



UNITED STATES DEPARTMENT OF COMMERCE
The Deputy Under Secretary for
Oceans and Atmosphere
Washington, D.C. 20230

JAN 31 2003

The Honorable Gale Norton
Secretary of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Dear Madam Secretary:

I am writing to request your agency's comments concerning an administrative appeal brought by the Islander East Pipeline Company (Islander East or Appellant) before the Secretary of Commerce pursuant to the Coastal Zone Management Act (CZMA).¹ The appeal asks the Secretary to override the State of Connecticut's objection to Islander East's proposed natural gas pipeline that would extend from an interconnection with an existing pipeline near North Haven, Connecticut, to a terminus on Long Island, New York, affecting the natural resources or land and water uses of Connecticut's coastal zone. The Department's regulations implementing the CZMA require that interested Federal agencies be afforded an opportunity to comment on the appeal. See 15 C.F.R. §930.128(c).

The appeal is taken from an objection by the Connecticut Department of Environmental Protection to Islander East's consistency certification for permits requested from the U.S. Army Corps of Engineers and the Federal Energy Regulatory Commission to construct and operate the proposed pipeline. Islander East's certification is required to indicate that the project is consistent with the State's coastal management program. The State's objection, if made in a timely fashion, precludes Federal agencies from granting licenses or permits required by the project, unless the objection is overridden by the Secretary. See CZMA section 307(c)(3)(A), 16 U.S.C. § 1456(c)(3)(A), and 15 C.F.R. § 930.64.

In this appeal, the Appellant has requested the Secretary to override the State's consistency objection on the two substantive grounds provided in the CZMA. The first ground requires the Secretary to determine that the proposed activity is "consistent with the objectives" of the CZMA. To make this determination, the Secretary must find that: (1) the proposed activity furthers the national interest as articulated in section 302 or 303 of the CZMA, in a significant or

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substantial manner; (2) the national interest furthered by the proposed activity outweighs the activity's adverse coastal effects, when those effects are considered separately or cumulatively; and (3) no reasonable alternative is available that would permit the proposed activity to be conducted in a manner consistent with the enforceable policies of the State of Connecticut's coastal zone management program. See 15 C.F.R. § 930.121.

The second substantive ground for overriding a State's objection considers whether the proposed activity is necessary in the interest of national security. To reach this conclusion, the Secretary must find that a national defense or other national security interest would be significantly impaired if the activity in question was not permitted to go forward as proposed. See 15 C.F.R. § 930.122.

The National Oceanic and Atmospheric Administration has been delegated the responsibility for undertaking many aspects of the CZMA administrative appeals process for the Secretary. In this context, I am requesting your office's views on any of the above issues about which it may wish to comment. I note that materials and related documents contained in the appeal record are being made available for public review via the Internet at <http://www.ogc.doc.gov/czma.htm>. Portions of documents that are determined to contain national security or other information inappropriate for public dissemination will not be available at this site. The administrative record may also be reviewed at NOAA's Office of General Counsel for Ocean Services, located at the address below.

In order for this appeal to be decided in a timely fashion, I respectfully request that your office's comments be submitted no later than **April 14, 2003**. Please forward any comments to: Branden Blum, Senior Counselor, c/o Office of the General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1305 East-West Highway, Silver Spring, Maryland 20910.

Should your staff have questions concerning this letter, please contact Mr. Blum at (301) 713-2967, extension 207.

Sincerely,



Scott B. Gudes



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

OFFICE OF THE GENERAL COUNSEL

AUG 14 2003

The Honorable Condoleezza Rice
Assistant to the President for
National Security Affairs
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20504

Re: Reopening of the Federal Agency Comment Period - Consistency Appeal of Islander East Pipeline Company, L.L.C.

Dear Dr. Rice:

This letter advises of the reopening of the federal agency comment period for the Islander East Pipeline Company's administrative appeal pending before the Department of Commerce (Department). Comments were initially requested by our letter dated January 31, 2003 (copy enclosed).¹ The appeal, filed with the Secretary of Commerce pursuant to the Coastal Zone Management Act (CZMA), involves the proposed construction of a natural gas pipeline that would run from near North Haven, Connecticut to Long Island, New York.

