

MILLENNIUM PIPELINE COMPANY, L.P.

Data Request No. 2

During the April 9, 2001 SDEIS comment meeting, Ms. Karen Jescavage-Bernard mentioned that between approximate MPS 392 and 394 along the original route on the ConEd right-of-way, the Saw Mill River Audubon Society's Brinton Brook Sanctuary (Sanctuary) and the Jane E. Lytle Memorial Arboretum (Arboretum) might be affected by a ConEd Offset Alternative. These concerns have also been made in a comment letter filed April 11, 2001 (see attachment). She states that she is concerned about the impacts an alternative route that is 100 feet from the southwest side of the ConEd powerlines would have on the Sanctuary and Arboretum. She states that the Arboretum has a 10-acre wetland that is suitable habitat for the endangered Blandings turtle. Also, the wetland drains into another wetland that has one endangered and two threatened species of plant. She also stated that there is a handicap-accessible boardwalk educational trail in the preserve.

- a. Please provide maps showing the boundaries of and the beginning and ending milepost locations of the pipeline across the Sanctuary and the Arboretum, if they are crossed by or are adjacent to the ConEd Offset/Taconic Alternative.
- b. Discuss how the ConEd Offset/Taconic Alternative would affect the Sanctuary and Arboretum, including the educational facilities and boardwalk trail. Include in your discussion the effect tree clearing for the construction right-of-way would have on:
 1. the width of the forest separating the existing ConEd right-of-way and the wetland and educational trail;
 2. drainage patterns critical to the health of the wetland ecosystem;
 3. the spread of invasive species such as Phragmites from the ConEd corridor to the wetland; and
 4. forest interior birds and other wild life, including endangered species, in the sanctuary and arboretum.
- c. How would Millennium protect the natural and educational resources of the Arboretum?
- d. Please discuss the feasibility of moving the alternative pipeline route from the southwest side of the ConEd right-of-way to its northeast side near the Arboretum. Include in your discussion of this placement responses to all of the items in question 2.b.

- e. Provide a detailed description of the impacts to the 10-acre wetland, including acres of temporary and permanent impact, the National Wetland Inventory classification for the wetland, and proposed time of year for construction. Also describe construction methods to avoid or minimize impacts to the wetland and how Millennium would mitigate the impacts to the wetland if they cannot be avoided.
- f. Identify and describe the endangered and threatened species that may be located proximate to the Sanctuary and Arboretum. How would they be affected by construction? What mitigation do you propose to minimize or avoid these affects?

Response:

- a. The Brinton Brook Sanctuary, owned and/or administered by the Saw Mill River Chapter of the National Audubon Society, is located adjacent to the ConEd ROW between MPs 1.8 and 2.1. Local maps depicting the sanctuary indicate that the sanctuary includes a parcel of land owned by the Village of Croton-on-Hudson, as well as land owned by the Saw Mill River Chapter of the Audubon Society. This was confirmed by observation of property posting signs during the field view of this portion of the ConEd Offset/Taconic Alternative. A portion of the construction work space for the Project will lie within the sanctuary between MPs 1.8 and 2.1. Approximately 0.7 acres of the sanctuary will be affected by construction. The location of the sanctuary is indicated on Sheet 3 of the alignment sheets provided in response to Data Request No. 1.b.

The Jane E. Lytle Memorial Arboretum is located adjacent to the ConEd ROW between MPs 2.5 and 2.7. A portion of the construction work space for the Project will lie within the arboretum between those MPs. Approximately 0.67 acres of the arboretum will be affected by construction. The location of the sanctuary is indicated on Sheet 4 of the alignment sheets provided in response to Data Request No. 1.b.

- b. The Jane E. Lytle Memorial Arboretum is located on a property owned by the Village of Croton-on-Hudson. A wetland of approximately 10 acres, located in the center of the property, constitutes the vast majority of the tract. Improvements within the arboretum include a graveled parking area and a trail system. The trail system includes a loop trail that passes around the outer edge of the wetland, a side trail that leaves the loop trail along the western boundary of the arboretum and connects to the trail system within the nearby sanctuary, and a short spur trail that leaves the loop trail in the northwest corner of the arboretum and generally follows the northern border of the property ending in the northeast corner of the arboretum. A portion of the loop trail has been improved for access by the physically handicapped.

