

June 5, 2017



WWALS Watershed Coalition, Inc.



the WATERKEEPER® Alliance
Member for the Suwannee,
Withlacoochee and Alapaha Rivers



- Upper Suwannee River HUC 03110201
- Withlacoochee River HUC 03110203
- Alapaha River HUC 03110202
- Little River HUC 03110204
- Lower Suwannee River HUC 03110205
- Suwannee River Estuary

WWALS Watershed Coalition advocates for conservation and stewardship of the Withlacoochee, Willacoochee, Alapaha, Little, and Suwannee River watersheds in south Georgia and north Florida through education, awareness, environmental monitoring, and citizen activities.

Ms. Kimberly D. Bose, Secretary

Federal Energy Regulatory Commission
888 First Street, NE
Washington, D.C. 20426
Via e-filing and electronic service

Re: Southeast Market Pipelines Project
FERC Docket Nos. CP14-554-000, CP15-16-000, and CP15-17-000

Dear Secretary Bose,

On February 2, 2016, the Federal Energy Regulatory Commission (“FERC” or “Commission”) issued an Order Issuing Certificates and Approving Abandonment in the above-referenced dockets (“February 2 Order”) granting Sabal Trail Transmission, LLC (“Sabal Trail”), among other authorizations, certificates of public convenience and necessity.¹ On May 17, 2017, Sabal Trail filed a request to place certain facilities into service (“May In-Service Request”).² On May 26, 2017, WWALS Watershed Coalition, Inc. (“WWALS”) filed a request (“May Denial Request”) for FERC to stay, stop, or deny that May In-Service Request until the Commission considers vital new information, and for FERC to revoke the February 2 Order. On May 31, 2017, Sabal Trail filed a response (“Sabal Trail Response”) that glossed over the substance of the WWALS May Denial Request. On June 2, 2017 (a Friday), Sabal Trail filed a revised in-service request,⁵ asking for authorization by FERC by June 5, 2017 (a Monday).

Intervenor WWALS Watershed Coalition herein supplies further evidence in support of the May Denial Request and again respectfully requests that FERC stay, stop, or deny any requests to place Southeast Market Pipelines Project (“SMPP”) facilities into service; that FERC revoke the Certificate of Convenience and Necessity for SMPP issued in the February 2 Order; and WWALS further requests that FERC conduct a Supplementary Environmental Impact Statement (“SEIS”) that considers all of the critical information and disturbing evidence covered by the six points of the May Denial Request, as augmented herein, and especially those concerns related to the Floridan Aquifer.

Sabal Trail alleges in its Response that: “The items listed by WWALS involve matters already addressed by the Commission’s February 2 Order....” But the Commission could not have addressed the vital new information and critical evidence in each of the six items in the WWALS Denial Request because that information and evidence did not exist or was not available on February 2, 2016. The Commission should consider all such new information and evidence and

¹ FERC [Accession Number 20160202-3056](https://www.ferc.gov/finance/2016/02/02/20160202-3056), February 2, 2016, “Order issuing certificates and approving abandonment re Florida Southeast Connection, LLC et al under CP14-554 et al.”

² FERC Accession Number 20170517-5098, May 17, 2017, “Request for Authorization to Place Project Facilities into Service of Sabal Trail Transmission, LLC under CP15-17”, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14572122

³ FERC Accession Number 20170526-5149, May 26, 2017, “Intervenor WWALS Watershed Coalition, Inc. requests FERC to deny Sabal Trail's request to put any facilities in service, and that FERC revoke its February 2016 Order granting a Certificate of Convenience and Necessity under CP15-17-000.”, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14574838

⁴ FERC Accession Number 20170531-5313, May 31, 2017, “Response of Sabal Trail Transmission, LLC to May 26, 2017 Request of WWALS Watershed Coalition”, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14574925

⁵ FERC Accession Number 20170602-5094, June 2, 2017, “Sabal Trail Transmission, LLC submits supplemental information for the Sabal Trail Project under CP15-17”, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14577077



stay, stop, or deny any in-service request and revoke the Certificate.

Sabal Trail alleged: “To the extent that WWALS believed that the record was incomplete or in error regarding the Floridan Aquifer, WWALS’ recourse under the Natural Gas Act would have been to request rehearing and ultimately to seek relief in court.” The record did not stop on February 2, 2016. It is FERC’s duty to the people of Florida and of the United States of America to evaluate all the requirements of a Certificate of Convenience and Necessity. When important new information and evidence comes to light after such a Certificate was issued, without waiting for a court order, FERC should consider such information or evidence and consider revoking that Certificate and its February 2 Order.

Sabal Trail further alleged: “...or are claims about activities that do not relate to whether Sabal Trail, FSC or Transco should be allowed to place portions of the SMP Project into service.”

Item 1 is directly relevant to Sabal Trail’s In-Service requests, since Sabal Trail based those on an alleged and unsupported need for new electricity to support peak summer demand in Florida. Items 4-6 directly relate to “Environmental Condition No. 9 requirements for approval of a request to place facilities into service”, which Sabal Trail notes as a principal condition for FERC evaluating an in-service request. Further, without a Certificate SMPP cannot be put into service, and items 1-5 in the Denial Request are reasons why FERC should revoke its Certificate of Convenience and Necessity for SMPP, so all six items are relevant to Sabal Trail’s request.

Sabal Trail alleged that WWALS did not supply sufficient evidence about permit violations. Sabal Trail’s own bi-weekly reports, including the one it filed June 2, 2017⁶ supply such evidence, as do numerous other filings, including the 38-page filing of May 31, 2017 by Janet L. Barrow.⁷ The burden of proof is on Sabal Trail, not WWALS, to demonstrate it has met the conditions of the Commission’s February 2 Order, and Sabal Trail has not done so.

In this letter WWALS responds to specific claims made by Sabal Trail in its May In-Service Request, its Response, and its June In-Service Request, as well as in its Bi-Weekly Status Reports, and its recent responses to Sierra Club. Details are in Attachments 1-6, on 1) lack of need for the pipeline because of solar power; 2) the Floridan Aquifer, 3) LNG export, 4) permit violations, 5) especially egregious violations, and 6) the pending Sierra Club lawsuit.

Sabal Trail wrote in its May 23 response to Sierra Club’s request to FERC:⁸

“To the extent the May 19 filing can be understood as requesting a stay, the May 19 Filing does not mention, much less meet, the relevant requirements for such a remedy. In assessing a request for a stay, the Commission considers several factors: (1) whether the party requesting the stay will suffer irreparable injury without a stay; (2) whether a stay may substantially harm other parties; and (3) whether a stay is in the public interest.”¹²”

⁶ FERC Accession Number 20170602-5101, June 2, 2017, “Sabal Trail Transmission, LLC submits its biweekly status report for the Sabal Trail Project under CP15-17,” https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14577087

⁷ FERC Accession Number 20170531-5025, May 31, 2017, “Comment of Janet L Barrow - Deny Sabal Trail In-Service Request for Failure to Meet Condition 9 under CP15-17.” https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14575508

⁸ Sabal Trail Transmission, LLC, FERC Accession Number 20170523-5182, May 23, 2017, "Response of Sabal Trail Transmission, LLC to Sierra Club's May 19, 2017 Request", https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14573689

Here are those three factors:

1. Irreparable injury: Money spent on the pipeline could buy far more solar power, thus FPL's ratepayers suffer irreparable harm; see Attachment 1. Any LNG export of gas through Sabal Trail constitutes irreparable harm to all landowners whose land was taken for easements through eminent domain authorized by the February 2 Order; see Attachment 2. According to new scientific information the pipeline could inflict irreparable injury to the Floridan Aquifer, which is the primary source of all our industry, agriculture, ecology, and livelihood; these risks do not stop with the end of construction and running gas through the pipe would make them worse; see Attachment 3. Permit violations are far more numerous than Sabal Trail has recorded in its Bi-Weekly Reports; even Sabal Trail admits many of them are still not resolved; and many of them may constitute irreparable harm; see Attachment 4. Farmer Randy Dowdy has suffered generations-long harm which Sabal Trail is not attempting to repair; see Attachment 5. Failure to wait for completion of the Sierra Club lawsuit, combined with the obstruction of justice alleged by Randy Dowdy, would constitute irreparable harm to the public perception of the rule of law; see Attachment 6.
2. Substantially harm other parties: The only harm alleged by Sabal Trail is temporary financial difficulties by the corporations directly involved in the pipeline project. The public should not be required to subsidize their unfortunate business decision. The utilities FPL and Duke Energy, and even more their ratepayers, will instead benefit financially by abandoning this pipeline project in favor of solar power for the Sunshine State.
3. Whether a stay is in the public interest: Clearly halting this unnecessary pipeline and deploying solar power instead would be in the public interest, for all the reasons in all six Attachments.

