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Office of The Attorney General
State of Connecticut

August 7, 2003

Branden Blum, Esq.
United States Department of Commerce
National Oceanic and Atmospheric Administration
Office of the General Counsel
1305 East-West Highway
Silver Spring, MD 20910

By Facsimile: 301.713.4408

RE: *Islander East Pipeline Company Coastal Consistency Appeal*

Dear Mr. Blum:

On August 4, 2003, this office received a copy of a correspondence generated by Frank Amoroso, counsel for the Islander East Pipeline Company ("Islander East"), and directed to your office. As you are aware, Islander East had requested a 15 C.F.R. Section 930.129(d) remand to our client, the Connecticut Department of Environmental Protection ("DEP"), in order for the agency to consider additional information and other materials deemed significant by the company relative to the coastal consistency review process pending before the Secretary of Commerce. On July 29, 2003, the DEP's Office of Long Island Sound Programs communicated to Islander East its continuing objection to the proposed project. DEP concluded that the proposed project was still inconsistent with the state's federally approved coastal zone management program, and the associated enforceable policies thereof.

Islander East's August 1 letter made three requests of your office in the context of the resumption of the stayed coastal consistency appeal within the Department of Commerce, and, pursuant to the request made in your faxed correspondence of August 5, 2003, we are tendering our position on these requests as follows:

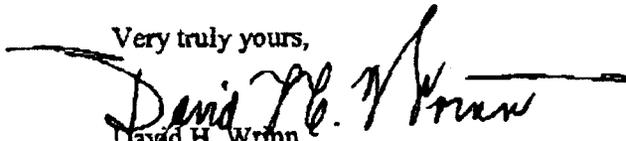
- In light of receipt of the DEP's second notification of objection to issuance of a certification of coastal consistency, Islander East has requested that your office agree to its expressed intention to file a supplemental opening brief addressing some or all of the points made in the DEP's July 29, 2003 letter. Islander East requested that it have until August 20, 2003 to file supplementary papers. We have no objection to this request.

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Notwithstanding the fact that Islander East has indicated its intention to file additional briefing on these topics, and has requested the time necessary in its judgment to prepare and file such papers, Islander East would in the same breath *shorten the time period for the state's opening brief to September 18, 2003*. This request seriously compromises the ability of the state to respond meaningfully to both Islander East's initial arguments and whatever supplemental points it may choose to raise in the brief that it intends to file on August 20. Moreover, this latest request of Islander East invites your office and that of the Secretary of Commerce to ignore the agreement already made regarding the initial briefing schedule, and to ignore the impact on the resumption of the briefing schedule of the remand that Islander East requested several weeks ago. The agreement was that the state have forty-five (45) days within which to respond to Islander East's opening brief, and Islander East agreed to that framework even at the time that it was requesting remand to the state. Given the many demands upon state resources then and now, the full forty-five day time period is needed, and **we therefore request that you deny Islander East's desire to compromise the fairness of the process by shortening the schedule in a prejudicial manner.**

- Islander's third request was that the Secretary abbreviate the public and agency comment period to August 29, 2003. In effect, Islander East is requesting that the public and agency comment period not benefit from the remand period documentation. That would unfairly prejudice the public's and agencies' ability to finalize their comments on the complete record. *We urge the Secretary to schedule the deadline for public and agency comment with a mind toward fairness to the process.* The delay about which Islander East has been posturing derives from its requests for additional interactions with public agencies and, understandably, in furtherance of its goal of obtaining required approvals for its proposed project. The public administrative process in which Islander East is involved, however, is designed to create a public record that fairly reflects the views of *all participants* in that process, not just past but present, too. **We therefore object to this request of Islander East as prejudicial to the override review process.**

Very truly yours,


David H. Wrinn
Carmel A. Motherway
Assistant Attorneys General

DHW/CAM:mt

cc: Arthur J. Rocque, Jr., Commissioner
Charles Evans, DEP-OLISP