- 1 The trail closest to the ConEd ROW is not handicapped accessible at this time. This trail is the spur trail identified above, which is located in the northeast corner of the arboretum within wetland W08CT. The trail ends within 15 feet of the edge of the cleared electrical transmission ROW.

Approximately 340 feet of the spur trail lies within the construction work space for the Project. This area will be cleared during construction. In addition, as currently configured, most of this section of the trail will be within the permanent ROW for the Project.

Millennium will coordinate with the Arboretum concerning public access to the spur trail during construction. However, given the fact that the last 340 feet of the spur trail lie within the construction work space for the Project, closing the trail during construction would appear to be the most prudent course of action. Millennium would notify the Arboretum in advance of commencement of construction activities within the Arboretum. Millennium will construct the Arboretum crossing as a single construction entity, which should limit construction activity to a period of 2 weeks or less, depending on weather conditions.

Millennium has initiated discussions with the Arboretum concerning post-construction restoration. Millennium believes that the use of appropriate shrub and tree plantings will accelerate the return of land adjoining the spur trail to a natural state.

The wetland within the Arboretum which occupies most of the central portion of the property, extends to the northeast across the proposed construction work area for the Project and into the ConEd ROW. Thus, there is no effective separation between the ConEd ROW and the wetland. Within the construction work space, this wetland has been designated as W08CT.

Millennium has met with Ms. Karen Jescavage-Bernard to discuss the issues raised concerning the construction of the Project across the edge of the Arboretum. The attached correspondence summarizes the discussion and contains proposals that Millennium believes will mitigate the effects of construction and operation of the Project. Among these are proposals to limit the width of the work space within wetland W08CT to 50 feet and to preserve at least 15 feet of trees adjacent to the ConEd ROW. Millennium also proposes to install plantings to replace affected vegetation and to reduce the width of the permanently maintained pipeline ROW to 10 feet.

2. In the northeast corner of the arboretum, the Project will cross several drainage swales and a small, perennial tributary of the Hudson River.

The drainage swales have not been identified as waterbody crossings based on the lack of substrate development typical of intermittent or perennial streams. The substrates of these swales are composed of typical soils.

Millennium believes that drainage patterns critical to the maintenance of the wetland within the Arboretum can be preserved through appropriate construction techniques. The major potential sources of impact to the drainage system are sedimentation and changes to surface contours. In order to address these issues, Millennium will follow the specifications contained within Millennium's Environmental Construction Standards (ECS), previously filed with the Commission. Specifically, erosion and sedimentation controls in the form of silt fences and barriers will be installed at the downslope edge of the construction work space within wetland W08CT prior to the start of land clearing and grading activities. The stream crossing within the wetland will be constructed in the dry using the dam and pump technique to prevent water quality impacts. Construction of the stream crossing will meet the standards established by the New York State Department of Environmental Conservation for suspended solids and turbidity. Following construction, the ROW will be returned, as closely as possible, to original grade and stabilized using the wetland seed mix specified in the ECS prior to the removal of erosion and sedimentation control barriers.

3. Millennium has discussed approaches to control of *Phragmites australis* with Ms. Karen Jescavage-Bernard. The attached correspondence describes Millennium's plan. Millennium believes that there is little, if any, potential for *Phragmites* to spread outside of the area cleared for the Project due to the high degree of shading present within the wetland within the arboretum. The proposals set forth in the correspondence present what Millennium believes to be the best methods for controlling the spread of this or other invasive species into the area disturbed during construction.
4. The construction of the Project through the sanctuary and arboretum will slightly reduce the amount of available habitat for forest interior birds. The Project will be constructed along the edge of the present ConEd ROW. The area affected by construction and operation of the Project is not optimal habitat for forest interior birds since it is located along the edge of the present ROW. However, the Project will result in the expansion of the existing clearing and the movement of the existing forest edge toward what is now marginal (due to its restricted size), forest interior habitat. The construction work space affects approximately 2% of the acreage of the arboretum, which, at a total area of 20.4 acres, may not be large enough to be considered optimum habitat for forest interior

bird species. The construction work space affects approximately 0.3% of the 129 acres of the sanctuary. Thus, there will be a small loss of this marginal forest interior habitat.

Other wildlife may be displaced during construction. Mobile species will move to similar nearby habitat.