WWALS herein supplies additional evidence and claims and respectfully requests that FERC stay, stop, or deny any requests to place Southeast Market Pipelines Project ("SMPP") facilities into service, specifically including Sabal Trail's, until FERC considers or reconsiders the six points from the May Denial Request, augmented herein.

In view of the above, WWALS formally requests FERC revoke the Certificate of Convenience and Necessity for SMPP issued in the February 2 Order.

WWALS further requests FERC conduct a Supplementary Environmental Impact Statement ("SEIS") that factors in all the new information and evidence covered by the six points of the May Denial Request, as augmented herein, and especially those concerns related to the Floridan Aquifer.

Sincerely,
John S. Quarterman
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Cc: Terry Turpin, Director, Office of Energy Projects
John Peconom, Environmental Project Manager

Attachment 1: FPL has refuted its own basis for need for SMPP

Sabal Trail claimed in its Response that:⁹

“These facilities will provide for the delivery of much-needed natural gas supplies to a Sabal Trail anchor shipper, Florida Power & Light Company (“FPL”), the largest electric utility in Florida, and to other markets in Florida and the greater Southeast market during the region’s peak summer cooling season.”

And again at the end:

“Sabal Trail’s anchor shipper, FPL, is relying on the prompt placement of these facilities into service for gas-supplies necessary to meet peak demand in the summer season. The SMP sponsors have adequately supported their respective requests to place the completed portions of the SMP Project into service. The Commission should reject WWALS’ May 26 Filing and allow these critically important projects to be placed into service for the 2017 summer cooling season.”

Sabal Trail has provided no evidence that there is any need for any new electricity in Florida or anywhere else “during the region’s peak summer cooling season” nor at any other time. NextEra’s subsidiary Florida Power and Light (FPL) has refuted that claim in the Executive Summary of its [Ten Year Power Plant Site Plan 2016-2025](#) filed with FL PSC in April 2016:¹⁰

“Difference: FPL does not project a significant long-term additional resource need until the years 2024 and 2025.”

The Florida Public Service Commission (“FL-PSC”) asserted in February 2015 that Florida summer peak demand is decreasing because of demand-side management (DSM):¹¹

“Over the last 33 years, the FEECA utilities’ DSM programs in total have reduced winter peak demand by an estimated 6,506 megawatts (MW) and summer peak demand by an estimated 6,871 MW. The demand savings from these programs have resulted in the deferral or avoidance of a substantial fleet of power plants. These programs have also reduced total electric energy consumption by an estimated 9,330 gigawatt-hours (GWh).”

Thus there is no need for Sabal Trail to go in-service and Florida would be better served by continuing to increase demand savings programs through the types of conservation measures described by FL-PSC.

The Florida Reliability Coordinating Council (“FRCC”), evaluating electricity in Florida east of the Apalachicola River, which includes all the area directly affected by Sabal Trail and related pipelines, further projected *less* summer peak demand in 2017 than in 2015.¹² As one analyst put it:¹³

“The rate of increase in demand for electric power appears to be declining — it now stands at 0.8 percent per year, compared to 1.1 percent in the previous forecast. Peak summer demand slowdown accounts for much of that difference, although peak winter demand is projected to grow slightly.”

FRCC’s results were quoted by the North American Electric Reliability Corporation (“NERC”) in its "2016 Summer Reliability Assessment," which says on page 5 for all regions:¹⁴

⁹ FERC Accession Number 20170531-5313, May 31, 2017, “Response of Sabal Trail Transmission, LLC to May 26, 2017 Request of WWALS Watershed Coalition”, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14574925

¹⁰ FPL, “Ten Year Power Plant Site Plan 2016 – 2025”, April 2016,

<https://www.frcc.com/Planning/Shared%20Documents/FRCC%20Presentations%20and%20Utility%2010-Year%20Site%20Plans/2016%20TYSPs/2016%20YSP%20-%20FPL.pdf>

¹¹ Florida Public Service Commission, "FEECA: Annual Report on Activities Pursuant to the Florida Energy Efficiency & Conservation Act," February 2015, <http://www.psc.state.fl.us/Files/PDF/Publications/Reports/Electricgas/AnnualReport/2015.pdf>

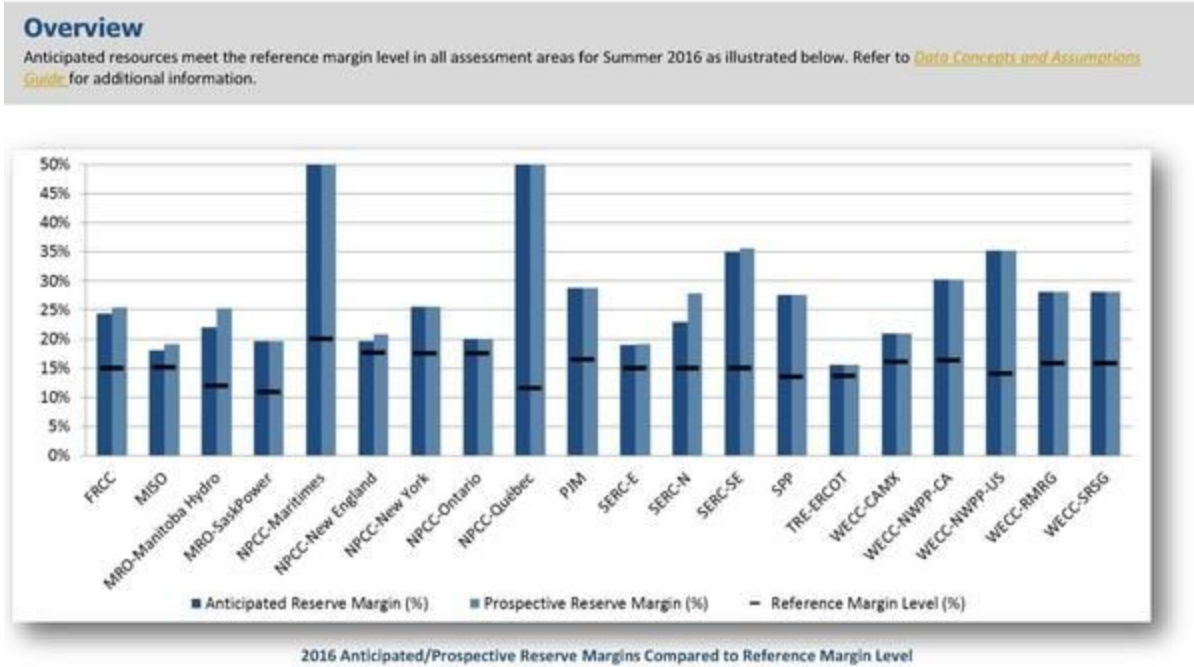
¹² Florida Reliability Coordinating Council, “2016 Regional Load & Resource Plan FRCC-MS-PL-079 Version: 1”_May 31, 2016, <http://www.psc.state.fl.us/Files/PDF/Utilities/Electricgas/TenYearSitePlans/2016/FRCC.pdf>

¹³ Michael Moline, "Florida utilities keeping up with demand for electricity", Florida Politics.com, September 14, 2016, <http://floridapolitics.com/archives/221959-florida-utilities>

¹⁴ North American Electric Reliability Corporation (NERC), "2016 Summer Reliability Assessment," June(?), 2016,

http://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/2016%20SRA%20Report_Final.pdf#page=4&zoom=180.-53.45

“Anticipated resources meet the reference margin level in all assessment areas for Summer 2016 as illustrated below.”



