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THE HONORABLE DONALD L. EVANS

U.S. House of Representatives
Committee on Energy and Commerce
Washington, DC 20515-6115

W.J. "BILLY" TAUZIN, LOUISIANA,
CHAIRMAN

December 13, 2002

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DAVID MARYNIA AND STAFF

The Honorable Donald L. Evans
 Secretary
 U.S. Department of Commerce
 14th & Constitution Avenue, N.W.
 Washington, D.C. 20230

Dear Mr. Secretary:

I am writing to you about U.S. Department of Commerce procedures regarding an appeal of a Coastal Zone Management Act (CZMA) consistency determination by the State of New York concerning Millennium Pipeline. Millennium is an interstate gas pipeline project that was granted a final certificate by the Federal Energy Regulation Commission (FERC). The certificate determined that this pipeline project is required by the public convenience and necessity, and authorized construction with Millennium's right of eminent domain, if necessary. However, I am informed that the New York Department of State determined that the pipeline project's Hudson River crossing is inconsistent with the policies of the New York State Coastal Management Program, requiring Millennium to file an appeal of the decision at your agency.

The Millennium project was comprehensively studied for four years by FERC, which, along with the certificate, issued a Final Environmental Impact Statement (EIS) as required under the National Environmental Policy Act (NEPA). During the course of the Commission's exhaustive review of all aspects of this project, including numerous route evaluations, FERC determined that the Hudson crossing was acceptable and the only economic, environmentally compatible, and technologically feasible crossing. Other key agencies, including the NY Department of Environmental Conservation, the National Marine Fisheries Service of the Department of Commerce (NMFS) and the Environmental Protection Agency (EPA) have endorsed the crossing as well.

As Chairman of the House Energy and Commerce Committee, which has jurisdiction over interstate gas pipeline construction and transportation, I request that you carefully review FERC's final order approving construction, the evidence compiled in the FERC record since 1997, and the Final FERC EIS issued in October 2001 to evaluate whether the project is consistent with the objectives of the CZMA or is necessary for national security. I am sure that FERC exhaustively considered Millennium's coastal zone impacts in full consultation with all

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- The Honorable Donald L. Evans
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relevant federal and state agencies, comprehensively balancing the national benefits of the project and its environmental impacts, including its effects on the coastal zone.

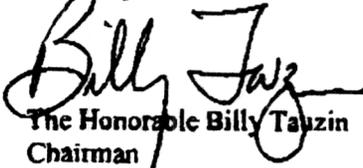
I am concerned that a state's CZMA consistency challenge of a FERC approved interstate gas pipeline is, in reality, a circumvention of the FERC process. A state policy blocking a certificated interstate gas pipeline thwarts the statutory purpose underlying the movement of natural gas in interstate commerce.

Further, I am concerned that the New York State action appears to be contrary to the President's National Energy Policy that identified CZMA consistency appeals for energy projects as a problem for orderly, environmentally compatible development of such projects. In this context, national security aspects of energy development must be considered. The CZMA allows the Commerce Secretary to find that national security interests outweigh any inconsistency with a state's coastal zone plan. Since a significant number of residences in the New York region are heated with imported home heating oil, the national security aspects of replacing fuel oil with North American natural gas must not be understated.

Given the comprehensive nature of the FERC proceedings and its conclusion that the pipeline is consistent with the enforceable policies of the CZMA, I believe that there is sufficient evidence to find that the project is consistent and is necessary in the interest of national security.

Thank you for your consideration concerning this matter.

Sincerely,


The Honorable Billy Tauzin
Chairman



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Washington, D.C. 20230

OFFICE OF THE GENERAL COUNSEL

JAN 22 2003

The Honorable Billy Tauzin
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman

Thank you for your letter regarding the Millennium Pipeline Company's administrative appeal filed under the Coastal Zone Management Act (CZMA) and currently pending before the Department of Commerce. The National Oceanic and Atmospheric Administration (NOAA) processes many aspects of CZMA appeals for the Secretary of Commerce, and therefore was asked to respond to your letter.

Writing in support of the proposed pipeline, you ask that, for purposes of the Secretary's appeal decision, we carefully review the Federal Energy Regulatory Commission (FERC) decision to authorize construction and operation of Millennium's project. You also raise questions concerning the CZMA's consistency requirements for activities requiring a federal license or permit.

Under the CZMA, an applicant for a federal license or permit required to conduct an activity affecting any land or water use or natural resource of a state's coastal zone must provide the affected state with a certification. The certification indicates that the proposed activity - in this case, Millennium's pipeline project - will be conducted in a manner consistent with the state's federally-approved coastal management program. Under the CZMA, the state reviews the certification and may object to the applicant's project. In this event, the CZMA provides that the concerned federal agency is precluded from issuing the license or permit unless the Secretary of Commerce finds that the activity is either "consistent with the objectives" of the CZMA (Ground I) or "necessary in the interest of national security." (Ground II). Section 307(c)(3)(A).

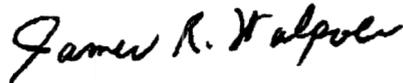
In seeking to expedite the CZMA appeal process, we are working to complete the administrative record on which the Secretary's decision is based. The materials in the record include those submitted by the parties, interested federal agencies and the public. Both the Final Environmental Impact Statement for FERC's proceeding and the final order for the pipeline referenced in your letter are part of the record for Millennium's appeal. In addition, other FERC-related documents involving Millennium's project and specific comments from FERC for the appeal have been included in the administrative record. In fulfilling statutory responsibilities under the CZMA, the Secretary will carefully consider the information in the administrative



record to determine whether either of the two grounds for overriding a state's consistency objection has been satisfied.

Thank you again for your letter on this important matter.

Sincerely,

A handwritten signature in cursive script that reads "James R. Walpole".

James R. Walpole
General Counsel