Millennium believes that habitat for Blandings turtle does not exist within the construction work space for the Project in this area. The habitat for the Blandings turtle that was identified in Ms. Karen Jescavage-Bernard's correspondence is downslope of the construction work space within the central portion of the wetland. Habitat within that area and all other areas downslope of the Project will be protected through the use of appropriate erosion and sedimentation controls, as indicated previously.

The location of the plant species identified in Ms. Karen Jescavage-Bernard's correspondence is even further downstream and will not be affected.

- c. The above discussion and the attached correspondence identify the methods that Millennium will use to protect the natural and educational resources of the Arboretum. The Project will not interfere with access to the Arboretum and will not physically affect areas outside of the construction work space. The loop trail and all handicapped accessible features within the Arboretum will remain open throughout construction.
- d. Millennium has undertaken a lengthy and complex series of negotiations with the New York Public Service Commission (NYPSC) and ConEd concerning the siting of the Millennium Project in proximity to ConEd's ROW. The Memorandum of Understanding and Supplemental Memorandum of Understanding that resulted from these negotiations that have been filed with the Commission identify specific locations where the Millennium Project can cross ConEd's ROW. Based on the nature of these negotiations, Millennium believes that neither NYPSC nor ConEd would agree to additional crossings of the ROW in the vicinity of the Arboretum in view of their strong beliefs that any further crossings of the ConEd ROW would jeopardize the reliability of electric service to New York City.

Based on the discussion held with Ms. Karen Jescavage-Bernard, Millennium believes that the Project can be constructed along the proposed route in a manner that will protect the resources within the Arboretum. However, routing the Project to the northeast side of the ConEd ROW would place the construction work area approximately 300 feet from the northern edge of the Arboretum. Construction along the northeast side of the ConEd ROW would eliminate impacts to the arboretum and its facilities. Since the northeast side of the ConEd ROW was not surveyed, Millennium cannot determine whether the

wetland W08CT extends all the way across the ConEd ROW and into the adjacent forest to the northeast. However, the additional separation distance would further minimize potential impacts to the portion of the wetland within the arboretum. Further, the siting of the project along the northeast side of the ConEd ROW would prevent disturbance within the Arboretum that might contribute to invasion by *Phragmites australis*.

- e. As indicated above, wetland W08CT is part of the wetland complex within the Arboretum. The central portion of the wetland, within the Arboretum, is a palustrine scrub-shrub wetland. This scrub-shrub interior is surrounded by palustrine forested wetland also within the Arboretum. The wetland also extends into the ConEd ROW, where it is a palustrine emergent wetland. The portion of the wetland that will be affected by construction is forested, as is the majority of the wetland within the Arboretum.

Based on the proposals contained in the attached correspondence with Ms. Karen Jescavage-Bernard, the temporary construction impact to the wetland will be approximately 0.54 acres. Approximately 0.11 acres of the wetland will be converted from forest to emergent vegetation.

Millennium believes that growth and survival of tree and shrub plantings proposed as part of the mitigation plan for the crossing of wetland W08CT will be optimized if they occur in spring or fall. However, Millennium believes that it would be appropriate to avoid construction in early spring when stream flows are high.

Since the wetland extends from the center of the Arboretum into the ConEd ROW, the wetland can only be potentially avoided by routing the pipeline to the northeast side of the ConEd ROW. As indicated above, Millennium has not surveyed the northeast side of the ConEd ROW and, thus, cannot affirm that the wetland does not extend into that area. Millennium believes that the shifting of the route to the northeast side of the ConEd ROW would be contrary to the MOU and the Supplemental MOU between Millennium and the PSCNY and thus does not represent a reasonable route alternative.

- f. A previous survey of a wetland complex downslope from the Arboretum identified *Wolffiella brasiliensis*, a state-listed endangered floating plant, and *Ceratophyllum echinatum*, a state-listed threatened submergent plant. It is not clear from the information obtained from the Arboretum that any endangered or threatened plants or animals have been identified within the boundaries of the sanctuary or the Arboretum. Based on the 2,000 foot separation distance between the area disturbed by the Project and the location of the observed protected species, there will be no effect from the Project on these species. As indicated above, additional information is being sought from state and federal agencies with regulatory responsibility for protected species.

