

Subject: written comments from Scenic Hudson
Resent-From: Millennium.Comments@noaa.gov
Date: Mon, 2 Dec 2002 16:54:58 -0500
From: "Shari Calnero" <scalnero@scenichudson.org>
To: <millennium.comments@noaa.gov>

Dear Assistant General Counsel for Ocean Services

Please find attached comments prepared by Scenic Hudson that supplement our prior oral testimony.

Thank you

Sincerely,

.....
Shari Calnero
Environmental Associate
Scenic Hudson, Inc.
One Civic Center Plaza
Poughkeepsie, New York 12601-3156
T: 845 473 4440 ext.280
F: 845 473 0740
www.scenichudson.org
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Scenic Hudson, Inc.

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Comments Prepared by Scenic Hudson, Inc.

Department of Commerce

Millennium Pipeline

December 2, 2002

Scenic Hudson is a 39-year-old nonprofit environmental organization and separately incorporated land trust dedicated to protecting and enhancing the scenic, natural, historic, agricultural and recreational treasures of the Hudson River and its valley. To date we have protected 17,700 acres of land in 10 counties and created or enhanced 28 parks and preserves for public enjoyment.

Our very beginnings are rooted in the legendary 17-year battle to oppose the construction of a hydroelectric plant on the Hudson Highlands' Storm King Mountain, which serves as the foundation of U.S. environmental law. For virtually our entire 39-year history, we have been involved, in a number of fora, advocating for the protection of Hudson River fisheries and specifically the impacts that power plants, pipe lines and other industrial facilities have on these resources.

Back in May 2002 when the New York Department of State blocked the Millennium Pipeline proposal, Gov. Pataki showed his support for this determination when he said, "They [Millennium] have to go back and rethink it, because it's inconsistent with what we have done to clean up the Hudson and bring the Hudson River back."

Scenic Hudson agrees with the Governor that the Millennium Pipeline proposal is inconsistent with New York State's successful efforts to protect the Hudson River and its resources and to revitalize its waterfront. Scenic Hudson urges the U.S. Secretary of Commerce to uphold the New York State Department of State's finding that the Millennium Pipeline proposal is inconsistent with New York State's Coastal Management Program ("CMP").

The U.S. Secretary of Commerce has the authority to override the Department of State's inconsistency determination if the Secretary finds that the Millennium project is either consistent with the objectives and purposes of the federal Coastal Zone Management Act or is necessary in the interest of national security.

Based upon our review of the impacts to the Hudson River Estuary associated with the Millennium project, Scenic Hudson has concluded that the project, in its present form, is neither consistent with the federal Coastal Zone Management Act nor necessary in the interest of national security. For these reasons, this appeal should be dismissed.

Scenic Hudson agrees with the Department of State that the Millennium project is inconsistent with several policies contained in New York State's CMP and also with policies contained in the Village of Croton's Local Waterfront Revitalization Program ("LWRP"). In particular, Scenic Hudson highlights two geographical areas that have special protection under law, which are Haverstraw Bay and the entire Village of Croton-on-Hudson.

1. Haverstraw Bay

Scenic Hudson believes that the Millennium project is inconsistent with CMP Policy 7, which provides that in any activities affecting coastal areas, *Significant Coastal Fish and Wildlife Habitats will be protected, preserved, and where practicable, restored so as to maintain their viability as habitats.*

The Millennium Company seeks to construct a pipeline that will cross the Hudson River at Haverstraw Bay in Rockland County. New York State has designated Haverstraw Bay as a Significant Coastal Fish and Wildlife Habitat. The Bay is perhaps one of the most important fish and wildlife habitats in the Hudson River Estuary for the following reasons:

- a. Haverstraw Bay is the normal location of the salt front, which is the critical boundary between salt and freshwater.
- b. The Bay is designated as an "irreplaceable" habitat for American shad, white perch, Atlantic sturgeon, and blue claw crab and many other species of fish.
- c. The Bay has the most extensive area of shallow estuarine habitat in the lower Hudson River;
- d. The shortnose sturgeon, which is a federally recognized endangered species, has found a home in this particular stretch of the Hudson;
- e. The Bay is also a recognized foraging area for the threatened bald eagle.

Having been designated a Significant Coastal Fish and Wildlife Habitat, Haverstraw Bay is afforded the highest ecosystem values and protection by New York State. Certainly this Bay is far more delicate and ecologically productive than the alternative crossing locations that have not been given proper consideration in this siting process.

Scenic Hudson asserts that the Millennium project is also inconsistent with New York State CMP Policy 35, which provides that any activity involving dredging in a coastal area *will be undertaken in a manner that meets existing state dredging permit requirements, and protects Significant Fish and Wildlife habitats, scenic resources, natural protective features, important agricultural lands, and wetland.*

Despite these explicit guidelines, the Millennium Company proposes to dredge, trench, and blast through the benthic strata of the Haverstraw Bay. These activities will permanently destroy 20 acres of significant habitat and seriously degrade more than 108 acres of habitat.

