

**REMARKS OF THE HON. ANDREW J. SPANO, WESTCHESTER COUNTY
EXECUTIVE
PUBLIC HEARING ON MILLENNIUM PIPELINE CZMA CONSISTENCY APPEAL
NOVEMBER 13, 2002**

I WOULD LIKE TO EXPRESS MY APPRECIATION TO THE UNITED STATES COMMERCE DEPARTMENT, SECRETARY DONALD EVANS, AND TO THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION FOR CONDUCTING THIS PUBLIC HEARING HERE IN WESTCHESTER COUNTY. THE ISSUES RAISED BY THE MILLENNIUM'S APPEAL OF THE NEW YORK STATE'S ADVERSE DETERMINATION ON THE ISSUE OF COASTAL ZONE MANAGEMENT PLAN CONSISTENCY ARE OF PROFOUND SIGNIFICANCE TO THE HEALTH, SAFETY, ENVIRONMENT AND QUALITY OF LIFE OF WESTCHESTER'S NEARLY ONE MILLION RESIDENTS. I COMMEND THE ADMINISTRATION FOR COMING TO WESTCHESTER TO ALLOW US TO SPEAK DIRECTLY TO YOU. I WOULD ALSO LIKE TO THANK WESTCHESTER'S CONGRESSIONAL DELEGATION, SENATORS SCHUMER AND CLINTON, AND REPRESENTATIVES LOWEY, ENGEL, KELLY AND GILMAN FOR THEIR ASSISTANCE AND SUPPORT IN MAKING TODAY'S PUBLIC HEARING POSSIBLE.

I OPPOSE THE MILLENNIUM PIPELINE. AFTER STUDYING THE ISSUE FOR SEVERAL YEARS, AND REVIEWING THE VARIOUS PROPOSALS AND STUDIES, AND LISTENING TO THE ARGUMENTS OF MILLENNIUM (WHICH IS JUST ABOUT THE ONLY SUPPORTER OF ITS PIPELINE), I BECAME, AND REMAIN, CONVINCED THAT THE MILLENNIUM PIPELINE IS UNNECESSARY AND AN UNACCEPTABLE THREAT TO OUR ENVIRONMENT AND QUALITY OF LIFE. THE PIPELINE IS NOT NEEDED AND POSES SIGNIFICANT ENVIRONMENTAL DAMAGE TO THE HUDSON RIVER, TO OUR

PARKLANDS, TO OUR TOWNS AND VILLAGES, AND IT CONTINUES TO RAISE SAFETY CONCERNS.

I FEEL SO STRONGLY THAT I HAVE VOWED THAT DURING MY ADMINISTRATION THE COUNTY OF WESTCHESTER WILL NOT VOLUNTARILY GRANT ONE EASEMENT, NOT ONE PERMIT, TO AID IN THE CONSTRUCTION OF THE PROPOSED PIPELINE. I HAVE BEEN JOINED IN MY OPPOSITION TO THE PIPELINE BY AN OVERWHELMING AND BI-PARTISAN MAJORITY ON THE WESTCHESTER COUNTY BOARD OF LEGISLATORS. I HAVE BEEN JOINED IN MY OPPOSITION TO THE PIPELINE BY THE STATE OF NEW YORK, WHICH MADE THE DECISION YOU ARE NOW REVIEWING, AND BY THE CITY OF NEW YORK, WHICH HAS EXPRESSED ITS CONCERNS IN ITS *AMICUS* BRIEF.

I ANNOUNCE TODAY THAT WESTCHESTER HAS FILED A PETITION FOR REVIEW OF FERC'S CERTIFICATION OF THE PIPELINE WITH THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT. WE WILL CONTINUE TO USE ALL OF THE AVENUES AT OUR DISPOSAL TO CONVINCЕ EVERY AGENCY AND COURT THAT THE MILLENNIUM PIPELINE IS WRONG AND SHOULD NOT BE BUILT.

I COULD GO ON FOR HOURS ON THE MULTITUDE OF REASONS WHY THE MILLENNIUM PIPELINE SHOULD BE BLOCKED. HOWEVER, I RECOGNIZE AND RESPECT THAT YOU MUST HEAR FROM MANY PEOPLE TODAY. THEREFORE, WESTCHESTER COUNTY WILL BE SUBMITTING MORE EXTENDED WRITTEN COMMENTS IN SUPPORT OF UPHOLDING THE DETERMINATION OF GOVERNOR

PATAKI AND SECRETARY DANIELS. I WISH TO USE MY TIME TODAY TO GIVE YOU MY PERSONAL PERSPECTIVE ON THE SPECIFIC ISSUES BEFORE YOU.