Prepared by: James R. Albitz/Richard E. Hall, Jr.
Position: MPL Design Manager/Acting Facility Project Manager
Telephone Number: 607.648.1115/607.648.1116



May 7, 2001

Ms. Karen Jescavage-Bernard
President, Board of Directors
Jane E. Lytle Memorial Arboretum
P.O. Box 631
Croton-on-Hudson, NY 10520

Dear Ms. Jescavage-Bernard:

On behalf of the Millennium Pipeline Company, L.P. (Millennium) I'd like to express our appreciation for the time that you took to meet with Project staff on April 27, 2001. Millennium hopes that the discussion that took place will help to alleviate some of the concerns expressed in your correspondence to the FERC dated April 9, 2001.

I'd also like to take this opportunity to summarize our discussion.

You expressed concern over the potential of movement of silt and sediment into the wetland within the Arboretum during construction and prior to subsequent revegetation of the construction area. As we indicated, Millennium takes the implementation of erosion and sediment controls during Project construction very seriously. Erosion and sedimentation control devices, including silt fences and barriers, will be set in place prior to the commencement of construction activities within the wetland. In addition, due to the slopes present on the hillside west of the wetland, silt barriers will likely be installed there as well. These devices will be inspected daily and repaired or replaced, as necessary, for the duration of construction within the wetland. The use of these controls has proved effective in the past for control of sediment and soil movement during pipeline construction.

You also expressed concern pertaining to effects of construction on water quality within the stream that will be crossed in the northeast corner of the Arboretum property. As we discussed in our meeting, the stream crossing will be performed using "dry ditch" techniques. Based on our observations during field surveys, we believe that this stream flows year-round. Thus, this crossing will be constructed using the dam and pump method. This construction method involves the placement of a small dam constructed of sand bags upstream of the work area. The retained water is pumped around the section of streambed affected by construction and returned to the stream channel downstream of any construction-

related disturbance in a manner that will not produce scouring of substrate or sediments. Following trenching, pipeline installation and backfilling of the trench, the streambed will be restored as closely as possible to pre-construction conditions and the banks stabilized before the dam is removed and flow restored through the construction area.

Construction of the wetland and stream crossing will take place within the minimum number of days possible. Millennium believes that all earthmoving activities within these resource areas will be accomplished within 2 working days. Further, construction of the stream crossing will not commence if significant rain is forecast during the expected period of construction.

The goal of the stream construction techniques will be to satisfy the New York State Department of Environmental Conservation water quality standards at all times during construction of the pipeline. These standards prohibit visible increases in stream turbidity or releases of sediment during construction. Millennium intends to satisfy these standards and we believe these standards will be strictly enforced by regulatory agencies. Millennium will employ an Environmental Inspector, whose responsibility will be to see that all construction activities adhere to the specifications contained in Millennium's *Environmental Construction Standards (ECS)*. This document, which has been reviewed and approved by appropriate state and federal agencies, contains the methods required to be used to minimize the effects of construction. A copy is attached for your convenience. Millennium's Environmental Inspector will have the authority and the responsibility to stop construction work at any time if deficiencies in erosion and sedimentation controls or in stream conditions are identified. Any deficiencies will be corrected before work will be allowed to continue. Finally, all construction activities will also be monitored by a full-time Environmental Monitor reporting directly to state and federal agencies with regulatory responsibility for wetland and stream issues.

Millennium is required to return the construction area as closely as possible to original contours following construction. The location of all swales and drainage courses will be identified prior to commencement of earth-moving activities. These features will be restored following construction.

Based on all of the above considerations, Millennium believes that the Project will not result in any appreciable effect on the downstream wetland within the Arboretum. In addition, Millennium believes that construction will have no impact on wetlands downstream from the Arboretum that harbor state-listed endangered or threatened species.

Another concern you expressed was that several aspects of the construction activities might result in changes to groundwater and surface water flow volume. First, Millennium believes that blasting will not be necessary in the vicinity of Arboretum. Millennium has discussed possible construction conditions with

several excavation contractors in Westchester County. Based on the information we have obtained, we believe trenching activities can be accomplished using conventional construction equipment.

You indicated a concern that removal of vegetation within the wetland and along the stream will result in changes in water quality and quantity reaching downstream wetland areas. Millennium believes that water quality will not be appreciably affected by construction and operation of the pipeline. The steps that will be taken to prevent impacts during construction have been outlined above. Any change in vegetational cover following construction should not appreciably change water quality or quantity. Thus, operation of the pipeline should not affect water quality or quantity.

