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February 4, 2004

**VIA E-MAIL, FACSIMILE
AND FEDERAL EXPRESS**

Mr. Branden Blum
Senior Counselor
c/o Office of Assistant General Counsel for Ocean Services
National Oceanic and Atmospheric Administration
U.S. Department of Commerce
1305 East-West Highway
SSMC-4, Room 6111
Silver Spring, MD 20910

RE: **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 Mr. Blum:

Reference is made to Mr. David Wrinn's letter to you dated February 3, 2004. Mr. Wrinn's letter is yet another attempt to delay final resolution of this proceeding. The pretext for delay in this instance is the imminent issuance by the Connecticut Department of Environmental Protection ("CTDEP") of a Section 401 water quality determination for the Project, which Mr. Wrinn states is "important for the record to be complete . . ." The fact is that CTDEP's Section 401 determination (which the CTDEP long ago stated will be a denial of the consistency certification) has no bearing on this proceeding. CTDEP, in its Reply Brief filed in this proceeding on January 26, 2004, conceded that point:

[I]slander East claims that the DEP's comments on the significance of Clean Water Act Section 401 certification misconstrues the nature of CZMA review, especially in light of NOAA's revised regulations which removed the Clean Water Act and Clean Air Act references from considerations as elements of CZMA override by the Secretary. All that the DEP indicated was that there had been the issuance of a tentative determination to deny Section 401 certification by Connecticut and that this would constitute a determinative decision on the project. DEP never

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linked it observation to the CZMA consistency determination that the Secretary must make in the instant proceeding.

CTDEP Reply Brief at 33, fn. 25.

Mr. Wrinn seeks to bolster his request by stating that “Islander East’s reapplication for a Section 401 certification was the driving force behind the company’s requested remand to the DEP . . .” That is not correct. The “driving force” behind Islander East’s request for a remand was a belief that, by making certain modifications to its construction program, Islander East could satisfy CTDEP’s concerns over the impacts of pipeline construction and thus avert the need for the Secretary to process an appeal. Despite Islander East’s good faith efforts, the CTDEP simply reiterated its denial, thus necessitating the resumption of this appeal proceeding.

CTDEP’s total intransigence on the issue of the Islander East Project is well-known and fully documented in this proceeding, as is the fact that CTDEP intends to deny Section 401 water quality certification for the project. No legitimate purpose is served by keeping the record in this proceeding open and further delaying the Secretary’s determination. Islander East repeats it request that the record of this proceeding be closed forthwith, and that the Secretary proceed to a timely decision.

Respectfully submitted,



Frank L. Amoroso

FLA:mm

cc: Connecticut Attorney General’s office (*via facsimile and Federal Express*)
Attn: David Wrinn, Esq.
Thomas L. Stanton, Jr., Esq. (*via facsimile and Federal Express*)
Islander East Pipeline Company, LLC