



**Department of
Environmental
Conservation**

KATHY HOCHUL
Governor

AMANDA LEFTON
Commissioner

August 13, 2026

Debbie-Anne A. Reese, Secretary
Federal Energy Regulatory Commission
12225 Wilkins Avenue
Rockville, Maryland 20852

RE: Comments of New York State Department of Environmental Conservation
Regarding Environmental Review of the Constitution Pipeline and Wright
Interconnect Projects Docket Nos. CP13-449-006 and CP13-502-003

Dear Secretary Reese:

The New York State Department of Environmental Conservation (NYSDEC) respectfully submits the following comments in response to *Notice of Schedule for the Preparation of an Environmental Assessment for the Constitution Pipeline and Wright Interconnect Projects* issued by the Federal Energy Regulatory Commission (FERC or the Commission) on June 24, 2026.¹ The Environmental Assessment (EA) Notice sets forth the timeline and manner by which the Commission intends to evaluate the environmental impacts posed by the Constitution Pipeline and Wright Interconnect projects and, specifically, the scope of impacts the Commission plans to consider and the extent of its review on the issues presented. As a threshold issue, NYSDEC reiterates its position that Constitution Pipeline Company, LLC (Constitution) must submit a new petition and a new application to NYSDEC for water quality certification. The Commission also must prepare a new Environmental Impact Statement (EIS) for both the Constitution Pipeline and Wright Interconnect projects and should do so in the first instance rather than prepare the proposed EA. This position is set forth in more detail in NYSDEC's *Notice of Intervention, Motion to Dismiss, Protest, and Answer in Opposition to Petition for Reissuance of Certificate and Reaffirmance of Waiver Determination* filed January 28, 2026² (Motion and Protest). These comments are not intended to indicate a change to any argument or position set forth therein, and NYSDEC reserves all rights related thereto.

¹ Accession No. 20260624-3023.

² Accession No. 20260128-5062.

Scope of Review Required by the National Environmental Policy Act

The National Environmental Policy Act (NEPA) requires the Commission to prepare an environmental impact statement for any “major Federal actions significantly affecting the quality of the human environment.”³ When evaluating a project under NEPA, the Commission’s Staff Guidance Manual on Implementation of the National Environmental Policy Act, published in June 2025, directs staff to implementing regulations, including 18 CFR 380.6, to determine whether a particular action requires preparation of an EIS.⁴ Under the Commission’s regulations implementing NEPA, “[m]ajor pipeline construction projects . . . using rights-of-way in which there is no existing natural gas pipeline” will normally require an EIS “*be prepared first*.”⁵ An EA, by contrast, is permissible when the Commission believes that the proposed action is not a major Federal action and that it does not significantly affect the quality of the human environment.⁶ In making such determination, NEPA requires the Commission to take a “hard look” at the environmental impacts posed by the action.⁷ Where an agency fails to prepare an EIS when one is warranted or otherwise fails to adequately consider an action’s environmental impacts, the action is properly invalidated.⁸ NYSDEC, in accordance with the Commission’s own regulations and guidance, urges the Commission to prepare an EIS in the first instance to ensure proper consideration of the environmental impacts associated with these projects.⁹

Brief Summary of Environmental Impacts

As currently proposed, the Constitution Pipeline project would include the construction of an approximately 125 mile long, 30-inch diameter natural gas pipeline and associated facilities including two new meter stations, ten communication towers, eleven mainline valves, and one pig launcher and receiver. The Wright Interconnect project, sponsored by Iroquois Gas Transmission System, L.P. (Iroquois), includes the expansion of the Wright Compressor Station with 22,000 horsepower of new compression, among other modifications. These projects are mostly in New York State, including approximately

³ 42 U.S.C. § 4332 (c).

⁴ *Staff Guidance Manual on Implementation of The National Environmental Policy Act* at § B (1) (f) [June 2025].

⁵ 18 CFR 380.6 (a) (2) (emphasis added).

⁶ See 18 CFR 380.6 (b).

⁷ See *Sierra Club v United States Department of Transportation*, 125 F.4th 1170, 1183 (D.C. Cir. 2025).

⁸ See *id.* at 1186.

⁹ Although the Commission’s regulations allow staff to prepare an EA in the first instance if “the Commission believes that a proposed action . . . may not be a major federal action significantly affecting the quality of the human environment . . . [and] [d]epending on the outcome of the environmental assessment, and environmental impact statement may . . . be prepared” (18 CFR 380.6 [b]), given the impacts already identified by both NYSDEC and other parties, any determination by the Commission that the Project may not be a major Federal action significantly affecting the quality of the human environment would be unreasonable and would lead to the Commission ultimately having to prepare an EIS. The most reasonable and proper course for the Commission in terms of impact assessment and regulatory efficiency therefore is to prepare an EIS in the first instance.

100 miles of the pipeline and the entirety of the Wright Compressor Station expansion with associated infrastructure.

Based on currently available record information, NYSDEC estimates that the Constitution Pipeline project would impact over 300 streams (including at least 87 that support trout or trout spawning), over 80 acres of freshwater wetlands, and approximately 500 acres of forest area surrounding streams and wetlands. Specific types of water resource impacts include, among other things, stormwater runoff and erosion caused by construction activity and site modifications, water withdrawals impacting groundwater resources, and site disturbances altering stream and wetland characteristics such as beds and banks.