This dredging process, even with proposed mitigation measures, will certainly have a significant temporary, if not permanent, impact on the Haverstraw Bay. Furthermore, the Millennium proposal ignores the recommendation of U.S. Fish and Wildlife Service that the dredging be done, if at all, in a cofferdam.

Scenic Hudson asserts that the pipeline crossing through this delicate part of the estuary will result in irrevocable damage to the Hudson River and its precious resources. We urge you to uphold the New York State Department of State's findings and protect this resource.

2. Village of Croton-on-Hudson

The entire Village of Croton-on-Hudson is in The New York State Coastal Area and has a comprehensive and unique LWRP, which was federally approved in 1992. The New York Coastal Management Program provides that LWRPs, when federally approved, are special management areas; and, therefore, the Village of Croton, through which the pipeline would cross, is in a special management area. Having proposed to build this pipeline within a special management area, applicants like the Millennium company must certify that their activities will be undertaken in a manner that is consistent to the maximum extent practicable with the policies set forth in Croton's LWRP. The Millennium Company has not met this threshold.

Scenic Hudson believes that the Millennium project is inconsistent with explicit wetlands and water supply protection policies set forth in the Village of Croton's LWRP. In addition, Croton has passed related local laws designed to implement its LWRP.

First, the proposed pipeline would be constructed in wetlands and watercourses in the Village of Croton that are regulated by the Croton's LWRP and the local Regulation and Protection of Wetlands, Waterbodies and Watercourses Law, including wetlands in and near the Jane E. Lytle Arboretum and Croton River. The proposed pipeline will impact these wetlands and habitats by clear-cutting and trenching.

For the foregoing reasons, Scenic Hudson agrees with the Department of State that the pipeline is inconsistent with CMP 18, CMP and LWRP Policies 44 and LWRP Policy 44A which respectively provide: (i) *to safeguard the vital economic, social and environmental interests of the state and of its citizens, proposed major actions in the coastal area must give full consideration those interests, and to the safeguards which the state has established to protect valuable coastal resource areas;* and (ii) *Preserve and protect tidal and freshwater wetlands and preserve the benefits derived from these areas,* and (iii) *wetlands, water bodies, and watercourses shall be protected by preventing damage from erosion or siltation, minimizing disturbance, preserving natural habitats and protecting against flood and pollution.*

Second, the Millennium project would traverse the Village of Croton's well field, which is Croton's primary source of domestic water supply. Croton's LWRP and the local Water Supply Protection Rules prohibit this activity and all other systems, facilities, and activities except public water supply and pumping and treatment facilities in its well field. For this reason Scenic Hudson agrees with the Department of State that the project is inconsistent with CMP and LWRP Policy 38, which provides that *the quality and quantity of surface water and groundwater supplies, will be conserved and protected, particularly where such waters constitute the primary or sole source of water supply.*

Furthermore, since the Millennium proposal did not describe or evaluate any water protection management practices, it is also inconsistent with LWRP Policy 7G, which provides that *such activities shall not cause degradation of water quality or impact identified significant fish and wildlife habitats.*

In conclusion, the construction of the Millennium Pipeline across Haverstraw Bay and through the Village of Croton-on-Hudson is inconsistent with the fully approved Coastal Zone Management Programs of the Village of Croton and New York State. Allowing the pipeline to proceed in spite of these carefully designed protections would dishonor New York State's efforts to protect its own coastal lands and would render the federal Coastal Zone Management Act useless.

Scenic Hudson asks the Department of Commerce to heed the Governor's words and to agree that the construction of this project is "inconsistent with what we have done to clean up the Hudson and bring the Hudson River back."

Subject: [Fwd: Re: Millennium Pipeline-New York Department of State's Proposal to Change Initially Approved Pipeline Hudson River Crossing]

Resent-From: Millennium.Comments@noaa.gov

Date: Tue, 26 Nov 2002 16:45:05 -0500

From: "Karl Gleaves" <Karl.Gleaves@noaa.gov>

Organization: GCOS

To: Millennium.comments@noaa.gov

----- Original Message -----

Subject: Re: Millennium Pipeline-New York Department of State's Proposal to Change Initially Approved Pipeline Hudson River Crossing

Date: Tue, 26 Nov 2002 16:15:51 EST

From: <DKuriloff@aol.com>

To: karl.gleaves@NOAA.GOV

Please read the attached letter. Thank You

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The Honorable Donald Evans
Secretary
United States Department of Commerce
14th and Constitution NW
Washington, DC 20230

December 2, 2002

Re: Millennium Pipeline-New York Department of State's Proposal to Change Initially Approved Pipeline Hudson River Crossing

Dear Secretary Evans:

Our community in Irvington New York has just learned through various sources, documents and public hearings concerning the Millennium Pipeline, that the New York Department of State ("NYDOS") has an appeal now pending before the United States Department of Commerce. The NYDOS has asserted, without a formal review process from an engineering and/or environmental perspective, that there are "reasonable alternatives" to the **approved** pipeline crossing of the Hudson River, one of which is the "**Dobbs Ferry/Irvington**" crossing. This option, which the NYDOS asserts is one of the preferred routes through Westchester County, appears to be based solely on a perceived lesser impact on the "coastal zone" but is clearly without any consideration of a much greater impact on other environmental and community concerns.

