

**TOWNSHIP OF CHESTERFIELD**

**RESOLUTION 2016-8-7**

**RESOLUTION OPPOSING NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION ISSUANCE OF FRESHWATER WETLANDS PERMIT AND WATER QUALITY CERTIFICATION FOR THE PROPOSED TRANSCONTINENTAL GAS PIPE LINE COMPANY, LLC GARDEN STATE EXPANSION PROJECT**

**WHEREAS**, the Transcontinental Gas Pipe Line Company, LLC (“Transco”) of Houston, Texas is proposing to construct a new electric motor-driven compressor station, called “Compressor Station 203” and associated electrical meter substation, as part of the Garden State Expansion Project within the Township of Chesterfield; and

**WHEREAS**, pursuant to the Natural Gas Act, 15 U.S.C. 717, et seq., the construction of the Garden State Expansion Project must be approved by the Federal Energy Regulatory Commission (“FERC”); and

**WHEREAS**, on April 7, 2016, FERC released an “Order Issuing Certificate of Public Convenience and Necessity for the Garden State Expansion Project”; and

**WHEREAS**, the Natural Gas Act does not affect the rights of States under the Federal Water Pollution Control Act (“Clean Water Act”), 33 U.S.C. 1251, et seq.; and

**WHEREAS**, the Clean Water Act applies to the construction of the Garden State Expansion Project, including Section 404 of the Clean Water Act for the discharge of dredge or fill material into waters of the United States, including wetlands, 33 U.S.C. 1344; and

**WHEREAS**, the Clean Water Act also requires that a Section 401 Water Quality Certification be issued for the Garden State Compressor Project, 33 U.S.C. §1341; and

**WHEREAS**, in 1993 the New Jersey Department of Environmental Protection (“Department”) entered into a Memorandum of Agreement with the United States Environmental Protection Agency authorizing the Department to operate the New Jersey

Freshwater Wetlands Protection Act program as set forth in N.J.S.A. 13:B-1, et seq., and its implementing regulations, N.J.A.C. 7:7A-1.1, et seq., in place of the Clean Water Act Section 404 program; and

**WHEREAS**, the Department's issuance of a permit under the Freshwater Wetlands Protection Act program constitutes a Section 401 Water Quality Certification, N.J.A.C. 7:7A-2.1(d); and

**WHEREAS**, on July 24, 2015, Transco submitted an application to the Department for an Individual Permit under the Freshwater Wetlands Protection Act program (NJDEP File No. 0300-15-0002.2 FWWI50001) for the Garden State Expansion Project; and

**WHEREAS**, a Freshwater Wetlands Protection Act Individual Permit may not be issued for any activity that will cause or contribute to a violation of applicable New Jersey Surface Water Quality Standards (N.J.A.C. 7:9B-1.1, et seq.); and

**WHEREAS**, Transco may not proceed with construction of the Garden State Expansion Project until the Department has approved the above referenced Freshwater Wetlands Protection Act Individual Permit and Section 401 Water Quality Certification; and

**WHEREAS**, the Township Committee of the Township of Chesterfield ("Township Committee") previously adopted several resolutions opposing the Garden State Expansion Project and connected New Jersey Natural Gas Southern Reliability Link Project that will be served by the Garden State Expansion Project; and

**WHEREAS**, the Township Committee has determined that Transco has failed to satisfy the requirements to obtain a Freshwater Wetlands Protection Act Individual Permit or a Section 401 Water Quality Certification for the Garden State Expansion Project; and

**WHEREAS**, the Township Committee has determined that the construction of the Garden State Expansion Project would adversely impact surface waters and violate applicable New Jersey Surface Water Quality Standards; and

**WHEREAS**, the Township Committee makes the following additional factual findings:

1. On May 2, 2008, the United States District Court of Appeals for the Second Circuit upheld the State of Connecticut's denial of a Section 401 Water Quality Certificate to the Islander East Pipeline Company, LLC on the basis that the Islander East natural gas pipeline would violate state water quality standards. Islander E. Pipeline Co., LLC v. McCarthy, 525 F.3d 141 (2d Cir. 2008). Like the State of Connecticut, the Department should similarly deny Transco's Freshwater Wetlands Protection Act Individual Permit and Section 401 Water Quality Certification; and
2. On April 22, 2016, the New York State Department of Environmental Conservation ("NYSDEC") denied an application by Constitution Pipeline Company, LLC to obtain a Section 401 Water Quality Certification for Constitution's pipeline on the basis that Constitution failed to meaningfully address significant water resource impacts from the pipeline project and failed to demonstrate compliance with state water quality standards. See April 22, 2016 Letter from NYSDEC at:  
  
[http://www.dec.ny.gov/docs/administration\\_pdf/constitutionwc42016.pdf](http://www.dec.ny.gov/docs/administration_pdf/constitutionwc42016.pdf).

Like the NYSDEC, the Department should similarly deny Transco's Freshwater Wetlands Protection Act Individual Permit and Section 401 Water Quality Certification

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Chesterfield, County of Burlington, State of New Jersey, as follows:

1. The Township of Chesterfield strongly opposes the issuance of a Freshwater Wetlands Protection Act permit and Section 401 Water Quality Certification to Transco for the Garden State Expansion Project.

2. The Township Committee strongly urges the Department to deny Transco's applications for a Freshwater Wetlands Protection Act permit and Section 401 Water Quality Certification for the Garden State Expansion Project.

**BE IT FURTHER RESOLVED** that the Township Solicitor's office is hereby authorized and directed to continue to take such actions as may prove beneficial to the residents of the Township of Chesterfield in opposing Transco's applications to the Department regarding the Garden State Expansion Project.

**CHESTERFIELD TOWNSHIP COMMITTEE**

I, Caryn M. Hoyer, Clerk of the Township of Chesterfield in the County of Burlington and State of New Jersey do hereby certify the foregoing Resolution to be a true and accurate copy of the Resolution approved by the Township Committee at a duly advertised meeting held on August 11, 2016, at which a quorum was present.

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Caryn M. Hoyer, RMC  
Township Clerk