

UNITED STATES OF AMERICA
BEFORE THE
DEPARTMENT OF COMMERCE

Weaver's Cove Energy, LLC)
)
 Appellant,)
)
 vs.)
)
Massachusetts Office of)
Coastal Zone Management)
)
 Respondent.)

Case No. _____

and

Mill River Pipeline, LLC)
)
 Appellant,)
)
 vs.)
)
Massachusetts Office of)
Coastal Zone Management)
)
 Respondent.)

Case No. _____

**JOINT REPLY OF WEAVER'S COVE ENERGY, LLC AND
MILL RIVER PIPELINE, LLC IN RESPONSE TO RESPONDENT'S
MOTION**

On November 14, 2007, Respondent Massachusetts Office of Coastal Zone Management ("MCZM") filed a motion requesting that the Secretary of Commerce ("Secretary") supplement the consolidated records in the captioned proceedings ("Motion"). In the Motion, MCZM petitions the Secretary for inclusion of the Letter of Recommendation ("LOR") issued on October 24, 2007 by the U.S. Coast Guard ("USCG") finding portions of the waterway not

suitable for the proposed transit of liquefied natural gas (“LNG”) vessels of the size and frequency proposed by Weaver’s Cove Energy, LLC (“Weaver’s Cove”). That LOR is now subject to a Request for Reconsideration before the USCG, which was submitted pursuant to the USCG’s regulations. *See* 33 C.F.R. § 127.015 (providing for the Request for Reconsideration and two other levels of administrative appeal for an LOR).

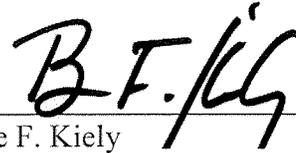
MCZM has made no demonstration that the LOR has any bearing on the issues before the Secretary in the consistency appeals of Weaver’s Cove and Mill River Pipeline, LLC (“Mill River”).¹ Hence, MCZM has not shown a compelling basis to augment the consolidated records in these appeals with this LOR. Notwithstanding the foregoing, if the Secretary of Commerce determines that the LOR should supplement the consolidated records and grants the Motion, Weaver’s Cove and Mill River separately request the right to fully brief the LOR and its lack of relevance to the issues before the Secretary in their respective appeals.² Specifically, Weaver’s Cove and Mill River respectfully request that if the Secretary grants the Motion, the Secretary require the parties to submit additional briefs on the LOR pursuant to 15 C.F.R. § 930.127(e)(3). Weaver’s Cove and Mill River also request that if additional briefing is required, the Secretary ensure that each of them will maintain their ability to reply to any brief submitted by MCZM, regardless of what party may be required to submit the first supplemental brief on the

¹ The LOR was issued pursuant to the USCG’s authority under 33 C.F.R. §§ 127.007 & 127.009, and with respect to certain activities related to waterway suitability for LNG vessel traffic. These activities are not before the Secretary in Weaver’s Cove’s and Mill River’s consistency appeals. The only activities before the Secretary are the listed activities objected to by the state. *See* Reply Brief for Appeal of Weaver’s Cove Energy, LLC under the Coastal Zone Management Act, at 1-5 (filed Nov. 26, 2007); Reply Brief for Appeal of Mill River Pipeline, LLC under the Coastal Zone Management Act, at 1-6 (filed Nov. 26, 2007).

² The Parties have not yet addressed the LOR because the National Oceanic and Atmospheric Administration (NOAA) ordered the Parties not to address the LOR in their reply briefs. *See* Letter from Jane Luxton, NOAA General Counsel to the Parties (Nov. 1, 2007) (“Because the Secretary has not yet decided whether to supplement either record with the Letter, the parties should not address its contents in their current briefs.”).

LOR. *See generally* CZMA Federal Consistency Regulations, 71 Fed. Reg. 788, 799 (Jan. 5, 2006) (“Since the State agency may raise issues not addressed by appellant, appellant should be able to reply since appellant bears the burden of persuasion on the appeals.”).

Respectfully submitted,



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ATTORNEYS FOR
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MILL RIVER PIPELINE, LLC

Dated: November 28, 2007

CERTIFICATE OF SERVICE

Consistent with 15 C.F.R. § 930.127, copies of this Response have been sent to the following:

Mr. Joel La Bissonniere (by email and first-class mail)
Assistant General Counsel for Ocean Services
National Oceanic and Atmospheric Administration
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Silver Spring, MD 20910

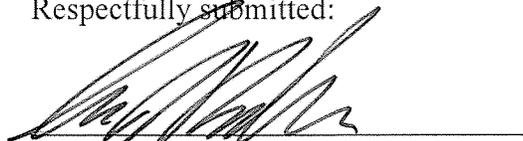
Ms. Carol Iancu (by email and first-class mail)
Assistant Attorney General, Environmental Protection Division
Massachusetts Office of the Attorney General
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Mr. Bruce Carlisle (by first-class mail)
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Ms. Karen Kirk Adams (by first-class mail)
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Respectfully submitted:



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