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December 5, 2014

Via email (ewitmer@saul.com)

Elizabeth U. Witmer, Esq.
Saul Ewing
1200 Liberty Ridge Drive, Suite 200
Wayne, Pennsylvania 19087

Dear Ms. Witmer:

This office (“PELC”) represents Stop the Pipeline (“STP”) in the matter of the proposed Constitution pipeline. We are in receipt of a copy of your letter, dated December 3, 2014 (“Saul Ewing Letter”), which was apparently sent, via Federal Express, to many landowners along the proposed pipeline route who have not signed easement agreements with Constitution Pipeline Company (“CP”). A redacted copy of one of your letters is attached for your reference.

According to your firm’s website, you specialize in eminent domain proceedings. Therefore you must know that your letter is replete with misleading information. It is apparent to STP that the intent of your letter is to bully landowners—who are already under duress from the December 2, 2014 decision by FERC that granted your client a conditional certificate of public convenience and necessity (“CPCN”)—into waiving their property rights. While we expect such unconscionable tactics from shady bill collectors, we do not expect them from a prestigious law firm such as Saul Ewing.

You begin your letter by advising the recipient landowners that FERC just issued an order approving the pipeline project. However, you fail to mention the many mandatory conditions that must still be met before the certificate will be legally effective. STP does not believe that the conditional CPCN issued by FERC on December 2 is effective or sufficient to support Constitution’s claim of eminent domain authority, as there is no guarantee that the conditions set forth in the certificate will ever be met. Indeed, it is readily apparent that the issuance by FERC of the conditional CPCN violates federal law due to FERC’s utter failure to satisfy unambiguous federal statutory prerequisites prior to issuance. CP may not rely upon a legally defective and premature “conditional” CPCN as its legal authorization to exercise the awesome power of eminent domain to condemn the private property of landowners against their wills.

You also oddly claim that your letter “serves as notice pursuant to Local Rule 7.1(e) of the United States District Court for the Northern District of New York of Constitution’s intent to apply for Orders to Show Cause.” The proposition that your letter satisfies the requirements of the local rule fails the “straight-face test.” As you must know, eminent domain proceedings in federal court must begin with personal service of a notice of the complaint in accordance with Rule 4. *See* Fed. R. Civ. P. 71.1(d)(3)(A). And Local Rule 7.1(e) obviously envisions that an action must be commenced *prior to* “reasonable advance notice” being given, since none of the recipients of your letter are yet “parties” to an action pending in federal court.

Moreover, a generic statement that CP intends to seek injunctive relief by order to show cause in a phantom future action at some unspecified time in the future utterly fails to provide the recipients of your letter with “reasonable advance notice” of the application. You also fail to address in your letter the Local Rule’s explicit requirements that the moving party (1) show “good and sufficient cause why the standard Notice of Motion procedure cannot be used”; or (2) “demonstrate, in a detailed and specific affidavit, good cause and substantial prejudice that would result from the requirement of reasonable notice.” In sum, we have little doubt that the Northern District will conclude that your letter utterly fails to satisfy the explicit requirements of Local Rule 7.1(e).

Next you state “[i]f you have not previously allowed Constitution to access your **Property for surveys, please consider this letter notice pursuant to New York E.D.P.L. § 404 that within ten (10) days of the date of this letter, Constitution may enter upon the Property for the purpose of making surveys, test pits and borings, or other investigations.**” Saul Ewing Letter at 2 (emphasis in original). Once again, you cannot honestly state that such actions can take place before you have filed a complaint and personally served the landowners who have refused to sign easement agreements with your client. In addition, it is our understanding that the New York E.D.P.L. does not apply in federal condemnation cases as Section 717f(h) of the Natural Gas Act has been superceded by Rule 71.1 of the Federal Rules of Civil Procedure. *See Nat’l Fuel Gas Supply Corp. v. 138 Acres of Land in the Village of Springville*, 84 F. Supp. 2d 405, 411-415 (W.D.N.Y. 2000). While STP does not yet intend to argue the substance of these issues, you may wish to note that the court in *138 Acres* did not allow for immediate entry to private property. *See id.* at 415-16.

Please be advised that your misrepresentations of the facts and law to recipient landowners may violate the New York Rules of Professional Conduct. In particular, Rule 8.4, states that a “lawyer or law firm shall not: (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation.”

