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DELAWARE-OTSEGO AUDUBON SOCIETY, INC.

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P.O. Box 544, ONEONTA, NY 13820

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

January 21, 2015

Dear Mr. Tomasik:

I am writing on behalf of our organization regarding the pending draft state permit applications for proposed construction of the interstate Constitution Pipeline. We have been involved in the environmental review of this project since its inception, and have serious concerns regarding its impacts, particularly on birds and other wildlife.

This is an immense project, involving over 200 waterway crossings in New York, and affecting numerous wetlands, aquifers and public water supplies. The impacts of the pipeline construction and operation represent the largest single danger to New York State's water resources in recent years. It is highly questionable whether the construction methods and mitigations proposed by Constitution would be effective enough in reducing these impacts to warrant granting Water Quality Certification, and Protection of Waters, Water Withdrawal, and Freshwater Wetlands permits by the Department of Environmental Conservation.

In addition, the Environmental Impact Statement for this project provided by the Federal Energy Regulatory Commission is severely lacking in detail on site specific effects on water resources from the pipeline, and should not be considered sufficient by NYS DEC for its consideration of these state permits. This agency should require more information on the effects on water quality, wildlife habitat, air quality and other aspects of construction and operation in order to make informed decisions.

In regard to birds in particular, the negative impacts from waterway crossings are many. This work will cause water turbidity, making foraging for food more difficult for wading birds such as Great-blue and Green Herons, as well as waterfowl such as Mallards, Wood Ducks, Common and Hooded Mergansers and the wide variety of others that either nest, overwinter or pass through in migration in the region traversed by the pipeline route.

Wetlands in particular are sensitive ecosystems that support a wide variety of bird species, including those noted above, plus Bald Eagle, Osprey, Red-shouldered Hawk,

American Bittern, Pied-billed Grebe, Northern Harrier—all listed as at-risk species by NYS DEC. Warblers, flycatchers, vireos, swallows, woodpeckers, blackbirds, sparrows and numerous other species utilize wetlands at some point in their life cycle.

Of all the bird species in the U. S. (excluding Hawaii and territories) that are listed either as federally threatened or endangered, or are on the U. S. Fish & Wildlife Service List of Migratory Nongame Birds of Management Concern, fifty percent occupy wetland or aquatic habitats. These areas have already suffered significant loss both nationally and in NY State. Protecting and preserving wetlands should be of the highest priority to DEC.

Pipeline activities during breeding season pose increased threats to birds. Direct loss of nests will occur, as well as nest abandonment due to disturbance. Fledgling birds, which already have a low survival rate, will suffer greater losses.

Impacts may well remain after construction, as permanent open rights-of-way will remain indefinitely, maintained by mechanical and chemical controls. These will be detrimental to birds, and the ROWs will provide corridors for predators and nest parasites to access breeding areas.

Regarding water withdrawals from waterways, these will total nearly 6 million gallons for the Schoharie Creek alone (water withdrawal details for two other NY waterways are not available on the Constitution website, making evaluation impossible.) There is no justification provided in the application for a water withdrawal permit to support the company's claim that this large withdrawal ". . . *would not adversely impact aquatic plant and animal communities or the water quality of the Creek.* " It is anticipated that similar undocumented claims are made for other large water withdrawals. This should not be accepted by DEC at face value. Constitution should be required to provide sound biological documentation to support their dismissal of this important issue. Keep in mind that this water and the wildlife that depend on it are **public** resources, and the burden of proof is on those that wish to utilize it for private benefit.

In our view, the impacts on birds and other wildlife brought on by pipeline construction and operation, along with an array of other threats to wetlands, streams and aquifers, and the effects of massive water withdrawals demonstrate that the permits sought for the Constitution Pipeline should not be issued. At a minimum, the company should be required to provide a thorough and honest assessment of these impacts prior to any determinations by DEC.

Sincerely,

Andrew Mason, Co-President

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