IN APPEALING TO YOU, MILLENNIUM HAS RELIED HEAVILY ON THE STATEMENTS MADE BY THE FEDERAL ENERGY REGULATORY COMMISSION ("FERC") IN ITS INTERM ORDER OF DECEMBER 19, 2001 AND ITS FINAL ORDER OF SEPTEMBER 19, 2002. I URGE YOU TO COMPLETELY DISREGARD FERC'S STATEMENTS AS HAVING BEEN MADE IN VIOLATION OF THE VERY STATUTE THAT YOU ARE HERE TO ADMINISTER.

THE COASTAL ZONE MANAGEMENT ACT MAKES IT CLEAR THAT NO FEDERAL AGENCY MAY ISSUE ANY PERMIT OR CERTIFICATE UNLESS AND UNTIL A FAVORABLE CONSISTENCY DETERMINATION HAS BEEN MADE BY THE STATE OR THE APPLICANT HAS SUCCESSFULLY APPEALED AN ADVERSE DETERMINATION TO THE SECRETARY OF COMMERCE. THERE IS NO PROVISION FOR A FEDERAL AGENCY, SUCH AS FERC, TO MAKE ITS ORDERS BEFORE THE COASTAL ZONE MANAGEMENT PROCESS HAS BEEN FOLLOWED. INDEED, THE RULES UNDER WHICH THIS APPEAL PROCESS IS BEING PURSUED MAKE NO PROVISION FOR INTERVENTION BY FERC. THE FERC ORDERS, WHICH MILLENNIUM ASKS YOU TO TREAT AS HOLY WRIT, ARE AN EFFORT BY MILLENNIUM AND FERC TO SHORT-CIRCUIT THE CZMA PROCESS.

THE CONGRESS HAS ENTRUSTED THE DELICATE TASK OF BALANCING THE STATE'S COASTAL ZONE MANAGEMENT INTERESTS WITH THE NATIONAL INTERESTS WITH THE SECRETARY OF COMMERCE -- NOT WITH FERC. WE ASK

THAT THE SECRETARY GIVE US HIS INDEPENDENT JUDGMENT AND THAT HE NOT
 DO AS MILLENNIUM ASKS AND ABDICATE HIS RESPONSIBILITY TO FEROC.
 IN ORDER FOR THE SECRETARY TO OVERRIDE NEW YORK'S OBJECTIONS TO
 THE MILLENNIUM PROJECT, MILLENNIUM MUST CONVINCE THE SECRETARY THAT
 THE PIPELINE IS CONSISTENT WITH THE OBJECTIVES OF THE COASTAL ZONE
 MANAGEMENT ACT OR THAT THE PIPELINE IS NECESSARY IN THE INTEREST OF
 NATIONAL SECURITY. MILLENNIUM HAS NOT SHOWN THAT EITHER STANDARD
 APPLIES.
 IN ORDER TO FIND THAT THE PIPELINE IS CONSISTENT WITH THE PURPOSES
 OF THE COASTAL ZONE MANAGEMENT ACT, THE SECRETARY MUST CONCLUDE
 THAT: 1) THE ACTIVITY SUBSTANTIALLY AND SIGNIFICANTLY FURTHERS THE
 NATIONAL INTEREST AS SET FORTH IN THE ACT; AND 2) THE NATIONAL INTEREST
 OUTWEIGHS THE ACTIVITY'S ADVERSE COASTAL EFFECTS; AND 3) THERE ARE NO
 REASONABLE ALTERNATIVES. MILLENNIUM HAS FAILED EACH OF THESE TESTS.
 WHILE COASTAL-DEPENDENT USES ARE GIVEN PRIORITY UNDER THE ACT,
 THE MILLENNIUM PIPELINE IS NOT A COASTALY DEPENDENT USE. UNLIKE OFF-
 SHORE OIL WELLS OR PORT FACILITIES, THE MILLENNIUM PIPELINE DOES NOT
 HAVE TO BE LOCATED IN A COASTAL ZONE. MILLENNIUM ARGUES THAT ITS
 PROPOSED PIPELINE WOULD BE A MAJOR ENERGY TRANSPORTATION FACILITY.
 HOWEVER, NATURAL GAS PIPELINES ARE NOT AUTOMATICALLY PRESUMED TO BE
 IN THE NATIONAL INTEREST. IF THEY WERE, CONGRESS WOULD HAVE GIVEN
 THEM SPECIAL TREATMENT IN THE ACT. IT DID NOT. WHILE GAS PIPELINES MAY
 BE WORTHY PROJECTS, THEY EACH BE EVALUATED ON THEIR OWN MERIT AND