You have expressed concern that removal of trees will reduce the quantity of forest interior habitat in the area. While this will of course be a consequence of Project construction, we believe that the amount of habitat lost will be small relative to the amount available in the Arboretum and the nearby Brinton Brook Bird Sanctuary.

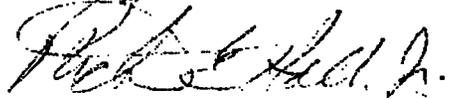
Finally, you have expressed concern about the potential for the spread of undesirable plants into the Arboretum from the ConEd ROW following construction. Millennium agrees that this is an issue that must be addressed to the extent possible. Millennium has made several suggestions in this regard. First, Millennium will work within a narrowed construction work space across the wetland and stream complex to preserve at least a 15-foot-wide buffer of trees and shrubs along the ConEd ROW. Second, at your request Millennium would be willing to bury a vertical plastic barrier along the edge of the disturbed area adjacent to the ConEd ROW to retard the spread of *Phragmites australis* rhizomes. Third, Millennium is willing to compact and gravel a 15-foot-wide access road through the wetland to the north of the pipeline to retard invasive plants so long as it is understood that this action would constitute a permanent wetland impact and must be approved by the U.S. Army Corps of Engineers. Fourth, Millennium is willing to restrict ROW maintenance activities as described under wetland maintenance in the ECS. Fifth, Millennium is willing to replant areas outside of the 10-foot-wide clear zone with trees and shrubs selected in consultation with the Arboretum. Sixth, Millennium is willing to implement a maintenance program of hand removal of *Phragmites* within the pipeline construction area during routine maintenance of the ROW following construction. Finally, Millennium is willing to avoid removal of selected large trees along the edge of the work space. The identification of these trees can take place at the time of ROW negotiations with the Arboretum.

Millennium does not believe that any other feasible opportunities exist for *Phragmites* control. Based on our research, the only effective controls identified are removal, control through herbicide use, or elimination through the use of plastic sheeting to cover the affected area. We are proposing to use the first of

these strategies as part of our control plan. Millennium has previously made commitments to state and federal agencies to not use herbicides on its ROW following construction. The use of plastic sheeting is not appropriate within the Arboretum, since it is not a selective control method.

Millennium is committed to continue to work with you toward resolution of any additional issues that may arise as a result of this Project. If you have any questions or additional recommendations, please call me at (607) 648-1116.

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard E. Hall, Jr.", written in black ink.

Richard E. Hall, Jr.
Millennium Acting Facility Project Manager

For more information about the maps referred/attached to this document, please send an email inquiry to gcoss.inquires@noaa.gov.



May 7, 2001

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President, Board of Directors
Jane E. Lytle Memorial Arboretum
P.O. Box 631
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I'd also like to take this opportunity to summarize our discussion.

You expressed concern over the potential of movement of silt and sediment into the wetland within the Arboretum during construction and prior to subsequent revegetation of the construction area. As we indicated, Millennium takes the implementation of erosion and sediment controls during Project construction very seriously. Erosion and sedimentation control devices, including silt fences and barriers, will be set in place prior to the commencement of construction activities within the wetland. In addition, due to the slopes present on the hillside west of the wetland, silt barriers will likely be installed there as well. These devices will be inspected daily and repaired or replaced, as necessary, for the duration of construction within the wetland. The use of these controls has proved effective in the past for control of sediment and soil movement during pipeline construction.

You also expressed concern pertaining to effects of construction on water quality within the stream that will be crossed in the northeast corner of the Arboretum property. As we discussed in our meeting, the stream crossing will be performed using "dry ditch" techniques. Based on our observations during field surveys, we believe that this stream flows year-round. Thus, this crossing will be constructed using the dam and pump method. This construction method involves the placement of a small dam constructed of sand bags upstream of the work area. The retained water is pumped around the section of streambed affected by construction and returned to the stream channel downstream of any construction-

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related disturbance in a manner that will not produce scouring of substrate or sediments. Following trenching, pipeline installation and backfilling of the trench, the streambed will be restored as closely as possible to pre-construction conditions and the banks stabilized before the dam is removed and flow restored through the construction area.