We urge you to immediately retract the Saul Ewing Letter, also by use of Federal Express. We further urge CP to cease and desist from any additional misleading attempts to bully and intimidate New York citizens and landowners into giving up land that rightfully belongs to them. There is an express and specific legal process that must be utilized in order for CP to exercise eminent domain authority, if any, and we respectfully urge CP to utilize this process

Elizabeth U. Witmer, Esq.

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without resorting to the kinds of unethical and unconscionable tactics to which we have objected in this letter.

Very truly yours,



Daniel E. Estrin



Anne Marie Garti

Pace Environmental Litigation Clinic, Inc.
Attorneys for Stop the Pipeline

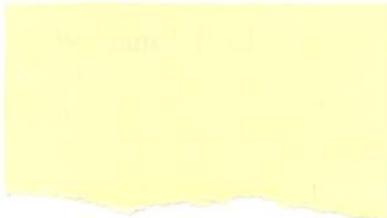
C: Hon. Andrew M. Cuomo, Governor of New York State
Hon. Joe Martens, Commissioner, NYSDEC
Patricia J. Desnoyers, Esq., Counsel, NYSDEC
Hon. Richard S. Hartunian, US Attorney for N.D.N.Y.
Hon. Eric T. Schneiderman, NYS Attorney General
Lemuel Srolovich, Esq., Office of NYS Attorney General
Isaac Cheng, Esq., Office of NYS Attorney General



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December 3, 2014

VIA FEDEX



RE: Constitution Pipeline Company, LLC
Tax Parcel No.: [Redacted]
Tract No. LL #: [Redacted]
FERC Docket No. CP13-499

Dear Landowner:

We represent Constitution Pipeline Company, LLC (“Constitution”). As you know, Constitution has been seeking to acquire certain property rights (the “Rights of Way”) on your property at the Tax Parcel Number above (the “Property”) in conjunction with an interstate natural gas pipeline project (the “Constitution Pipeline Project” or the “Project”). Constitution’s representatives have contacted you multiple times regarding the Project and its acquisition of the Rights of Way needed for the Project.

On December 2, 2014, the Federal Energy Regulatory Commission (“FERC”) determined that the Project is required by the public convenience and necessity and issued an Order approving the Constitution Pipeline and Wright Interconnect Projects. The FERC determined that the Project is in the public interest and will provide natural gas to meet the increased needs of customers in the Northeast. You may view the FERC Order at www.ferc.gov, under Docket No. CP13-499.

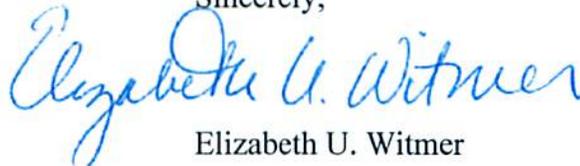
Construction on the Project is scheduled to begin as early as 2015. As a result, Constitution has an immediate need for the Rights of Way it is seeking to acquire on your property. Constitution’s representatives previously provided you with a written offer of compensation for the Rights of Way that was in excess of the appraised value of the Rights of Way as determined by a third party appraiser. You have not accepted that offer.

Constitution would like to reach an agreement with you and strongly prefers to avoid litigation. However, **if you do not accept this final offer and execute the documents enclosed with the prior written offer from Constitution's representative by Thursday, December 11, 2014, we will proceed to initiate suit under the Natural Gas Act, 15 U.S.C. §717, et seq., to condemn the Rights of Way sought on your Property and will offer only the appraised value as compensation. Should we initiate legal proceedings, we will seek injunctive relief asking the Court to grant Constitution immediate possession of the Right of Way by an Order to Show Cause.** This letter serves as notice pursuant to Local Rule 7.1(e) of the United States District Court for the Northern District of New York of Constitution's intent to apply for Orders to Show Cause.

If you have not previously allowed Constitution to access your Property for surveys, please consider this letter notice pursuant to New York E.D.P.L. § 404 that within ten (10) days of the date of this letter, Constitution may enter upon the Property for the purpose of making surveys, test pits and borings, or other investigations.

If you wish to accept this offer, or wish to discuss it further, please contact me IMMEDIATELY at 610-251-5062.

Sincerely,



Elizabeth U. Witmer

cc: Mr. Patrick McClusky
Daniel L. Merz, Esq.
John P. Stockli, Esq.