FERC staff referenced that NERC report in their Summer 2016 Energy Market and Reliability Assessment:¹⁵

“NERC’s Summer Assessment data indicates that reserve margins for all assessment areas are anticipated to be adequate this summer.”

Thus FERC staff are well aware of FRCC’s and NERC’s projections. FRCC and NERC have not yet published their 2016 projections, but in 2016 FRCC projected 2017 summer demand (45,111 MW) would be less than for 2015 (45,867) and only slightly higher than in 2016 (44,730).¹⁶

Sabal Trail’s assertion that its gas, which would increase Florida’s supply by far more than 1 percent is needed to supply a reduction in Florida peak summer demand, or even a 1.1% annual increase, is at variance with the projections of FP-PSC, FRCC, NERC, and FERC staff. Sabal Trail offers no evidence for that variance.

All of the just-cited evidence from FL-PSC, FRCC, NERC, and FERC staff augment Attachment 1 from WWALS’ May Denial Request.

In its April 10, 2017 response to Sierra Club, Sabal Trail claims on page 7 that:¹⁷

“The SMP Project remains integral to the retirement of coal generation in Florida.”

On the next page Sabal Trail cites two coal-fired plants FPL bought and plans to close, allegedly because of SMPP, yet in a footnote on the same page Sabal Trail admits FPL already closed one of them, while SMPP is not in operation.

¹⁵ FERC Office of Electric Reliability and Office of Enforcement staff, Summer 2016 Energy Market and Reliability Assessment, Item No. A-3, May 19, 2016, <https://www.ferc.gov/market-oversight/reports-analyses/mkt-views/2016/05-19-16.pdf>

¹⁶ Florida Reliability Coordinating Council, “2016 Regional Load & Resource Plan FRCC-MS-PL-079 Version: 1”_May 31, 2016, <http://www.psc.state.fl.us/Files/PDF/Utilities/Electricgas/TenYearSitePlans/2016/FRCC.pdf>

¹⁷ FERC Accession Number 20170410-5329, April 10, 2017, “Answer of Sabal Trail Transmission, LLC to Sierra Club’s Request For Supplemental Environmental Impact Statement under CP15-17., et. al.”, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14559047

FPL's 2017 Ten Year Site Plan may supply a reason for that on page 79:¹⁸

“Solar energy costs, especially the cost of PV, have continued to drop to the point where universal PV facilities have become competitive with more conventional generation options. Consequently, FPL announced in its 2016 Site Plan that it would construct three new PV facilities of approximately 74.5 MW each by the end of 2016. Those facilities are now in operation.”

That is a total of 223.5 MW of new solar power generation installed by FPL in 2016, which is almost as much as the 250 MW of the Cedar Bay coal plant in Jacksonville that FPL bought and shut down. Construction of that solar capacity, unlike an interstate natural gas pipeline, did not require a three-year permitting process. In the next paragraph, FPL states:

“In this Site Plan, FPL is projecting a dramatic increase by planning to add a total of 2,086 MW of new PV beginning this year and concluding in the year 2023. FPL will continue to evaluate the economic and non-economic attributes of additional solar through its resource planning work on an on-going basis.”

2,086 MW is far more than the 330 MW of the remaining coal plant of the two FPL bought, the one at Indiantown.

Given that Sabal Trail's argument for immediate in-service is peak summer demand, which happens in the afternoon in Florida, the daytime-only aspect of solar power is irrelevant. Solar plants could just as easily replace coal plants as SMPP could.

Because Sabal Trail predicates its May and June In-Service requests on a non-existent alleged need for more Florida summer peak demand electricity, Attachment 1 is a strong argument for FERC to deny those In-Service Requests (and any others from SMPP participants), and Attachment 1 remains a strong argument for FERC to revoke its February 2 Order.

Sabal Trail alleges:

“WWALS raises unsupported claims, largely in reliance on a Sierra Club filing in the SMP Project dockets on March 24, 2017, about the market need showing for the SMP Project and whether FPL's 2016 Ten Year Plan is inconsistent with the record in the SMP Project dockets.”

Actually, Attachment 1 in the WWALS May Denial Request provides evidence from Florida Power & Light (“FPL”), from the U.S. Department of Energy, from Bloomberg, and from FERC itself, quoting Sierra Club only to show further parties have noted that FPL's 2016 Ten Year Plan is inconsistent with the assumptions made by FERC in its February 2 Order.

“Sabal Trail has refuted these claims already in its April 10, 2017 response to Sierra Club's March 24, 2017 filing.⁵ Nothing raised by Sierra Club or WWALS regarding market need calls into question FPL's need for additional pipeline capacity or its long-term commitment for firm service on the SMP Project facilities. Similarly, nothing in the record calls into question Duke Energy Florida's long-term firm commitment to the Sabal Trail Project.”

⁵ See Answer of Sabal Trail Transmission, LLC to Sierra Club's Request For Supplemental Environmental Impact Statement, Docket Nos. CP15-17-000 et al. (April 10, 2017) (“April 10 Answer”). Sabal Trail incorporates its April 10 Answer herein by reference.”

Actually, FPL's own 2016 and 2017 Ten Year Plans call into question FPL's need for additional pipeline capacity. Duke Energy is also building solar plants in Florida, with an industry report saying “Duke Energy Florida has a goal to add up to 500 MW of solar by 2024.”¹⁹

Once again, FERC wrote in its February 2, 2016 Order granting the three constituents of SMPP a Certificate of Convenience and Necessity:²⁰

“85. We also have no reason to contest Florida Power & Light's purported demand for natural gas. The Florida Public Service Commission issued an order finding that Florida Power & Light had demonstrated a need for additional firm capacity.”

¹⁸ FPL, “Ten Year Power Plant Site Plan 2017 – 2026”, April 2017, <https://www.fpl.com/company/pdf/10-year-plan-maps.pdf>

¹⁹ George Cavros, <http://blog.cleanenergy.org/2017/05/22/floridas-solar-outlook-just-got-sunnier/>

²⁰ FERC [Accession Number 20160202-3056](https://www.ferc.gov/recordsearch/AccessionNumber/20160202-3056), February 2, 2016, “Order issuing certificates and approving abandonment, re Florida Southeast Connection, LLC et al under CP14-554 et al.”

That the Commission said “We also have no reason to contest” means the Commission can contest FPL’s “purported demand for natural gas.”

Sabal Trail in its April 10, 2017 response to Sierra Club cited a precedent²¹ claiming that FERC:

“does not have the responsibility . . . to plan the way that alternative natural gas projects, other energy sources, or energy conservation could satisfy [a region’s] broad economic need. Further, the Commission cannot require individual energy users to use different or specific energy sources.”

Yet FERC staff provide an annual Summer . . . Energy Market and Reliability Assessment²² and FERC in its February 2 Order wrote “We also have no reason to contest,” not that it could not contest, FPL’s “purported demand for natural gas.”

Sabal Trail further cited a federal law:²³

“(providing that an SEIS is required only when the new circumstances and information are “relevant to environmental concerns and bearing on the proposed action or its impacts” (emphasis added)).”

The replacement of coal (and other) power with solar power, which produces no emissions nor cooling nor testing water, and requires no right of way through wetlands nor under rivers, instead of natural gas, is obviously relevant to environmental concerns and bears on the proposed action and its impacts.

Thus FPL itself, and Duke Energy, and FPCC, NERC, and FERC staff, have since provided reason to contest that “purported demand for natural gas.”

