times. As we noted in our comments, clearings as narrow as 26 ft. are sufficient to allow access to bird predators and nest parasites.

The DEIS proposes largely undefined “mitigation” for impacts on forest birds, and states that the developer plans to reduce the right-of-way width from 110 ft. to 100 ft. where possible in woodlands. This demonstrates an appalling ignorance or convenient avoidance of the science we presented in our comments. A 100 ft. corridor is several times the width necessary to introduce the negative impacts found in avian studies. A 10 ft. reduction for mitigation is no mitigation at all. In fact there is no possible mitigation for these impacts, and to suggest there is serves only to provide the developer with a screen to avoid addressing the true negatives of the pipeline on birds.

In our earlier submission we noted that the list of bird species of conservation concern included in the developer's application did not reflect the current status of birds considered in need of management action or planning. Partners in Flight (PIF) is a cooperative effort of federal, state and local government agencies, foundations, and individuals interested in the conservation of birds not covered by existing conservation initiatives. PIF has conducted a comprehensive analysis of the regional and continental status of bird species and established a ranking of priority species. These include a number of species not considered in the Constitution application. Among these are: Broad-winged Hawk; Downy Woodpecker; Pileated Woodpecker; Eastern Wood-Pewee; Acadian Flycatcher; Red-eyed Vireo; Cedar Waxwing; Scarlet Tanager; Summer Tanager; Yellow-throated Vireo; White-breasted Nuthatch; Louisiana Waterthrush; Black-and-White Warbler; Hooded Warbler.

We stated that these species and the dangers to their habitat from pipeline construction should be considered in evaluating the application and preparing the DEIS. However these at risk species are not identified or otherwise recognized in the document. As such, it fails to consider impacts on this group of birds that through a collaborative and comprehensive analysis are known to be important and at risk.

Despite the clear scientific consensus and evidence that fragmenting forests produces significant impacts on at risk bird species, and despite the developer and FERC's own statistics showing that major forested areas will be affected by the pipeline, the DEIS somehow reaches the conclusion “. . . that the proposed projects would not have a significant adverse effect on wildlife.” When projects pose such a clear and present threat to bird habitat as these do, one has to wonder what FERC and its staff could possibly consider a significant adverse effect. The bias in favor of approving this project is blatant and obvious.

We urge that this document be withdrawn, and an even-handed and scientifically valid environmental review of these major projects be carried out and submitted for public consideration, as required by law.

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