Appeal proceedings have been stayed since March 17, 2003.² The State of Connecticut recently completed its reconsideration of the Islander East project, in connection with a remand of the appeal to the State, and on July 29, 2003, reiterated its continuing objection to the proposed pipeline. The Department has therefore resumed processing the Islander East appeal. *See* 15 C.F.R. § 930.129(d). Consequently, consistent with our earlier advice, the agency comment period has been reopened. Agency views will be accepted **through October 27, 2003**.

Additional information concerning the Islander East appeal, including a letter advising the parties of the recommencement of appeal proceedings, is available from the Department's CZMA consistency appeal website, www.ogc.doc.gov/czma.htm. Should your staff have questions

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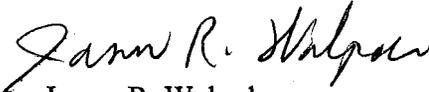
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Sincerely,


James R. Walpole
General Counsel

Enclosure



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Scott B. Gudes



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
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OFFICE OF THE GENERAL COUNSEL

AUG 14 2003

Ms. Rejane Burton
Director, Minerals Management Service
Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Re: Reopening of the Federal Agency Comment Period - Consistency Appeal of Islander East Pipeline Company, L.L.C.

Dear Ms. Burton:

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Sincerely,

A handwritten signature in black ink, appearing to read "James R. Walpole". The signature is fluid and cursive, written in a professional style.

James R. Walpole
General Counsel

Enclosure



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
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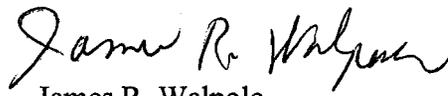
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Sincerely,



Scott B. Gudes



UNITED STATES DEPARTMENT OF COMMERCE
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OFFICE OF THE GENERAL COUNSEL

AUG 14 2003

Ms. Fran Mainella
Director, National Park Service
Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Re: Reopening of the Federal Agency Comment Period - Consistency Appeal of Islander East Pipeline Company, L.L.C.

Dear Ms. Mainella:

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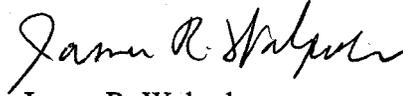
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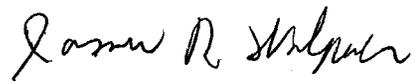
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Appeal proceedings have been stayed since March 17, 2003.² The State of Connecticut recently completed its reconsideration of the Islander East project, in connection with a remand of the appeal to the State, and on July 29, 2003, reiterated its continuing objection to the proposed pipeline. The Department has therefore resumed processing the Islander East appeal. *See* 15 C.F.R. § 930.129(d). Consequently, consistent with our earlier advice, the agency comment period has been reopened. Agency views will be accepted **through October 27, 2003**.

Additional information concerning the Islander East appeal, including a letter advising the parties of the recommencement of appeal proceedings, is available from the Department's CZMA

¹ The original deadline for agencies to file comments was April 14, 2003. The deadline has been extended several times in connection with stays granted at the request of one or both parties to the appeal, and most recently, ran through July 31, 2003.

² The initial stay and extension were granted at the request of the parties to allow for settlement negotiations. A subsequent stay was granted in order to accommodate Islander East's request that the appeal be remanded to the Connecticut Department of Environmental Protection (State) for reconsideration of its objection to the proposed natural gas pipeline project.



consistency appeal website, www.ogc.doc.gov/czma.htm. Should your staff have questions regarding the new deadline for agency comments, please contact Branden Blum, Senior Counselor, at (301) 713-2967, extension 207.

Sincerely,

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

James R. Walpole
General Counsel

Enclosure



UNITED STATES DEPARTMENT OF COMMERCE
The Deputy Under Secretary for
Oceans and Atmosphere
Washington, D.C. 20230

JAN 3 2003

The Honorable Christine Todd Whitman
Administrator, Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Ms. Whitman:

I am writing to request your agency's comments concerning an administrative appeal brought by the Islander East Pipeline Company (Islander East or Appellant) before the Secretary of Commerce pursuant to the Coastal Zone Management Act (CZMA).¹ The appeal asks the Secretary to override the State of Connecticut's objection to Islander East's proposed natural gas pipeline that would extend from an interconnection with an existing pipeline near North Haven, Connecticut, to a terminus on Long Island, New York, affecting the natural resources or land and water uses of Connecticut's coastal zone. The Department's regulations implementing the CZMA require that interested Federal agencies be afforded an opportunity to comment on the appeal. See 15 C.F.R. §930.128(c).