According to FERC’s own figures, U.S. solar power capacity has been doubling every two years for at least five years now. That exponential growth is on track to former FERC Chair Jon Wellinghoff’s 2013 prediction that within a decade from then more U.S. electricity will come from solar power than any other source.²⁴

“Solar is growing so fast it is going to overtake everything,” Wellinghoff told GTM last week in a sideline conversation at the National Clean Energy Summit in Las Vegas.

If a single drop of water on the pitcher’s mound at Dodger Stadium is doubled every minute, Wellinghoff said, a person chained to the highest seat would be in danger of drowning in an hour.

“That’s what is happening in solar. It could double every two years,” he said.

Solar power has actually more than doubled every two years since 2013.²⁵ Yet FERC only counts utility-scale solar power. Adding rooftop and community solar panels, already a sea change has occurred.

Solar power overtook natural gas to produce more new U.S. electricity than any other source in 2016.²⁶ Solar power already employs more people in electricity generation than coal, oil, and natural gas combined.²⁷

For the amount of money being spent on Sabal Trail, far more solar power could be purchased,²⁸ and installed far more quickly, without eminent domain, cooling or testing water, or any risk of sinkholes, leaks, or explosions.

This ascendancy of solar power is a qualitative change since Sabal Trail was first proposed by FPL in 2013. FERC should take this sea change into account.

²¹ Sabal Trail footnote: Nat’l Fuel Gas Supply Corp., 158 FERC ¶ 61,145, at P 105 (2017); Dominion Carolina Gas Transmission, LLC, 158 FERC ¶ 61,126 at P 47 (2017) (rejecting an argument that “the Commission should analyze broad economic need, for example across the state of South Carolina, and should effectively plan the way that alternative natural gas projects, other energy sources, or energy conservation could satisfy that broad economic need”).

²² FERC Office of Electric Reliability and Office of Enforcement staff, Summer 2016 Energy Market and Reliability Assessment, Item No. A-3, May 19, 2016, <https://www.ferc.gov/market-oversight/reports-analyses/mkt-views/2016/05-19-16.pdf>

²³ Sabal Trail footnote: 40 C.F.R. § 1502.9(c)(1)(ii) (2016)

²⁴ [Herman K. Trabish](http://www.greentechmedia.com/articles/read/ferc-chair-wellinghoff-sees-a-solar-future-and-a-utility-of-the-future), gtm, August 21, 2013, “FERC Chair Jon Wellinghoff: Solar ‘Is Going to Overtake Everything,’” <https://www.greentechmedia.com/articles/read/ferc-chair-wellinghoff-sees-a-solar-future-and-a-utility-of-the-future>

²⁵ John S. Quarterman, On the LAKE Front, February 20, 2017, U.S. electric power source projections: solar still most by 2023, <http://www.l-a-k-e.org/blog/?p=18129>

²⁶ Chris Martin, Bloomberg Markets, 15 February 2017, [U.S. Solar Surged 95% to Become Largest Source of New Energy](http://www.bloomberg.com/news/articles/2017-02-15/solar-surged-95-to-become-largest-source-of-new-energy).

²⁷ [Second annual U.S. Energy and Employment Report](http://www.energy.gov/sites/default/files/2017/01/2017-01-17-second-annual-u-s-energy-and-employment-report.pdf), U.S. Department of Energy, January 2017.

²⁸ John S. Quarterman, On the LAKE Front, February 27, 2017, “How much solar power could Sabal Trail’s \$3.2 billion buy?” <http://www.l-a-k-e.org/blog/?p=18178>

This rapid decision of the real market in favor of solar power, so powerful even FPL and Duke Energy Florida are deploying solar farms, fits the requirement for FERC to reopen a case that Sabal Trail quoted in its April 10 response to Sierra Club:²⁹ “more than just material – it must be a change that goes to the very heart of the case.”³⁰

Because of this sea change at the very heart of the case, FERC should retract its issuance of a Certificate of Convenience and Necessity, or at the very least do its own independent investigation of need instead of accepting Sabal Trail or FPL’s answers.

WWALS incorporates by reference Attachment 1 from its May Denial Request.³¹

²⁹ FERC Accession Number 20170410-5329, April 10, 2017, “Answer of Sabal Trail Transmission, LLC to Sierra Club’s Request For Supplemental Environmental Impact Statement under CP15-17., et. al.”, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14559047

³⁰ Sabal Trail footnote: Millennium, 141 FERC ¶ 61,198, pp. 61,975–76; California Independent System Operator Corp., 121 FERC ¶ 61,193, at P 14; Southern Cos., 43 FERC ¶ 61,003, p. 61,024 (1988) (citing *Bowman Transp., Inc. v. Ark. Best Freight System, Inc.*, 419 U.S. 281, 296 (1974)).

³¹ FERC Accession Number 20170526-5149, May 26, 2017, “Intervenor WWALS Watershed Coalition, Inc. requests FERC to deny Sabal Trail's request to put any facilities in service, and that FERC revoke its February 2016 Order granting a Certificate of Convenience and Necessity under CP15-17-000.”, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14574838

Attachment 2: FERC has taken jurisdiction of a Sabal Trail LNG export chain

Sabal Trail wrote in its May 31, 2017 Response to WWALS:³²

“WWALS claims facts exist that are inconsistent with the Commission’s statement in the February 2 Order that “[n]either Sabal Trail nor Florida Southeast has proposed to connect to any LNG export facilities.”⁶ These claims by WWALS are similarly unsupported and misplaced. WWALS does not point to a single example of an LNG export terminal that has been proposed to be connected to Sabal Trail or FSC. Indeed, WWALS references only three LNG export terminal projects, Eagle LNG, Elba Island and Cove Point. These projects either connect to, or are proposed to be connected to, Florida Gas Transmission Company, LLC, Southern Natural Gas Company, L.L.C. and Dominion Transmission, Inc., respectively, not to Sabal Trail or FSC.”⁷

⁶ February 2 Order at P 86.”

⁷ Based on this incorrect assertion that the Project is designed for export purposes, WWALS also makes an unsupported request for revocation of Sabal Trail’s certificate of public convenience and necessity. WWALS’ argument is not only inaccurate but also fails to provide any basis that could justify revocation of Sabal Trail’s certificate granted in the February 2 Order.”

Addressing Sabal Trail’s footnote 7 first, once again FERC wrote in its February 2, 2016 Order granting the three constituents of SMPP a Certificate of Convenience and Necessity:³³

“86. Allegations that the projects will be used to export gas also do not persuade us to find that the applicants have not demonstrated project need. Neither Sabal Trail nor Florida Southeast has proposed to connect to any LNG export facilities. In addition, Florida Power & Light stated that it lacks legal authority to export natural gas, and that it is contracting for capacity to serve its natural gas plants. Florida Power & Light adds that it is not an owner of the Floridian LNG project in Martin County, Florida, nor is any of its affiliates.⁶⁴ Moreover, the Commission does not have jurisdiction over the exportation and importation of natural gas. Such jurisdiction resides with the U.S. Department of Energy (DOE), which must act on any applications for natural gas export and import authority.⁶⁵”

⁶⁴ Florida Power & Light December 23, 2014 Motion to Intervene and Comments in Docket No. CP15-17-000 at 6.”

⁶⁵ *Id.* at 4, 6.”

The key phrase is *“the Commission does not have jurisdiction over the exportation and importation of natural gas.”*

As WWALS demonstrated in Attachment 2 to its May Denial Request,³⁴ FERC accepted jurisdiction over a chain of natural gas projects leading from Sabal Trail to export through Jacksonville, Florida, and for that matter all the way from Pennsylvania through Atlantic Sunrise, Transco, and Sabal Trail before that. Thus paragraph 86 in FERC’s February 2 Order is refuted by FERC’s own actions in accepting those dockets.

Sabal Trail complains WWALS did not list any LNG export project that has been proposed to be connected to Sabal Trail or FSC. Here is such an example, Strom Inc., located in Crystal River, Florida:³⁵

“The NG to be liquefied will come from the robust and liquid United States natural gas market. which now includes NG produced from shale deposits. Strom is currently engage[sic] in negotiations for long term natural gas supply as well as transmission to our facility via pipeline to Strom's CRFL.”

