

REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
NEW YORK DISTRICT, CORPS OF ENGINEERS
JACOB K. JAVITS FEDERAL BUILDING
NEW YORK, N.Y. 10278-0090

13 August 2002

Regulatory Branch

SUBJECT: Permit Application Number 1998-00640
by Millennium Pipeline Co.

Mr. Richard E. Hall, Jr.
Millennium Acting Facilities Manager
Columbia Gas Transmission Corporation
2150 NYS Route 12
Binghamton, New York 13901

Dear Mr. Hall:

This is to advise you of the status of New York District's action regarding your company's application for a Department of the Army permit. Millennium seeks authorization from this agency to construct a natural gas pipeline through waters of the United States, including wetlands, from a point in Lake Erie through southern New York to Mount Vernon, Westchester County, New York.

I note, in a letter dated May 9, 2002, that the New York Department of State (DOS) has objected to the consistency certification provided by Millennium for the proposed activity, under authority of the federal Coastal Zone Management Act (CZMA, 16 U.S.C. 1451 et seq.). Although DOS objected to the entire project, that agency's objections focused on proposed pipeline crossings at three locations: at Haverstraw Bay in the Hudson River in Rockland and Westchester Counties; at the Village of Croton well field in Westchester County; and at water supply land located in the New Croton Reservoir Watershed in Westchester County. I have also received a copy of a July 12, 2002 letter from the Office of General Counsel of the United States Department of Commerce, indicating that Millennium has appealed the State's objection to the Secretary of Commerce.

The letters from DOS and the Department of Commerce both indicate that other federal agencies cannot issue licenses or permits for an activity subject to a state objection under the CZMA, unless the Secretary of Commerce overrules the objection. This is consistent with the Corps of Engineers' regulations, regarding a permit application that has not obtained State certification of CZMA compliance, as set forth at 33 CFR Parts 320.4(h) and 320.4(j)(1).

I also have substantial concerns about the environmental impacts of the proposed Hudson River crossing, similar in nature to those expressed by DOS. As a result, I must consider whether a permit authorizing the proposed project might compromise the public interest.

I note in their letter that DOS had outlined specific project alternatives which, if implemented, might permit the activity to be conducted in a manner consistent with the CZMA, and might then support a decision by this agency to permit construction. These alternatives include terminating the pipeline at Bowline Point in Rockland County (which would avoid the necessity to cross the Hudson River); routing the Hudson River crossing north and outside of Haverstraw Bay; or using excess capacity in the existing Algonquin pipeline to supply gas to points east of the Hudson River. Implementation of any of these alternatives would largely address my concerns. I am also aware that implementation of these alternatives might address objections received by the Corps of Engineers from other agencies, including the U.S. Fish and Wildlife Service and the National Marine Fisheries Service.

In making any decision to issue a DA permit as requested by Millennium, I must determine that a permit would not be contrary to the public interest, and I must weigh carefully expressions of the public interest as defined by those providing comment, including state and federal government agencies. For that reason I encourage you to keep me advised of possible project modifications Millennium may be considering, to meet its needs to furnish gas supplies to downstate New York, while protecting resources that have been identified as important.

Should you care to meet with me regarding this application, please contact my office at 212-264-0100. You are also invited to contact Richard L. Tomer, Acting Chief of New York District's Regulatory Branch, should you have questions, at (212) 264-3996.

Sincerely,



John B. C'Dowd
Colonel, Corps of Engineers
District Engineer

Cf: USACE - Buffalo & Pittsburgh
USFWS
FERC
USEPA
NMFS
NOAA
NYSDOS
NYSDEC
NYSOPRHP