BALANCED AGAINST EQUALLY IMPORTANT NATIONAL GOALS AND INTERESTS IDENTIFIED IN THE ACT.

THE MILLENNIUM PIPELINE IS NOT NEEDED TO MEET THIS REGION'S OR NEW YORK CITY'S ENERGY NEEDS. THE MAIN ARGUMENT MADE IN FAVOR OF THE PIPELINE IS THAT IT WILL SUPPLY GAS FOR NEW POWER PLANTS TO GENERATE ELECTRICITY FOR NEW YORK CITY. IN 1998, CON ED STATED THAT THERE IS SUBSTANTIAL EXISTING CAPACITY IN ITS SYSTEM FOR THESE PURPOSES. CON ED REPRESENTED THAT MILLENNIUM WOULD CREATE SUBSTANTIAL EXCESS CAPACITY. RECENT EXPERIENCE CONFIRMS THIS AS THERE HAS BEEN AMPLE NATURAL GAS TO SUPPORT THE NEW POWER PLANTS RECENTLY CONSTRUCTED IN NEW YORK CITY BY THE STATE POWER AUTHORITY. IN FACT, THE 2002 ENERGY PLAN FOR NEW YORK STATE REPORTS THAT, EVEN IF NO NEW PIPELINE PROJECTS ARE BUILT AFTER 2003, THE EXISTING OIL AND GAS SYSTEMS ARE ADEQUATE TO MEET ALL GENERATION SCENARIOS. FURTHERMORE, THE REPORT STATED THAT IF 800 MDT PER DAY OF POST-2003 PIPELINE CAPACITY IS BUILT IN THE DOWNSTATE NEW YORK AREA, GAS COULD MEET ALL ENERGY GENERATION NEEDS, WITH THE ADDITIONAL 800 MDT OF CAPACITY GOING TO ELIMINATE THE USE OF OIL.

THE ADDITIONAL 800 MDT CAPACITY MAY READILY BE DERIVED FROM THE 7 PIPELINE PROJECTS IN THE AREA THAT HAVE ALREADY GAINED APPROVAL, SUCH AS THE 230 MDT PROVIDED BY IROQUOIS' EASTCHESTER EXPANSION PROJECT WHICH WILL DELIEVER ITS GAS TO THE BRONX INTERCONNECT WITH

CON ED. BEYOND THIS, THERE ARE AT LEAST 10 ADDITIONAL PIPELINE PROJECTS THAT HAVE BEEN PROPOSED.

FOR SEVERAL YEARS, I HAVE ASKED FERC TO STEP BACK AND, RATHER THAN EVALUATE PIPELINE PROJECTS ONE BY ONE, DO AN OVERALL STUDY OF WHAT THE REGION'S NEEDS ARE AND WHAT ARE THE BEST WAYS FOR SERVING THEM. PIPELINES MAY BE PART OF THE ANSWER; ANOTHER PART OF THE ANSWER MAY LIE IN CONSTRUCTING ADDITIONAL ELECTRIC TRANSMISSION LINES INTO NEW YORK CITY THROUGH NEW JERSEY; ANOTHER PART OF THE ANSWER MUST BE ENERGY CONSERVATION AND INCREASED USE OF ALTERNATIVE FUEL SOURCES.

MILLENNIUM IS NOT THE ANSWER, PARTICULARLY SINCE MILLENNIUM HAS NEVER IDENTIFIED WHO ITS POTENTIAL CUSTOMERS ARE AND HAS NOT PUBLICLY DISCLOSED WHETHER IT EVEN HAS AN ARRANGEMENT WITH CON EDISON TO PAY FOR THE ADDITIONAL FACILITIES NEEDED TO DISTRIBUTE THE HUGE AMOUNT OF GAS THROUGH THE CON ED SYSTEM.

