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November 14, 2002

VIA FEDERAL EXPRESS

Honorable Donald L. Evans
Secretary of Commerce
Herbert C. Hoover Building
14th Street Constitution Avenue N.W.
Washington, D.C. 20230

RE: Notice of Appeal of Islander East Pipeline Company, L.L.C. from an objection by the State of Connecticut, Department of Environmental Protection, to a Consistency Certification for the Islander East Pipeline Project

Dear Secretary Evans:

Enclosed for filing on behalf of Islander East Pipeline Company, L.L.C., in accordance with 15 C.F.R. § 930.125 is the referenced Notice of Appeal and a check in the amount of $500.00 in payment of the application fee. As required by 15 C.F.R. § 930.125(c), copies of this Notice of Appeal are being sent to the State of Connecticut, Department of Environmental Protection, 79 Elm Street, Hartford, CT 06106-5127, and to the Assistant General Counsel for Ocean Services, 1305 East-West Highway, Room 6111 SSMC-4, Silver Spring, Maryland 20910.

In accordance with 15 C.F.R. § 930.127(a), Islander East respectfully requests the Secretary to establish a schedule of dates and time periods for submissions of briefs and

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supporting materials by Islander East and the State of Connecticut.

Very truly yours,

Frank L. Amoroso
Nixon Peabody LLP
Attorneys for Appellant,
Islander East Pipeline Company, L.L.C.

FLA:mm
Enclosures

cc: Commissioner Arthur J. Rocque, Jr. (via Federal Express, with Enclosure)
State of Connecticut
Department of Environmental Protection
79 Elm Street
Hartford, Connecticut 06106-5127

Assistant General Counsel for Ocean Services (via Federal Express, with Enclosure)
1305 East-West Highway, Room 6111 SSMC-4
Silver Spring, Maryland 20910

UNITED STATES OF AMERICA
BEFORE THE
DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Islander East Pipeline Company, L.L.C.	)
	)
Appellant,	)
	)
– against –	)
	)
State of Connecticut Department of Environmental Protection,	)
	)
Respondent.	)

NOTICE OF APPEAL OF
ISLANDER EAST PIPELINE COMPANY, L.L.C.
FROM AN OBJECTION BY THE STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION, TO A CONSISTENCY
CERTIFICATION FOR THE ISLANDER EAST PIPELINE PROJECT

Pursuant to Section 307(c)(3)(A) of the Coastal Zone Management Act 16 U.S.C. § 1451 et. seq., (the "Act") and 15 C.F.R. § 930.125, the Islander East Pipeline Company, L.L.C. ("Islander East") hereby files with the Secretary a notice of its appeal from each and every part of the objection of the State of Connecticut, Department of Environmental Protection ("CTDEP"), to Islander East's consistency certification for the proposed Islander East pipeline project dated October 15, 2002 ("Objection Letter").

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As a threshold procedural matter, Islander East requests the Secretary to override the objection of the CTDEP on the ground that the objection of the CTDEP is not in compliance with § 307 of the Act and the Department of Commerce's implementing regulations. Section 307(c)(3)(A) of the Act requires that "[i]f the state or its designated agency fails to furnish the required notification within six months after receipt of its copy of the applicant's certification,

the state's concurrence with the certification shall be conclusively presumed." In this case, the CTDEP did not comply with 15 C.F.R. § 930, subpart (D). Islander East submitted its coastal zone consistency determination with the CTDEP on February 13, 2002 to demonstrate the consistency of the Islander East pipeline project with the Act and the State CZM Plan. The State's consistency review must begin when the State receives a copy of the applicants consistency determination and information required pursuant to 15 C.F.R. § 930.58. Since the CTDEP did not issue its denial until October 15, 2002, or two months after it was required to, Connecticut's concurrence with Islander East's consistency certification must be conclusively presumed by operation of law.

Islander East further requests that the Secretary find that the Islander East pipeline project is consistent with the objectives and purposes of the Act, and federally override the CTDEP's objection. The Federal override for the Islander East pipeline project is warranted because: (a) the project furthers the national interest as set forth in the Act and Connecticut Statutes, CGS § 22a-93(14) in a significant and substantial manner; and (b) the national interest advanced by the Islander East pipeline project outweighs any putative adverse coastal effects as defined by Connecticut Law, CGS § 22a-93(15) and (17) and set forth in the Objection Letter; and (c) CTDEP has mistakenly identified a conceptual alternative pipeline project which is not practicable due to the inclusion of hypothetical facilities which have not been proposed by any pipeline company and which cannot meet the purpose and need of the Islander East pipeline project. Therefore it cannot be considered as a reasonable alternative.

Although the CTDEP acknowledged that the Islander East pipeline project is an energy facility which is in the national interest, Connecticut failed to recognize that the Islander East pipeline project is a major energy facility entitled to priority consideration under the Act. As

determined by the Federal Energy Regulatory Commission ("FERC") in its September 19, 2002 Order, the Islander East pipeline project is required by the public convenience and necessity. FERC Order at 45. Moreover, after completing its environmental review of alternatives and balancing the required non-environmental considerations, FERC found that the proposed Islander East Project will provide much needed security and reliability by providing a second facility to access gas supply for Long Island. FERC Order at 2. The CTDEP in its Objection Letter erroneously claims the Islander East pipeline project would have significant or permanent adverse environmental impacts. This conclusion is unsubstantiated and contrary to the record. In preparing the Final Environmental Impact Statement ("FEIS"), the FERC conducted an extensive and independent fourteen month long review of the project. At the conclusion of this review, the FERC determined that with the use of Islander East's proposed mitigation and the adoption of FERC's recommended mitigation measures, construction and operation of the proposed facilities would have only a limited adverse environmental impact. FEIS at 5-1.

CTDEP's determinations with regard to adverse environmental impacts such as degradation of water quality, shellfish habitat, tidal wetlands, displacement of water dependant uses are erroneous and are contrary to the record, the Act and the State CZM Plan. Accordingly, the national interest in proceeding with the Islander East pipeline project as described in the FERC Order, at 22-23, to provide a reliable, flexible and secure gas supply to a specific market, outweighs the putative limited environmental impacts identified.

Further, Islander East requests that the Secretary find that the Islander East pipeline project is necessary in the interest of national security (16 U.S.C. § 1456(c)(3)(A) and 15 C.F.R. § 930.121), and hereby request that the Secretary determine that the Islander East pipeline project is consistent with the objectives or purposes of the Act. Islander East petitions the

Secretary to determine that the national defense and other national security interests will be significantly impaired if the Islander East pipeline project is not permitted to proceed as proposed.

Islander East reserves the right to raise and address such other procedural and substantive issues as may be necessary and appropriate in support of its appeal.

Respectfully submitted,

ISLANDER EAST PIPELINE COMPANY, L.L.C.

By: _____

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Dated: November 14, 2002