The Constitution Pipeline project would also be anticipated to result in adverse environmental impacts related to timber removal, impacting both State lands in New York as well as private citizens. Regarding wildlife, construction would risk contributing to the continued spread of invasive species between work sites during the construction phase as well as during project operations. Further, this project would likely impact at least seven species that are listed as endangered, threatened, or considered species of concern at the State and/or federal level. There are also several communities located along the Constitution Pipeline proposed route which are classified as disadvantaged communities, such that the project has the potential to result in disproportionate environmental impacts to otherwise sensitive communities. There will also be air quality impacts.

Analysis

The above brief summary of environmental impacts counsels toward the Commission finding that the Constitution Pipeline and Wright Interconnect projects constitute a major federal action significantly affecting the quality of the human environment.¹⁰ In addition to the reasons set forth in its Motion and Protest, NYSDEC notes that the Commission lacks necessary environmental information regarding the projects, thereby preventing it from taking a current hard look at impacts. Indeed, the Commission has sent Constitution numerous Environmental Information Requests, only to have Constitution state it will not provide the requested updates until reinstatement of the Certificate Order.¹¹ Constitution has it backwards. Before the Commission can issue a Certificate Order, it must take its required “hard look” at whether the projects require an EIS. The information that the Commission requested is directly related to its NEPA analysis for issues including, but not limited to, (i) impacts relating to blasting, (ii) crossings for waterbodies, wetlands, and sensitive lands, (iii) surveys for endangered species, migratory birds, bald eagles, (iv) invasive species, (v) wetland classifications, and (vi) easements across New York State land. Constitution therefore must provide the Commission with the requested information before the issuance of the Certificate Order.

¹⁰ See 42 USC § 4332 (c); *Sierra Club v U.S. Department of Transportation*, 125 F.4th at 1183; see generally *Theodore Roosevelt Conservation Partnership v Salazar*, 616 F.3d 497, 503 (D.C. Cir. 2010).

¹¹ See *Constitution EIR No. 1 Response No. 2* [July 17, 2026] [Accession No. 20260717-5214]; *Constitution EIR 2 Response* [July 10, 2026] [Accession No. 20260710-5208].

Updated information regarding environmental impacts posed by the projects is necessary for a comprehensive environmental review when considering changes to the projects and environmental conditions since 2014. Since issuance of the 2014 FEIS, the total area of Pipeline Facilities and Contractor Yards, as well as the number of known and verified waterbody crossings, has increased in New York State. Additionally, as provided for by the U.S. Department of Fish and Wildlife, the 2014 FEIS does not account for and did not consider the present status of five species, whose statuses have since changed and that are now endangered, threatened, or proposed as endangered, and that may be impacted by the Constitution Pipeline.¹² Other material changes have occurred regarding, among other things, governing law, forest cover, wetlands, rivers, and floodplains which intersect the projects. These changes include, among others, the 2015 Clean Water Rule and any subsequent revisions to the definition of “Water of the United States” in association with the 2023 “Conforming Rule,” each annual update to the Endangered Species Act since 2015, and updated guidelines developed by the U.S. Environmental Protection Agency regarding the air dispersion modeling cited in the 2014 FEIS. A fully updated and informed EIS is necessary to identify and consider the scope of these emerging impacts and to ensure an adequate environmental review.

Additional parties have also recognized the need for updated information to perform a comprehensive environmental review, including those raised in the recent comment submitted by Persistence Analytics Group LLC (PAG). Without updated information regarding the environmental state of the projects and the impacts currently posed by development, the Commission will be unable to provide the requisite analysis required by NEPA as it would be acting on incomplete information.¹³ NYSDEC supports PAG’s position that the projects should not be evaluated as if the environmental assumptions made in 2014 still apply. Rather, due to the changes in the projects and the human environment that have occurred since the 2014 FEIS was prepared, the Commission must undertake a new, full environmental analysis to verify any assumptions and conclusions made and ensure that the environmental changes and impacts are properly considered. NYSDEC urges the Commission to require Constitution and Iroquois to fully reply to all current and future Environmental Information Requests. Failing to do so will cause the Commission’s environmental review process to appear predetermined or a performative exercise in futility, the opposite of the Commission’s duty under NEPA.

Conclusion

In sum, and subject to the arguments set forth in its Motion and Protest, NYSDEC urges the Commission to prepare an EIS in the first instance, as it previously did for both projects.¹⁴ NYSDEC thanks the Commission for the opportunity to comment and for

¹² See *U.S. Fish and Wildlife Service Notice of Scoping Comments* [July 17, 2026] [Accession No. 20260721-5205].

¹³ See *Marsh v Oregon Nat. Res. Council*, 490 U.S. at 371.

¹⁴ See FERC EIS 0249F at ES-3, [Docket CP-13-499, Oct. 25, 2014] [Accession No. 20141024-4001]; *Commission Notice of Schedule for Environmental Review of the Constitution Pipeline and Wright*

consideration of these comments. Please contact me if you have any questions or if additional information is needed.

Sincerely,

/s/

Sita Crounse, Esq.
Associate Counsel
New York State Department of
Environmental Conservation
625 Broadway
Albany, New York 12233-1500

Interconnect Projects [December 13, 2013] [Accession No. 20131213-3003]; *Commission Notice of Intent to Prepare an Environmental Impact Statement for the Proposed Wright Interconnect Project and Request for Comments on Environmental Issues* [Docket No. CP13-502, July 10, 2013] [Accession No. 20130710-3024]; *Commission Notice of Intent to Prepare an Environmental Impact Statement for the Planned Constitution Pipeline Project, Request for Comments on Environmental Issues and Notice of Public Scoping Meetings* [Docket No. PF12-9, September 7, 2012] [Accession No. 20120907-3012].

Document Content(s)

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