

The following legal notice will be published in the New Haven Register on January 31, February 3, & February 4, 2003 and in the Branford Review on February 1, February 4, & February 8, 2003.

Notice - Islander East Pipeline Company Administrative Appeal Pending Before the United States Department of Commerce

SUMMARY: The Islander East Pipeline Company has filed an administrative appeal with the Department of Commerce (Consistency Appeal of Islander East Pipeline Company, L.L.C.) asking that the Secretary of Commerce override the State of Connecticut's objection to Islander East's proposed natural gas pipeline. The pipeline would extend from an interconnection with an existing pipeline near North Haven, Connecticut, to a terminus on Long Island, New York, affecting the natural resources or land and water uses of Connecticut's coastal zone. The National Oceanic and Atmospheric Administration (NOAA), an agency of the U.S. Department of Commerce, processes many aspects of CZMA administrative appeals for the Secretary and has prepared this document in order to: (a) provide public notice of the appeal; (b) announce an opportunity for public comment on the appeal; and (c) announce the locations where documents comprising the appeal record will be available for review.

DATES: Public comments on the appeal must be received by **May 8, 2003**.

ADDITIONAL INFORMATION:

I. Notice of Appeal

Islander East Pipeline Company, L.L.C. (Islander East or Appellant) filed a notice of appeal with the Secretary of Commerce (Secretary) pursuant to section 307(c)(3)(A) of the Coastal Zone Management Act of 1972 (CZMA), as amended, 16 U.S.C. §§ 1451 et seq., and the Department of Commerce's implementing regulations, 15 C.F.R. Part 930, Subpart H, (revised, effective January 8, 2001). The appeal is taken from an objection by the Connecticut Department of Environmental Protection (State) to Islander East's consistency certification for U.S. Army Corps of Engineers and Federal Energy Regulatory Commission permits to construct and operate a natural gas pipeline. The certification is required to indicate that the project is consistent with the State's coastal management program. The project would cross portions of the Long Island Sound, affecting the natural resources or land and water uses of Connecticut's coastal zone. Under the CZMA, the State of Connecticut's objection prevents federal agencies from issuing permits required by the project.

The Appellant requests that the Secretary override the State's consistency objections on the two substantive grounds provided in the CZMA. The first ground requires the Secretary to determine that the proposed activity is "consistent with the objectives" of the CZMA. To make this determination, the Secretary must find that: (1) the proposed activity furthers the national interest as articulated in section 302 or 303 of the CZMA, in a significant or substantial manner; (2) the national interest furthered by the proposed activity outweighs the activity's adverse coastal effects, when those effects are considered separately or cumulatively; and (3) no reasonable

alternative is available that would permit the proposed activity to be conducted in a manner consistent with the enforceable policies of the State of Connecticut's coastal zone management program. (See the United States Code of Federal Regulations, title 15, section 930.121.)

The second substantive ground for overriding a State's objection involves a determination as to whether the proposed activity is necessary in the interest of national security. To reach this conclusion, the Secretary must find that a national defense or other national security interest would be significantly impaired if the activity in question was not permitted to go forward as proposed. (See the United States Code of Federal Regulations, title 15, section 930.122.)

II. Public Comments

Written public comments are invited on any of the issues that the Secretary must consider in deciding this appeal. Comments must be received by **May 8, 2003**, and may be submitted by email to *IslanderEast.comments@noaa.gov*. Comments may also be sent by mail to the Office of the General Counsel for Ocean Services, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, 1305 East-West Highway, Silver Spring, MD 20910. Comments will be made available to the Appellant and the State; they will also be posted on a Department of Commerce website identified below.

III. Appeal Documents

The Secretary has required that Islander East file its initial brief and supplementary information on **February 10, 2003**, and that the State of Connecticut file its initial brief and supplementary material on **March 24, 2003**. NOAA intends to provide the public with access to all materials and related documents comprising the appeal record via the internet at <http://www.ogc.doc.gov/czma.htm>, except that certain materials or documents or portions thereof may be withheld if they contain confidential materials, critical energy infrastructure information, national security information or other types of information that would be inappropriate for public release. In addition, technical constraints may limit the internet availability of certain documents, such as oversized maps or exceedingly lengthy publications. All public materials and documents will be available during business hours at the NOAA Office of the General Counsel for Ocean Services (see section II for address). In addition, the State of Connecticut will make copies of public filings by the parties available for review during business hours at the offices of the Connecticut Department of Environmental Protection, 79 Elm Street, Hartford, CT.

IV. Further Information

For further information concerning any of the items in this announcement please contact NOAA's Office of the General Counsel for Ocean Services, via email at *gcos.inquiries@noaa.gov*, or at 301-713-2967, extension 186.