³² FERC Accession Number 20170531-5313, May 31, 2017, “Response of Sabal Trail Transmission, LLC to May 26, 2017 Request of WWALS Watershed Coalition”, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14574925

³³ FERC Accession Number 20160202-3056, February 2, 2016, “Order issuing certificates and approving abandonment re Florida Southeast Connection, LLC et al under CP14-554 et al.”

³⁴ FERC Accession Number 20170526-5149, May 26, 2017, “Intervenor WWALS Watershed Coalition, Inc. requests FERC to deny Sabal Trail's request to put any facilities in service, and that FERC revoke its February 2016 Order granting a Certificate of Convenience and Necessity under CP15-17-000.”, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14574838

³⁵ Strom, Inc., to U.S. Department of Energy Office of Fossil Energy, May 6, 2015, FE docket number 15-78-LNG, “Strom, Inc. request to withdraw FE Docket No. 14-57-LNG and 14-58-LNG Applications for Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Countries and replace with a new application to be Docketed as 15-___-LNG.”, “IV. FEEDSTOCK GAS SOURCES” on page 14, https://energy.gov/sites/prod/files/2015/05/f22/15_78_lng.pdf

“Strom's CRFL is located within less than two miles of two major natural gas trunk lines which currently have the reserve capacity for transmission of natural gas to support Strom's combined domestic and export liquefaction activities. These two pipelines are named and operated by Florida Gas Transmission and Sabal Trail,¹⁹ respectively.

“Florida Gas Transmission (“FGT”) is a natural gas pipeline which brings gas from Texas, Louisiana, Mississippi, and Alabama into Florida. It is owned 50% by Energy Transfer Farmers (Owner/Operator) and 50% by Kinder Morgan Partnership each respectively representing units in Citros Corporation.

“Sabal Trail Transmission, LLC (“Sabal Trail”) is a joint venture of Spectra Energy Corp and NextEra Energy, Inc. They are proposing to design, construct and operate a nearly 500-mile interstate natural gas pipeline to provide transportation services for power generation needs to Florida Power and Light (“FPL”) and Duke Energy of Florida (“DEF”) beginning in May 2017.”

“¹⁹ Sabal Trail is pending FERC final approval”

Strom first applied to FERC for a location in Starke, Florida. FERC never disclaimed jurisdiction over Strom’s LNG export operation. Instead, FERC did this:³⁶

“Because Strom has not submitted the filing fee within the required time, Strom’s petition for declaratory order is dismissed, and Docket No. CP14-121-000 is terminated.”

This is another example of FERC’s own actions showing it *does* have jurisdiction over the exportation and importation of natural gas.

FERC should retract and revoke its February 2016 Certificate of Convenience and Necessity because according to FERC’s own permitting documents Sabal Trail is intended at least partly for exporting natural gas, and therefore the applicants Williams Transco and Sabal Trail have not demonstrated project need.

WWALS incorporates by reference its Attachment 2 from its May Denial Request.³⁷

³⁶ FERC Accession Number 20140822-3044, August 22, 2014, "Notice to Dismiss Petition for Declaratory Order and Terminate Docket re Strom, Inc under CP14-121," https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14245339

³⁷ FERC Accession Number 20170526-5149, May 26, 2017, “Intervenor WWALS Watershed Coalition, Inc. requests FERC to deny Sabal Trail's request to put any facilities in service, and that FERC revoke its February 2016 Order granting a Certificate of Convenience and Necessity under CP15-17-000.”, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14574838

Attachment 3: Failure to assess risks to Floridan Aquifer

Sabal Trail alleges in its Response to WWALS that:³⁸

“WWALS’ claim that the Commission has failed to address the Floridan Aquifer is incorrect and provides no basis for a delay in the in-service date of the SMP Project. The February 2 Order and the Environmental Impact Statement for the SMP Project have extensive analyses regarding impacts to the Floridan Aquifer and respond to numerous related comments filed on the record in this proceeding.⁸ To the extent that WWALS believed that the record was incomplete or in error regarding the Floridan Aquifer, WWALS’ recourse under the Natural Gas Act would have been to request rehearing and ultimately to seek relief in court.⁹ WWALS did not avail itself of those rights and there is no basis for WWALS to argue now that further analysis regarding the Floridan Aquifer is necessary prior to granting Sabal Trail’s In-Service Request or the in-service requests pending from FSC and Transco.”

⁴⁸ *Id.* at PP 240-249; Final Environmental Impact Statement for the Southeast Market Pipelines Project at 3-26 to 3-27, Docket Nos. CP14-554-000, CP15-16-000, and CP15-17-000 (Dec. 18, 2015) (“Final EIS”). Contrary to WWALS’ assertions, the Commission expressly addressed the possibility of sinkholes and frac-outs in the Final EIS. See Final EIS at 3-54, 3-4 to 3-19.”

⁴⁹ *To the extent the May 26 Filing can be interpreted as seeking a supplemental environmental impact statement, such relief is not warranted for the reasons discussed in the April 10 Answer.”*

The basis to argue now that further analysis regarding the Floridan Aquifer is the new scientific information about the Floridan Aquifer that has come to light since FERC’s February 2 Order, and the record of Sabal Trail’s environmental permit violations.

Sabal Trail may have “expressly addressed the possibility of sinkholes and frac-outs in the Final EIS,” yet Sabal Trail and the Florida Department of Environmental Protection (“FDEP”) assured the court in *WWALS vs. Sabal Trail & FDEP* (October 2015) that specifically there was no danger of damage to Outstanding Florida Water the Suwannee River because Sabal Trail was drilling from upland to upland, yet in the same karst geology in the Suwannee’s tributary the Withlacoochee River in Georgia, Sabal Trail did cause a frac-out.³⁹

In its May Denial Request, WWALS provided more new scientific information that was not available to FERC while the Final EIS was being written.

In addition, Sabal Trail’s assertion to U.S. Representative Sanford Bishop that it was “*impossible that contaminated water entering the Floridan aquifer as a result of the HDD crossing, could contaminate Valdosta’s wellfield*”⁴⁰ makes it appear that Sabal Trail is using Darcian assumptions of homogenous isotropic conditions, which are inappropriate for a karst aquifer such as the Floridan Aquifer.⁴¹

WWALS does request a Supplemental Environmental Impact Statement (SEIS). A comprehensive risk assessment is needed including examination of biogeochemical processes⁴² that could induce anoxic conditions and severely degrade water quality.

In its April 10, 2017 reply to Sierra Club, Sabal Trail cited legal precedents⁴³ and wrote:

³⁸ FERC Accession Number 20170531-5313, May 31, 2017, “Response of Sabal Trail Transmission, LLC to May 26, 2017 Request of WWALS Watershed Coalition”, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14574925

³⁹ FERC [Accession Number: 20161128-5230](https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14515366), 28 November 2016, “WWALS Watershed Coalition, Inc. comments on the Sabal Trail violations FDEP assured us would not happen are happening under CP15-17.” https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14515366

⁴⁰ FERC [Accession Number: 20160607-5134](https://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20160607-5134), June 7, 2016, “Sabal Trail Transmission, LLC submits its Response to Letter from U.S. Representative Sanford D. Bishop, Jr. under CP15-17.” https://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20160607-5134

⁴¹ Can Denizman, WWALS.net, March 3, 2017, “Other aquifer models don’t work for karst Floridan Aquifer –Geology Prof. Can Denizman to Suwannee River Partnership 2017-03-03”, <http://www.wwals.net/?p=32191>

⁴² [Methane Leaks from Energy Wells Affects Groundwater, Travels Great Distances, Study Confirms](https://doi.org/10.1038/ngeo2919), by [Andrew Nikiforuk](#) 11 Apr 2017, TheTyee.ca. Mobility and persistence of methane in groundwater in a controlled-release field experiment, by [Aaron G. Cahill](#), [Colby M. Steelman](#), [Olenka Forde](#), [Olukayode Kuloyo](#), [S. Emil Ruff](#), [Bernhard Mayer](#), [K. Ulrich Mayer](#), [Marc Strous](#), [M. Cathryn Ryan](#), [John A. Cherry](#), & [Beth L. Parker](#), *Nature Geoscience*, **10**, 289–294 (2017) [doi:10.1038/ngeo2919](https://doi.org/10.1038/ngeo2919), 27 March 2017

⁴³ Sabal Trail footnote: *Blue Ridge Envtl. Def. League v. Nuclear Regulatory Comm’n*, 716 F.3d 183, 196 (D.C. Cir. 2013); *Tri-Valley CAREs v. U.S. Dep’t of Energy*, 671 F.3d 1113 (9th Cir. 2012); *State of Wis. v. Weinberger*, 745 F.2d 412 (7th Cir. 1984).