Construction of the wetland and stream crossing will take place within the minimum number of days possible. Millennium believes that all earthmoving activities within these resource areas will be accomplished within 2 working days. Further, construction of the stream crossing will not commence if significant rain is forecast during the expected period of construction.

The goal of the stream construction techniques will be to satisfy the New York State Department of Environmental Conservation water quality standards at all times during construction of the pipeline. These standards prohibit visible increases in stream turbidity or releases of sediment during construction. Millennium intends to satisfy these standards and we believe these standards will be strictly enforced by regulatory agencies. Millennium will employ an Environmental Inspector, whose responsibility will be to see that all construction activities adhere to the specifications contained in Millennium's *Environmental Construction Standards* (ECS). This document, which has been reviewed and approved by appropriate state and federal agencies, contains the methods required to be used to minimize the effects of construction. A copy is attached for your convenience. Millennium's Environmental Inspector will have the authority and the responsibility to stop construction work at any time if deficiencies in erosion and sedimentation controls or in stream conditions are identified. Any deficiencies will be corrected before work will be allowed to continue. Finally, all construction activities will also be monitored by a full-time Environmental Monitor reporting directly to state and federal agencies with regulatory responsibility for wetland and stream issues.

Millennium is required to return the construction area as closely as possible to original contours following construction. The location of all swales and drainage courses will be identified prior to commencement of earth-moving activities. These features will be restored following construction.

Based on all of the above considerations, Millennium believes that the Project will not result in any appreciable effect on the downstream wetland within the Arboretum. In addition, Millennium believes that construction will have no impact on wetlands downstream from the Arboretum that harbor state-listed endangered or threatened species.

Another concern you expressed was that several aspects of the construction activities might result in changes to groundwater and surface water flow volume. First, Millennium believes that blasting will not be necessary in the vicinity of Arboretum. Millennium has discussed possible construction conditions with

several excavation contractors in Westchester County. Based on the information we have obtained, we believe trenching activities can be accomplished using conventional construction equipment.

You indicated a concern that removal of vegetation within the wetland and along the stream will result in changes in water quality and quantity reaching downstream wetland areas. Millennium believes that water quality will not be appreciably affected by construction and operation of the pipeline. The steps that will be taken to prevent impacts during construction have been outlined above. Any change in vegetational cover following construction should not appreciably change water quality or quantity. Thus, operation of the pipeline should not affect water quality or quantity.

You have expressed concern that removal of trees will reduce the quantity of forest interior habitat in the area. While this will of course be a consequence of Project construction, we believe that the amount of habitat lost will be small relative to the amount available in the Arboretum and the nearby Brinton Brook Bird Sanctuary.

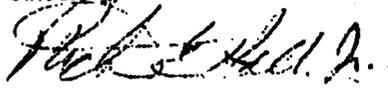
Finally, you have expressed concern about the potential for the spread of undesirable plants into the Arboretum from the ConEd ROW following construction. Millennium agrees that this is an issue that must be addressed to the extent possible. Millennium has made several suggestions in this regard. First, Millennium will work within a narrowed construction work space across the wetland and stream complex to preserve at least a 15-foot-wide buffer of trees and shrubs along the ConEd ROW. Second, at your request Millennium would be willing to bury a vertical plastic barrier along the edge of the disturbed area adjacent to the ConEd ROW to retard the spread of *Phragmites australis* rhizomes. Third, Millennium is willing to compact and gravel a 15-foot-wide access road through the wetland to the north of the pipeline to retard invasive plants so long as it is understood that this action would constitute a permanent wetland impact and must be approved by the U.S. Army Corps of Engineers. Fourth, Millennium is willing to restrict ROW maintenance activities as described under wetland maintenance in the ECS. Fifth, Millennium is willing to replant areas outside of the 10-foot-wide clear zone with trees and shrubs selected in consultation with the Arboretum. Sixth, Millennium is willing to implement a maintenance program of hand removal of *Phragmites* within the pipeline construction area during routine maintenance of the ROW following construction. Finally, Millennium is willing to avoid removal of selected large trees along the edge of the work space. The identification of these trees can take place at the time of ROW negotiations with the Arboretum.