The appeal is taken from an objection by the Connecticut Department of Environmental Protection to Islander East's consistency certification for permits requested from the U.S. Army Corps of Engineers and the Federal Energy Regulatory Commission to construct and operate the proposed pipeline. Islander East's certification is required to indicate that the project is consistent with the State's coastal management program. The State's objection, if made in a timely fashion, precludes Federal agencies from granting licenses or permits required by the project, unless the objection is overridden by the Secretary. See CZMA section 307(c)(3)(A), 16 U.S.C. § 1456(c)(3)(A), and 15 C.F.R. § 930.64.

In this appeal, the Appellant has requested the Secretary to override the State's consistency objection on the two substantive grounds provided in the CZMA. The first ground requires the Secretary to determine that the proposed activity is "consistent with the objectives" of the CZMA. To make this determination, the Secretary must find that: (1) the proposed activity furthers the national interest as articulated in section 302 or 303 of the CZMA, in a significant or

¹Section 307(c)(3)(A) of the Coastal Zone Management Act of 1972 (CZMA), as amended, 16 U.S.C. §§ 1451 et seq. The Department of Commerce's implementing regulations for CZMA appeals are found at 15 C.F.R. Part 930, Subpart H, (revised, effective January 8, 2001).



substantial manner; (2) the national interest furthered by the proposed activity outweighs the activity's adverse coastal effects, when those effects are considered separately or cumulatively; and (3) no reasonable alternative is available that would permit the proposed activity to be conducted in a manner consistent with the enforceable policies of the State of Connecticut's coastal zone management program. See 15 C.F.R. § 930.121.

The second substantive ground for overriding a State's objection considers whether the proposed activity is necessary in the interest of national security. To reach this conclusion, the Secretary must find that a national defense or other national security interest would be significantly impaired if the activity in question was not permitted to go forward as proposed. See 15 C.F.R. § 930.122.

The National Oceanic and Atmospheric Administration has been delegated the responsibility for undertaking many aspects of the CZMA administrative appeals process for the Secretary. In this context, I am requesting your agency's views on any of the above issues about which it may wish to comment. I note that materials and related documents contained in the appeal record are being made available for public review via the Internet at <http://www.ogc.doc.gov/czma.htm>. Portions of documents that are determined to contain national security or other information inappropriate for public dissemination will not be available at this site. The administrative record may also be reviewed at NOAA's Office of General Counsel for Ocean Services, located at the address below.

In order for this appeal to be decided in a timely fashion, I respectfully request that your agency's comments be submitted no later than **April 14, 2003**. Please forward any comments to: **Branden Blum, Senior Counselor, c/o Office of the General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1305 East-West Highway, Silver Spring, Maryland 20910.**

Should your staff have questions concerning this letter, please contact Mr. Blum at (301) 713-2967, extension 207.

Sincerely,



Scott B. Gudes



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

OFFICE OF THE GENERAL COUNSEL

AUG 14 2003

The Honorable Marianne L. Horinko
Acting Administrator, Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Re: Reopening of the Federal Agency Comment Period - Consistency Appeal of Islander East Pipeline Company, L.L.C.

Dear Ms. Horinko:

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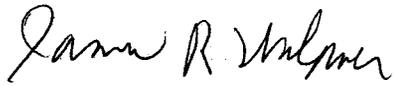
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² The initial stay and extension were granted at the request of the parties to allow for settlement negotiations. A subsequent stay was granted in order to accommodate Islander East's request that the appeal be remanded to the Connecticut Department of Environmental Protection (State) for reconsideration of its objection to the proposed natural gas pipeline project.



consistency appeal website, www.ogc.doc.gov/czma.htm. Should your staff have questions regarding the new deadline for agency comments, please contact Branden Blum, Senior Counselor, at (301) 713-2967, extension 207.

Sincerely,



James R. Walpole
General Counsel

Enclosure