MILLENNIUM HAS NOT MADE ITS CASE THAT ITS PROPOSED PIPELINE IS THE ONLY WAY TO PROVIDE ADDITIONAL ENERGY FOR THIS AREA. CERTAINLY ITS CASE IS NOT STRONG ENOUGH TO OVERCOME THE SUBSTANTIAL NEGATIVE IMPACTS TO NEW YORK'S COASTAL ZONE POLICIES. A POINT THAT MERITS PARTICULAR MENTION IS MILLENNIUM'S PROPOSAL TO CONSTRUCT ITS PIPELINE WITHIN TWO FEET OF THE BRYN MAWR SIPHON, A KEY POINT IN THE CATSKILL AQUEDUCT. THE SIPHON IS APPROXIMATELY 90 YEARS. BOTH NEW YORK STATE AND NEW YORK CITY HAVE POINTED OUT THE CATASTROPHIC NATURE OF THE

POTENTIAL IMPACTS OF MAJOR CONSTRUCTION ACTIVITY WITHIN 2 FEET OF 90 YEAR OLD INFRASTRUCTURE. THE CATSKILL SYSTEM SUPPLIES WATER TO HUNDREDS OF THOUSANDS OF PEOPLE IN WESTCHESTER, INCLUDING THE CITIES OF NEW ROCHELLE AND YONKERS AND THE TOWNS OF GREENBURGH, MOUNT PLEASANT, TARRYTOWN AND NORTH TARRYTOWN. BREAKAGE IN THE SIPHON WOULD CAUSE NEW YORK CITY TO LOSE 40 PERCENT OF ITS WATER SUPPLY AND GREATER LOSSES IN WESTCHESTER. NEW YORK CITY HAS ESTIMATED THAT IN THE EVENT OF A BREAK AS MUCH AS 120 MILLION GALLONS OF WATER COULD BURST THROUGH THE GAP WITHIN 3 HOURS. THIS RUPTURE WOULD THREATEN THE FOOTINGS OF THE NEARBY CON EDISON ELECTRICAL TOWERS, WHICH CARRY 40% OF NEW YORK CITY'S ELECTRICITY; IT COULD FLOOD THE SPRAIN BROOK PARKWAY.

SECONDLY, MILLENNIUM REVEALED LATE IN THE PROCESS THAT IT INTENDED TO CONDUCT BLASTING OPERATIONS IN THE EASTERN SIDE OF THE HUDSON RIVER AT HAVERSTRAW BAY. THIS AREA HAS BEEN DESIGNATED A SIGNIFICANT COASTAL FISH AND WILDLIFE HABITAT BY NEW YORK STATE AND AN ESSENTIAL FISH HABITAT BY THE NATIONAL MARINE FISHERIES SERVICE. IT SUPPORTS POPULATIONS OF THE SHORTNOSE STURGEON, A FEDERALLY-LISTED ENDANGERED SPECIES. THE BAY HAS BEEN PROPERLY CALLED BY THE STATE AN "IRREPLACEABLE" ECOSYSTEM. WHILE MILLENNIUM CLAIMS THAT ITS PLAN WOULD MITIGATE DAMAGE TO THIS PREVIOUSLY UNDISTURBED AREA, ITS PLANS HAVE NEVER BEEN SUBJECT TO A FULL AND COMPLETE PUBLIC REVIEW. BECAUSE MILLENNIUM NEVER DISCLOSED ITS INTENTION TO BLAST DURING THE

ENVIRONMENTAL REVIEW PROCESS, BLASTING OPERATIONS IN THE HUDSON RIVER WERE NOT DISCUSSED IN THE FINAL ENVIRONMENTAL IMPACT STATEMENT AND THERE WAS LITTLE OPPORTUNITY TO REVIEW AND ANALYZE THE ISSUE. NEW YORK STATE HAS CAREFULLY LAID OUT THE RISKS TO HAVERSTRAW BAY IN BOTH ITS DECISION AND IN ITS BRIEF. IN ADDITION, EARLIER THIS YEAR SUBSTANTIAL CONCERNS OVER THE IMPACTS TO HAVERSTRAW BAY WERE EXPRESSED BY OFFICIALS OF THE UNITED STATES ARMY CORPS OF ENGINEERS AND THE UNITED STATES FISH AND WILDLIFE SERVICE.