“To determine whether a supplement is necessary, courts have considered whether the new information provides a seriously different picture of the environmental landscape from the one in the already existing, in-depth final EIS, such that another hard look is necessary.”

Salinity coming up in water wells in Lowndes County, Georgia all the way from the Gulf of Mexico⁴⁴ and fracking wells leaking methane many miles underground even without karst constitute a seriously different picture of the environmental landscape than existed in February 2016.

In its May 23, 2017 response to Sierra Club⁴⁵ Sabal Trail wrote on page 3 that the:

“...restoration efforts and ongoing mitigation that Sabal Trail has implemented and will continue to implement address possible environmental effects of project construction, much of which is already complete. Sierra Club does not explain how those construction-related effects would be avoided by preventing Sabal Trail from placing a portion of the already-built Project into service.”

As WWALS pointed out in its May Denial Request, there is nothing in Sabal Trail’s *Karst Mitigation Plan and Characterization Study* about how to remediate a sinkhole if it occurs under a river, nor about how to remediate contaminants that have traveled miles underground to a drinking water source. Those would be construction-related effects, even if they should occur days, months, or years after construction is completed. Preventing Sabal Trail from putting the pipeline into service would avoid those effects.

Sabal Trail also wrote on the same page that:

“Sierra Club’s filing fails to identify any irreparable harm that would be caused by placing the Project into service.”

Even if that were true, the WWALS May Denial Request and the present letter do identify such irreparable harm, both in this Attachment 3 and in Attachment 5. Irreparable harm to the livelihood of farmers and others, and to the Floridan Aquifer, the mainstay of all our industry, environment, and our very lives.

Such irreparable harm outweighs a few billion dollars spent in error by a few companies.

Therefore WWALS requests FERC to implement a Supplemental Environmental Impact Statement and to stay, stop, or delay any SMPP In-Service requests until that SEIS is complete.

WWALS incorporates by reference its Attachment 3 from its May Denial Request.⁴⁶

⁴⁴ Lester J. Williams and Eve L. Kuniandy, [Revised Hydrogeologic Framework of the Floridan Aquifer System in Florida and Parts of Georgia, Alabama, and South Carolina](#), Professional Paper 1807, First release: April 2015, Revised March 2016 (ver. 1.1), Groundwater Resources Program, U.S. Department of the Interior, U.S. Geological Survey, Reston, Virginia: 2015., <https://pubs.usgs.gov/pp/1807/pdf/pp1807.pdf>

⁴⁵ Sabal Trail Transmission, LLC, FERC Accession Number 20170523-5182, May 23, 2017, "Response of Sabal Trail Transmission, LLC to Sierra Club's May 19, 2017 Request", https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14573689

⁴⁶ FERC Accession Number 20170526-5149, May 26, 2017, “Intervenor WWALS Watershed Coalition, Inc. requests FERC to deny Sabal Trail's request to put any facilities in service, and that FERC revoke its February 2016 Order granting a Certificate of Convenience and Necessity under CP15-17-000.”, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14574838

Attachment 4: Numerous permit violations during construction

In its May 31, 2017 Response to WWALS Sabal Trail wrote:⁴⁷

“WWALS has not provided, or even attempted to provide, evidence or any explanation for why Sabal Trail, FSC and Transco have not satisfied the Environmental Condition No. 9 requirements for approval of a request to place facilities into service. Nor has WWALS attempted to address the elements for a “stay” or any other requirement for the Commission to delay the effect of the certificates granted for the SMP Project....

“Finally, WWALS’ allegations that permit violations occurred during construction are not supported by any evidence and have no bearing on whether the SMP Project facilities, once ready for service with restoration and rehabilitation activities proceeding satisfactorily, should be allowed to be placed into service. WWALS makes no attempt to draw a connection between their unsupported allegations and the elements that are required to be satisfied for the Commission to grant Sabal Trail’s In-Service Request.”

Perhaps Sabal Trail missed the evidence of the March 8, 2017 Sabal Trail contractor burning permit violation⁴⁸ in Attachment 4 of the WWALS May Denial Request, and also the references to the numerous permit violations in the lawsuit by Sierra Club, Flint Riverkeeper, and Chattahoochee Riverkeeper.

See Attachment 3 above and Attachment 5 below about irreparable harm.

For the connection between WWALS’ evidence of violations and the elements that need to be satisfied to deny Sabal Trail’s In-Service Request, see Attachment 5 below.

Sabal Trail claimed in its Response that it had:

“...demonstrated that restoration of the right-of-way and other affected areas is proceeding satisfactorily.”

As evidence Sabal Trail cites its May In-Service Request,⁴⁹ which says “Each of the potential karst features encountered during construction of the Project and identified in the biweekly status reports submitted to Commission Staff was addressed in accordance with Sabal Trail’s Karst Mitigation Plan.” Yet the karst features listed in that May In-Service Request omit karst features from Sabal Trail’s May 5, 2017 bi-weekly status report,⁵⁰ as noted in the WWALS May Denial Request. In addition, the May In-Service Request admits the “potential karst feature in Dougherty, GA” has not been addressed or mitigated, while neglecting to mention that Sabal Trail’s May 5, 2017 bi-weekly status report said that was actually five sinkholes, not one. Sabal Trail’s June In-Service Request provides no new evidence. FERC should conduct a thorough review of all of Sabal Trail’s bi-weekly status reports and determine which other karst (or other) features Sabal Trail previously admitted to yet did not include in its May In-Service Request. Given time, WWALS can conduct such a review, but one weekend between Sabal Trail’s Friday June 2, 2017 In-Service Request and its requested authorization date of June 5, 2017 is not enough time for such a review.

Sabal Trail’s June 2, 2017 bi-weekly status report⁵¹ lists seven cases of ongoing, unresolved Landowner/Resident Complaints and Resolutions. Among them is that of Randy Dowdy, about whom it says: “Sabal Trail and the landowner have resolved cultivated agricultural land restoration issues. Future crop yield and wetland impact concerns remain.” Dowdy asserts that the unresolved wetland and crop yield issues represent much more dollar value over much longer time than the direct land restoration issues; see Attachment 5. FERC also should conduct a thorough review of all of Sabal Trail’s landowner restoration claims in its bi-weekly reports.

⁴⁷ FERC Accession Number 20170531-5313, May 31, 2017, “Response of Sabal Trail Transmission, LLC to May 26, 2017 Request of WWALS Watershed Coalition”, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14574925

⁴⁸ John S. Quarterman, WWALS.net, March 9, 2017, "Sabal Trail burning, water, and pipe in Brooks and Lowndes Counties, GA 2017-03-08", <http://www.wwals.net/?p=31411>

⁴⁹ FERC Accession Number 20170517-5098, May 17, 2017, “Request for Authorization to Place Project Facilities into Service of Sabal Trail Transmission, LLC under CP15-17”, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14572122

⁵⁰ FERC Accession Number 20170505-5043, May 5, 2017, “Sabal Trail Transmission, LLC submits its biweekly status report for the Sabal Trail Project under CP15-17,” https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14569292

⁵¹ FERC Accession Number 20170602-5101, June 2, 2017, “Sabal Trail Transmission, LLC submits its biweekly status report for the Sabal Trail Project under CP15-17,” https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14577087

In the May In-Service Request, Sabal Trail admits only “21 percent of the mainline pipeline route has some visible form of permanent vegetative growth (20-50 percent growth).” For this massive failure Sabal Trail blames drought. While it is understandable pipeline company Spectra Energy from Houston, Texas, might be unfamiliar with the chronic problem of drought in the U.S. southeast, the other Sabal Trail partners, Duke Energy of Charlotte, North Carolina with operations in Florida, and NextEra Energy of Juno Beach, Florida, have no such excuse.