Millennium does not believe that any other feasible opportunities exist for *Phragmites* control. Based on our research, the only effective controls identified are removal, control through herbicide use, or elimination through the use of plastic sheeting to cover the affected area. We are proposing to use the first of

these strategies as part of our control plan. Millennium has previously made commitments to state and federal agencies to not use herbicides on its ROW following construction. The use of plastic sheeting is not appropriate within the Arboretum, since it is not a selective control method.

Millennium is committed to continue to work with you toward resolution of any additional issues that may arise as a result of this Project. If you have any questions or additional recommendations, please call me at (807) 648-1116.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard E. Hall, Jr.", written over a horizontal line.

Richard E. Hall, Jr.
Millennium Acting Facility Project Manager

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350

Internet Address: <http://www.dps.state.ny.us>

PUBLIC SERVICE COMMISSION

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LAWRENCE G. MALONE
General Counsel

JANET HAND DEIXLER
Secretary

June 19, 2001

Hon. David P. Boergers
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: Millennium Pipeline Company, L.P.; Docket Nos. CP98-150-000 and CP98-151-000

Dear Secretary Boergers:

The purpose of this letter is to clarify the New York State Public Service Commission's ("NYPSC") view with respect to specific areas located within the Con Ed Offset /Taconic Alternative ("Taconic Variation").¹ These locations are as follows; milepost 0.47-1.16 in the Westminster/Watch Hill area, milepost 2.40-3.21 in the Jane E. Lytle Arboretum/Hessian Hills area, and a strip of land along milepost 7.04-7.20.

On June 5-7, 2001, the FERC organized a site inspection of the Taconic Variation. At that time, the NYPSC staff observed that the above-referenced tracts of land may require modifications from those contained in the April 9, 2001 Supplemental Memorandum of Understanding ("SMOU") agreed to between Millennium and the PSCNY. In those specific locations, it may not be practicable to strictly adhere to the SMOU.

If FERC determines that routing changes are necessary, the PSCNY would not oppose moving the offset to 100' from the center of the towers (rather than from the nearest conductor as agreed to in the SMOU) at milepost 0.47-1.16 in the Westminster/Watch Hill area, milepost

¹ FERC rules permit the filing of a response that clarifies the arguments and enhances the FERC's understanding of the facts and issues raised in the record. 18 C.F.R. §385.213 (2000); Transcontinental Gas Pipeline Corp., 68 FERC ¶ 61,338 (1994); Old Dominion Electric Cooperative v. PJM Interconnection, L.L.C., et al., 92 FERC ¶ 61,278 (2000); Egan Hub Partners L.P., 73 FERC ¶ 61,334 at 61,929 (1995); El Paso Electric Co., et al., 72 FERC ¶ 61,292 at 62,256 (1995); Transwestern Pipeline Co., 50 FERC ¶ 61,362 at 62,090 (1990).

2.40-3.21 in the Jane E. Lytle Arboretum/Hessian Hills area², and a strip of land along milepost 7.04-7.20.³ Placing the pipeline 100' from the center of the towers would be preferable to adding additional crossovers, which would seriously undermine the safety and reliability of the Con Ed electric corridor⁴

The PSCNY will continue to work with Millennium to address any necessary changes to the SMOU in these affected areas.

Sincerely,



Lawrence G. Malone
General Counsel
Public Service Commission
Of The State Of New York
Three Empire State Plaza
Albany, New York 12223-1352

cc: Jennifer Kerrigan, Team Leader
All Parties on the Service List

² The PSCNY acknowledges that additional measures may have to be taken with regard to the Jane E Lytle Arboretum.

³ In the PSCNY's comments on the FERC's Supplemental Draft Environmental Impact Statement, the PSCNY acknowledged that in most instances the Con Ed ROW can accommodate the offset agreed to in the SMOU. However, the PSCNY recognized that there are isolated instances where this cannot be done without jeopardizing existing structures. NYPSA Comments dated April 30, 2001 at fn 5.

⁴ As indicated in our initial comments on the Supplemental Draft Environmental Impact Statement ("SDEIS"), the safety measures adopted in the SMOU and prior MOUs by Millennium and the PSCNY are absolutely critical to the protection of the Con Ed ROW. This ROW carries about 40% of New York City's peak electric demand.

For more information about the maps referred/attached to this document, please send an email inquiry to gcoss.inquires@noaa.gov.