THERE ARE MANY REASONABLE ALTERNATIVES TO THE MILLENNIUM PIPELINE. ONE OF THE MOST OBVIOUS IS TERMINATING THE PIPELINE IN ROCKLAND COUNTY WHERE IT WILL SERVE THE BOWLINE POWER PLANT. MILLENNIUM ARGUES THAT SUCH A TERMINATION POINT WOULD NOT BE ECONOMIC FOR IT. HOWEVER, IT HAS NOT OFFERED ANY EVIDENCE OF THAT. ACCORDING TO MILLENNIUM ITSELF, HALF OF THE GAS AND THE MAJORITY OF THE SHIPPERS ARE LOCATED TO THE WEST OF THE HUDSON. MOREOVER, MUCH OF THE CONSTRUCTION ACTIVITY WEST OF THE HUDSON INVOLVES THE REPLACEMENT OF OLDER COLUMBIA PIPELINES, WHICH MILLENNIUM STATES THAT, IF THE PROJECT IS NOT APPROVED, WOULD BE REPLACED ANYWAY. ACCORDINGLY, GIVEN THE ABSENCE OF INFORMATION FROM MILLENNIUM AS TO THE ECONOMICS OF ITS PROJECT, IT IS CERTAINLY REASONABLE TO CONCLUDE THAT THE CONSTRUCTION OF THE EAST OF HUDSON PART OF THE PIPELINE IS NOTHING MORE THAN AN EFFORT BY MILLENNIUM TO SPREAD OUT THE COST OF PIPELINE REPLACEMENT IT WOULD UNDERTAKE ANYWAY.

MILLENNIUM HAS ALSO TRIED TO ASSERT THAT IN THE AFTER-MATH OF SEPTEMBER 11, 2001, ITS PIPELINE IS IN THE INTEREST OF NATIONAL SECURITY. NOTHING COULD BE FURTHER FROM THE TRUTH. WE KNOW THAT FEDERAL LAW ENFORCEMENT HAS STRESSED THE VULNERABILITY OF PIPELINES TO TERRORIST ATTACK. MILLENNIUM SEEKS TO IMPOSE UPON WESTCHESTER COUNTY AND ITS LOCALITIES A HUGE UNFUNDED MANDATE TO PROVIDE STATE OF THE ART SECURITY FOR THE PIPELINE DURING AND AFTER CONSTRUCTION. AT A TIME WHEN WE IN NEW YORK STATE AND IN WESTCHESTER COUNTY ARE FACING SEVERE BUDGET SHORTFALLS, IN PART CAUSED BY THE ECONOMIC IMPACT OF SEPTEMBER 11, THIS BURDEN IS ONE THAT THE PEOPLE OF WESTCHESTER CANNOT AFFORD.

LIKEWISE, THE PLANNING FOR THE PROPOSED PIPELINE HAS FAILED TO TAKE IN TO ACCOUNT THE IMPACT UPON THE EVACUATION PLANS FOR INDIAN POINT -- WHICH HAS BEEN IDENTIFIED AS ANOTHER POSSIBLE TARGET FOR TERRORIST.

IN SUM, THE MILLENNIUM PIPELINE IS NOT NEEDED, IS FRAUGHT WITH HUGE THREATS TO OUR ENVIRONMENT, AND THERE ARE MANY REASONABLE ALTERNATIVES. WE IN NEW YORK AND IN WESTCHESTER TREASURE OUR ENVIRONMENT AND TREASURE THE HUDSON RIVER. WE HAVE WORKED VERY HARD ALONG WITH GOVERNOR PATAKI TO RESTORE THE HUDSON AND TO MAINTAIN THE QUALITY OF THIS RIVER THAT IS SO IMPORTANT TO US IN THE HUDSON VALLEY. THE DECISION BY LOCAL OFFICIALS TO REJECT THE PIPELINE AS INCONSISTENT WITH OUR FEDERALLY APPROVED ENVIRONMENTAL PLANS

SHOULD NOT BE OVERTURNED IN WASHINGTON. WE URGE YOU TO GIVE DEFERENCE TO THE VIEWS EXPRESSED BY NEW YORK STATE, NEW YORK CITY AND THE LOCAL GOVERNMENTS AND PUBLIC OFFICIALS OF WESTCHESTER COUNTY, ALL OF WHOM ARE UNITED IN THEIR OPPOSITION TO THIS PROJECT.

THANK YOU FOR YOUR CONSIDERATION.