It is my understanding that for over four years there has been a formal review process involving an in-depth analysis to determine which of more than a dozen potential pipeline routes through Westchester County would be most tenable. The pipeline crossing of the Hudson River at Havestraw Bay was certified by the Federal Energy Regulatory Commission (FERC) as the best route from numerous perspectives including engineering concerns, mitigation of environmental impacts, including marine and other wildlife, minimal disruption and/or demolition of private and commercial properties, as well as dangers to the local communities concerned. The original site for the Hudson River crossing was consistent with the policies of the Coastal Zone Management Act (CZMA) and in fact, other agencies including the US Environmental Protection Agency and the New York Department of Environmental

Conservation have concurred that the original certified crossing is acceptable and remains the best option.

The pipeline company (Columbia Gas) itself continues to assert, as does the Federal Energy Regulatory Commission, that the certified river crossing *minimizes and mitigates all environmental issues to the extent possible from an engineering and scientific perspective while simultaneously minimizing the impacts to the citizens in the respective communities along this route.*

In a preliminary review of the alternative route it appears that there are significant and permanent impacts to the Hudson River, wetlands and to communities both to the east and west which appear to be far greater than that of the certified Hudson River crossing. Furthermore, the alternate proposed route through Dobbs Ferry and Irvington appears to have significant obstacles from both an engineering and/or construction standpoint, facts not disclosed in the NYDOS briefing. In fact, Columbia Gas has publicly stated that the Dobbs Ferry/Irvington route is not feasible, and it has retained an engineering concern (Baker Engineers) in Elmsford (Home office, Beaver, PA) to support the non-feasibility of the Dobbs Ferry/Irvington crossing.

This alternate route would involve construction along the Palisades Parkway in Rockland County impacting nine other municipalities not previously affected. Crossing the Hudson River between Tallman Mountain State Park would have significant additional environmental detriments. When entering the Village of Dobbs Ferry, the pipeline would need to parallel an existing Tennessee Gas pipeline that enters Westchester County near the Irvington/Dobbs Ferry municipal border. This existing pipeline, constructed more than 30 years ago, now has residential and commercial structures in high density along either side. This includes new housing, schools and churches arranged in a manner that construction of an additional pipeline is not physically possible without considerable disruption and destruction of our community. Literally hundreds of homes currently unaffected by the Millennium pipeline will be relegated to condemnation. The impact to our community would be devastating and is unthinkable.

Furthermore from an environmental standpoint, Columbia Gas feels that the Dobbs Ferry/Irvington Crossing will threaten the Piermont Marsh Coastal Fish and Wildlife Habitat on the Rockland County side, and the Wickers Creek area at Dobbs Ferry. I am also told that the Millennium Pipeline as proposed, while feasible, would receive NYDOS endorsement if it were relocated a mere mile north of the current certified route through Haverstraw Bay.

I and all of the members of our community are shocked that the NYDOS would propose this alternative route without consulting either property owners or elected public officials of our community, and without having performed a prior, in-depth feasibility study comparing the proposed alternate route to the certified route. There is already an established process for determining routing for projects such as this pipeline, and the Federal Energy Regulatory Commission spent more than four years studying a wide range of possibilities before certifying a route through Westchester County.

The U.S. Department of Commerce has been petitioned to determine this project's consistency with the policies of CZMA. I respectfully submit to you, that it is inappropriate for

the NYDOS to suggest that a better solution is to create unacceptable impacts to my community when a viable route has already been established & certified, with little or no impact relative to the new route proposal.

In conclusion, I request that the Dobbs Ferry/Irvington alternate be withdrawn and not be considered either now, or in the future.