Further, on May 31, 2017, Janet L Barrow provided to FERC 38 pages of evidence of environmental violations and lack of restoration,⁵² all of which are included by reference herein.

All of the above (inaccurate listing of karst features, incorrect characterization of and lack of addressing the five sinkholes next to the Flint River, environmental violations, and lack of restoration) augments items 4 and 5 of the WWALS May Denial Request and are evidence that Sabal Trail’s restoration is not “proceeding satisfactorily” according to Condition 9 of the February 2 Order.

Therefore FERC should stay, stop, or deny any Sabal Trail facilities going into service, due to violations of the requirements of FERC’s February Order,⁵³ as well as for the other reasons in other Attachments to this letter.

WWALS also requests FERC to perform a Supplemental Environmental Impact Statement.

WWALS incorporates by reference its Attachment 4 from its May Denial Request.⁵⁴

⁵² FERC Accession Number 20170531-5025, May 31, 2017, “Comment of Janet L Barrow - Deny Sabal Trail In-Service Request for Failure to Meet Condition 9 under CP15-17.” https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14575508

⁵³ FERC [Accession Number 20160202-3056](https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14574838), February 2, 2016, “Order issuing certificates and approving abandonment re Florida Southeast Connection, LLC et al under CP14-554 et al.”

⁵⁴ FERC Accession Number 20170526-5149, May 26, 2017, “Intervenor WWALS Watershed Coalition, Inc. requests FERC to deny Sabal Trail's request to put any facilities in service, and that FERC revoke its February 2016 Order granting a Certificate of Convenience and Necessity under CP15-17-000.”, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14574838

Attachment 5: Failure to address especially egregious violations

In its Bi-Weekly Status Report of June 2, 2017,⁵⁵ Sabal Trail wrote about world-record soybean farmer Randy Dowdy of Brooks County, Georgia, whose fields Sabal Trail destroyed by tearing holes in his terraces and not repairing them, despite his warnings, before January rains caused massive erosion⁵⁶ of his soil that took him a dozen years to build up, washing it into nearby wetlands:

“Landowner/Caller Name:

“Randal B. Dowdy

“Landowner/Caller Issue:

“Landowner dissatisfied with restoration of cultivated agricultural land and claimed impacts to a wetland.

“Resolution:

“Sabal Trail and the landowner have resolved cultivated agricultural land restoration issues. Future crop yield and wetland impact concerns remain.”

WWALS asked landowner Randy Dowdy to respond to Sabal Trail’s Resolution claim, and this is his statement:

“In response to Sabal's claim that resolution has been reached on Dowdy's tracts and farm, the only financial contribution received from Sabal was for available non-native topsoil (approximately 28000 cubic yards), restoration of terraces and waterways, introduction of organic matter and partial fertility. The facts remain that Dowdy has lost organic matter, earthworms, protozoa, good nematodes, soil structure, biological life, microbial activity, soil respiration quality and water holding capacity and are just a few of the problems Dowdy now faces.

“During a site visit resulting from a complaint from Dowdy, Sabal Trail management told the U.S. Army Corps of Engineers that the upland topsoil that was on top of the wetland soil was trench dirt, from digging the trench for their pipeline. Dowdy has photographs of where topsoil was piled in the Sabal Trail right of way in the wetlands. These pictures were shown to the representatives of the Corps and of Sabal Trail. As a result, the Corps is now making Sabal Trail remove that upland topsoil, because of that photographic evidence, and because it is clear that that topsoil is not native to the wetlands.

“The part of grave concern is that there seems to be no further consequences for obstruction of justice and misleading a federal agency in the course of an investigation.

“Additionally, a ruling is forthcoming from the Georgia Environmental Protection Division (“GA-EPD”) on erosion and sediment dispersion into Georgia public waterways, as a result of reviewing all the documents provided to the landowner and GA-EPD by Sabal Trail. After Dowdy filed a formal complaint against Sabal Trail, GA-EPD requested all documents associated with Dowdy's tracts from Sabal Trail. After Dowdy presented his case to The Directors of EPD, Sabal was asked to defend Dowdy's claims and explain the numerous inconsistencies within their inspection reports and violations of their own Sediment and Erosion Control Plan. Sabal claimed they had additional “documentation” not previously provided when requested by EPD.

“Dowdy filed a Georgia Open Records Act (“GORA”) Request and obtained those documents. After reviewing all those documents, Dowdy feels that Sabal Trail has numerous gross violations of the Clean Water Act.

“These violations go directly against the FERC and GA-EPD permits. The GA-EPD decision is expected soon.

“FERC and Sabal Trail are aware of two other landowners that have notified Sabal Trail about the commingling

⁵⁵ FERC Accession Number 20170602-5101, June 2, 2017, “Sabal Trail Transmission, LLC submits its biweekly status report for the Sabal Trail Project under CP15-17,” https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14577087

⁵⁶ Kevin Dowdy, SOWEGALIVE.com, March 14, 2017, S.W Georgia Farm Devastated From Pipeline Construction, <http://sowegalive.com/2017/03/14/s-w-georgia-farm-devastated-from-pipeline-construction/>

of subsoil and topsoil on their properties as well. Such commingling is a specific violation of FERC's mandate that topsoil and subsoil shall not be commingled, as spelled out in the Sediment Erosion and Control Plan that Sabal Trail filed as part of the permitting process with FERC and GA-EPD.

"Many Georgia state legislators are aware of this damage to Dowdy's farm and the issues, and recently Dowdy has reached out to Georgia's Congressional delegation as well.

"Sabal Trail's resolution statement is quite misleading, because it omits the main part. So far, all moneys paid by Sabal Trail have benefitted the contractors, the replacement soil sources, or personnel who already did restoration work. The money has not directly benefitted the directly affected landowner.

"The big financial implications are in the commingling of soils, reducing productivity, which has been opined by numerous experts as taking multiple lifetimes for recovery. We will know this summer what these yield differences truly are.

"The unresolved issues are where the big money is, and that may be why Sabal Trail seems to be avoiding Dowdy. Sabal Trail asked Dowdy what it would take to make this issue go away. Dowdy gave them three facets. The only one they acted on was the cheapest of the three, the one which did not benefit Dowdy personally or financially.

"When the easement was purchased there was a legal side-agreement between Dowdy and Sabal Trail that said his property would be put back to its pre-construction condition. This has not happened, and Sabal Trail has not begun negotiating about the wetlands or present or future crop yield losses.

"In a nutshell, these guys do not fear the federal regulatory agencies, because 1) they would be in compliance, 2) they would not provide inaccurate and untrue documents in their inspection reports, and 3) they would not mislead a federal employee in the course of an investigation, if they feared any retribution from federal agencies."

As Dowdy told the Valdosta Daily Times:⁵⁷

"We've got loss of production for the future that will take not my lifetime, not my kids' lifetime, but my kids' kids' lifetime to recover from."

This is not "restoration.... proceeding satisfactorily."

This is irreparable harm.

It is very unlikely that Randy Dowdy's case is the only one of its kind, but even if it was, FERC should not authorize any Sabal Trail facilities going in service until Dowdy is completely compensated.