Respectfully yours,

Daniel B. Kuriloff, M.D., FACS
Associate Director
Otolaryngology-Head & Neck Surgery
St. Luke's-Roosevelt Hospital Center, New York
Associate Professor, Columbia University College of Physicians & Surgeons

Cc:

Governor George Pataki
Hon. Hillary Clinton
Hon. Charles Schumer
Hon. Nita Lowey
Hon. Nick Spano
Hon. Elliot Engel
Hon. Randy Daniels
Hon. Dennis Flood (Mayor of Irvington)

Subject: Support the Millennium Pipeline Project
Resent-From: Millennium.Comments@noaa.gov
Date: Wed, 27 Nov 2002 12:00:02 -0500
From: "John Sayegh" <jsayegh@oleanny.com>
To: <Millennium.comments@NOAA.gov>
CC: "Victoria Zaleski-Irizarry" <victoria@oleanny.com>

<?xml:namespace prefix = st1 ns = "urn:schemas-microsoft-com:office:smarttags" />November 27, 2002

<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

The Honorable Donald Evans

Secretary

United States Department of Commerce

14th and Constitution NW

Washington, DC 20230

Re: Millennium Pipeline Project

Dear Secretary Evans:

On behalf of the Cattaraugus Empire Zone (CEZ), Cattaraugus County, New York, I am writing in support of the construction of the Millennium Pipeline Project. The CEZ urges you to uphold the Federal Regulatory Commission's finding that the construction of the Millennium Pipeline Project is indeed in the public's best interest.

The Cattaraugus Empire Zone is a not-for-profit organization that encourages investment and job retention/creation in Cattaraugus County, New York. In addition to the benefits that the millennium project will bring to New York State, Cattaraugus County stands to benefit as well from the construction of the Millennium Project. The economic benefits due to the construction are enormous due to the size of the project; construction companies and contractors will enhance their economic situations, thus improving our county's economy and economic climate.

The Cattaraugus Empire Zone urges you to allow the Millennium Pipeline project to move forward since the project will not only improve our national energy security, but it will also create thousands of jobs and

economic development opportunities for business in our county and across New York State.

Should there be anything that we can do on the local level to assist you in allowing this project to move forward, please do not hesitate to contact me at the numbers shown.

Sincerely,

John Sayegh

Chief Operating Officer

Cattaraugus Empire Zone

Cc US Senator Schumer US Senator Clinton
Congressman Amo Houghton State Senator Patricia McGee
Assemblywoman Cathy Young Jess Fitzpatrick, Legislature Chairman
William J. Quinlan, Mayor Don Benson, Supervisor Town of Allegany
James Snyder, CEZ President

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November 22, 2002

The Honorable Donald Evans
Secretary
United States Department of Commerce
14th and Constitution NW
Washington, DC 20230

Re: Millennium Pipeline Project

Dear Secretary Evans:

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Should there be anything that we can do on the local level to assist you in allowing this project to move forward, please do not hesitate to contact me at the numbers shown.

Sincerely,

John Sayegh
Chief Operating Officer
Cattaraugus Empire Zone

Cc US Senator Schumer
Congressman Amo Houghton
Assemblywoman Cathy Young
William J. Quinlan, Mayor
James Snyder, CEZ President

US Senator Clinton
State Senator Patricia McGee
Jess Fitzpatrick, Legislature Chairman
Don Benson, Supervisor Town of Allegany

Subject: Written copy of my testimony at Tarrytown hearing 11/14/02
Resent-From: Millennium.Comments@noaa.gov
Date: Thu, 14 Nov 2002 10:12:42 -0500
From: "Chris Kerwin" <ckerwin@croton-harmonschools.org>
To: <millennium.comments@noaa.gov>

Good evening. My name is Dr. Christine Kerwin and I am a resident of Croton-on-Hudson and a school psychologist in the Croton-Harmon Schools.

In April, 2001, I received a fat envelope from the FERC announcing the Millennium Pipeline Project.

As a wife and mother, I was initially concerned about my family's physical well being. My house is only a couple of hundred feet from the proposed Millennium route.

As a resident of Croton-on-Hudson, I was concerned that the proposed route crosses the Croton well fields. This threatens our water supply and prevents expansions of the well fields if needed in the future.

As a school psychologist, I am not only concerned about the physical safety of our community but also the psychological well being of our children.

I have witnessed our children be traumatized by the tragic events of 9/11. On the anniversary of 9/11, our students jumped from their desks in the school where I work when they heard the sound of jets flying overhead on their way to NYC. (The jets were heading to the anniversary ceremonies.) These 6th-, 7th- and 8th-graders were frightened that they were experiencing another terrorist attack. They told me that they thought the jets overhead must be chasing a hijacked plane. They asked, "Was there an attack on the nearby nuclear plant, or was the attack on the Croton Dam, or perhaps the high tension power lines running through their backyards?" Let's not add the Millennium Pipeline to their list.

I am very concerned about adding another potential terrorist target to our community. This will increase the level of stress our children carry with them each day. Our children are already keenly aware of the nuclear emergency bus evacuation routes through their village. They are already keenly aware that the road across the Croton Dam remains closed after 9/11. Their school bus routes remain changed.

Why should our children be put at risk by a project for which there *are* safe alternatives? Columbia Gas simply wants to make billions of dollars. We simply want to protect our water, our community, and our children.

Thank you for your kind attention.