Sabal Trail also wrote in its response to Sierra Club's request to FERC:⁵⁸

"To the extent the May 19 filing can be understood as requesting a stay, the May 19 Filing does not mention, much less meet, the relevant requirements for such a remedy. In assessing a request for a stay, the Commission considers several factors: (1) whether the party requesting the stay will suffer irreparable injury without a stay; (2) whether a stay may substantially harm other parties; and (3) whether a stay is in the public interest."¹²

⁵⁷ Daniel DeMersseman, Valdosta Daily Times, 5 May 2017, Farmer: Sabal Trail devastated farm,

http://www.valdostadailytimes.com/news/local_news/farmer-sabal-trail-devastated-farm/article_dd59a159-13d1-5d64-886f-143a1a3865e9.html

⁵⁸ Sabal Trail Transmission, LLC, FERC Accession Number 20170523-5182, May 23, 2017, "Response of Sabal Trail Transmission, LLC to Sierra Club's May 19, 2017 Request", https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14573689

Mr. Dowdy's situation meets all three of those factors:

1. Mr. Dowdy and other farmers whose land has been damaged by Sabal Trail will suffer irreparable harm without actual remediation, which Sabal Trail has not done, and will have no incentive to do if a stay is not granted. To expect each farmer to individually file a motion for a stay would be ludicrous.
2. The only harm of a stay Sabal Trail alleges for other parties is temporary financial inconvenience to Sabal Trail's investors, which is not in the same category as multi-generation harm Sabal Trail has inflicted on Mr. Dowdy. Nor is a one-time loss of a few billion dollar by a few companies in the same category as the ongoing damage to entire industries inflicted by Sabal Trail.
3. Agriculture is the largest industry of Georgia, and tourism is the largest industry of Florida. Both are harmed by Sabal Trail, and turning on the gas would increase the harm by making leaks and explosions possible.

Further, FERC should stay, stop, deny, and discard Sabal Trail's in-service application and insist on one that more accurately describes the damages caused by Sabal Trail construction. WWALS also requests a Supplemental Environmental Impact Statement.

WWALS incorporates by reference its Attachment 5 from its May Denial Request.⁵⁹

⁵⁹ FERC Accession Number 20170526-5149, May 26, 2017, "Intervenor WWALS Watershed Coalition, Inc. requests FERC to deny Sabal Trail's request to put any facilities in service, and that FERC revoke its February 2016 Order granting a Certificate of Convenience and Necessity under CP15-17-000.", https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14574838

Attachment 6: Pending legal challenges

Sabal Trail in its May 31, 2017 Response to WWALS wrote:⁶⁰

“WWALS also argues that the claims made by Sierra Club in its May 19, 2017 filing in the referenced docket and in Docket Nos. CP14-554-000 and CP15-16-000 should be addressed prior to the Commission approving any portion of the SMP Project to be placed into service. Sabal Trail filed a response in these dockets on May 23, 2017, refuting each argument raised by Sierra Club and explaining why Sierra Club’s May 19, 2017 filing should not delay the relevant portions of the SMP Project from being placed into service (“May 23 Response”).^{4”}

⁴ See Response of Sabal Trail Transmission, LLC to Sierra Club's May 19, 2017 Request, Docket Nos. CP15-17-000 et al. (May 23, 2017). Sabal Trail incorporates the May 23 Response herein by reference.”

Yet in Sabal Trail’s May 23, 2017 response⁶¹ to Sierra Club’s May 19 request,⁶² Sabal Trail wrote:

“Sierra Club states that a single potential karst area has not yet been fully mitigated but fails to acknowledge that Sabal Trail explained the status of such mitigation in Sabal Trail’s In-service Request. Sierra Club’s statements regarding landowner issues and dry conditions merely reiterate issues that Sabal Trail specifically addressed in the In-Service Request, including Sabal Trail’s ongoing landowner outreach and continuing monitoring and restoration activities.”

Sabal Trail itself admitted in its May 5, 2017 bi-weekly report⁶³ and again in its June 2, 2017 bi-weekly report⁶⁴ that five more sinkholes at the Flint River in Georgia have not been mitigated, and in its May In-Service Request⁶⁵ Sabal Trail misleadingly reduces those five sinkholes to one karst feature. That Sabal Trail “addressed” an issue in its In-Service Request does not mean that Sabal Trail’s assertions were necessarily true or satisfactory. For example, Sabal Trail’s extremely late discovery that the U.S. southeast has droughts as an excuse for having established “permanent vegetative growth” on only 21% of the mainline pipeline route is not satisfactory, and Sabal Trail presents no evidence that even that much has vegetation growing on it. See also Randy Dowdy’s allegations of obstruction of justice by Sabal Trail in Attachment 5.

Sabal Trail quotes a court precedent⁶⁶ which actually demonstrates that FERC can issue a stay:

“[n]either application for rehearing before the Commission, nor the institution of court review of a Commission order operates to stay that order unless such a stay is specifically ordered by the Commission or Court.”

See Attachment 5 for the three elements of a stay.

WWALS is asking FERC to stay, stop, or deny any facilities associated with SMPP going in service until the legal challenges recited in [the Sierra Club letter to FERC of May 18, 2017, FERC Accession Number 20170519-5018](#), are all completely litigated.

⁶⁰ FERC Accession Number 20170531-5313, May 31, 2017, “Response of Sabal Trail Transmission, LLC to May 26, 2017 Request of WWALS Watershed Coalition”, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14574925

⁶¹ FERC Accession Number 20170523-5182, May 23, 2017, “Response of Sabal Trail Transmission, LLC to Sierra Club's May 19, 2017 Request,” https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14573689

⁶² FERC Accession Number 20170519-5018, May 19, 2017, “Request of Sierra Club that FERC deny all requests to place any project facilities into service until March 23, 2017 letter (acc. number 20170324-5009) is addressed and DC Circuit completes consideration in this matter under CP14-554, et. al.,” https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14572724

⁶³ FERC Accession Number 20170505-5043, May 5, 2017, “Sabal Trail Transmission, LLC submits its biweekly status report for the Sabal Trail Project under CP15-17,” https://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20170505-5043

⁶⁴ FERC Accession Number 20170602-5101, June 2, 2017, “Sabal Trail Transmission, LLC submits its biweekly status report for the Sabal Trail Project under CP15-17,” https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14577087

⁶⁵ FERC Accession Number 20170517-5098, May 17, 2017, “Request for Authorization to Place Project Facilities into Service of Sabal Trail Transmission, LLC under CP15-17”, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14572122

⁶⁶ Sabal Trail footnote text: *State of La. v. FPC*, 483 F.2d 972, 972 (5th Cir. 1973); *Steckman Ridge GP, LLC v. An Exclusive Natural Gas Storage Easement Beneath 11.078 Acres*, 2008 WL 4346405, at *3 (W.D. Penn. Sept. 19, 2008) (concluding that a request for rehearing absent a stay does not affect the finality of an order from the FERC); *Ecee, Inc. v. Fed. Power Comm’n*, 526 F.2d 1270, 1274 (5th Cir. 1976); *Jupiter Corp. v. Fed. Power Comm’n*, 424 F.2d 783, 791 (D.C. Cir. 1969). The United States District Court for the Middle District of Florida reaffirmed this principle in proceedings involving Sabal Trail only one year ago. See *Sabal Trail Transmission, LLC v. 13.386 Acres of Land in Lake County, Florida*, 2016 WL 2758913 (M.D. Fla. May 12, 2016) (“The FERC Certificate, issued on February 2, 2016, became final on that date. More important, a request for rehearing has no effect on the finality of an order absent a stay issued from the FERC. . . . ‘The commencement of [appellate proceedings] shall not, unless specifically ordered by the court, operate as a stay of the [FERC]’s order.” (quoting 15 U.S.C. § 717r(c))).

WWALS also requests FERC to perform a Supplemental Environmental Impact Statement.

WWALS incorporates by reference its Attachment 6 from its May Denial Request.⁶⁷

⁶⁷ FERC Accession Number 20170526-5149, May 26, 2017, “Intervenor WWALS Watershed Coalition, Inc. requests FERC to deny Sabal Trail's request to put any facilities in service, and that FERC revoke its February 2016 Order granting a Certificate of Convenience and Necessity under CP15-17-000.”, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14574838