

New York State Department of Environmental Conservation
Division of Environmental Permits, 4th Floor
625 Broadway, Albany, New York 12233-1750
Phone: (518) 402-9167 • FAX: (518) 402-9168
Website: www.dec.state.ny.us



Erin M. Crotty
Commissioner

February 7, 2003

Mr. Joseph Reinemann
Islander East Pipeline Company L.L.C.
PO Box 863
East Main Street
Branford, CT 06405

Re: DEC Permit # 1-479900052/00013, Brookhaven, Riverhead (T), Suffolk (C)

Dear Mr. Reinemann,

Please find the enclosed New State Water Quality Certification, issued under Section 401 of the Clean Water Act, DEC Permit # 1-479900052/00013, issued to Islander East Pipeline Company L.L.C. for the proposed Islander East Pipeline.

This permit contains significant conditions. If these conditions are unacceptable, you have the right to request a adjudicatory hearing within 30 days of this letter.

If you have any questions, or need further information please don't hesitate to contact me.

Sincerely,

Kent P. Sanders
Environmental Analyst

cc: K. Law
J. Rigano

DEC Islander East Review Team
(electronic)

DEC PERMIT NUMBER 1-4799-00052/00013
FACILITY/PROGRAM NUMBER(s)



PERMIT

Under the Environmental Conservation Law (ECL)

EFFECTIVE DATE February 7, 2003
EXPIRATION DATE February 7, 2006

TYPE OF PERMIT (Check All Applicable Boxes)

New Renewal Modification Permit to Construct Permit to Operate

<input type="checkbox"/> Article 15, Title 5: Protection of Water	<input type="checkbox"/> Article 17, Titles 7, 8: SPDES	<input type="checkbox"/> Article 27, Title 9; 6NYCRR 373: Hazardous Waste Management
<input type="checkbox"/> Article 15, Title 16: Water Supply	<input type="checkbox"/> Article 19: Air Pollution Control	<input type="checkbox"/> Article 34: Coastal Erosion Management
<input type="checkbox"/> Article 15, Title 15: Water Transport	<input type="checkbox"/> Article 23, Title 27: Mined Land Reclamation	<input type="checkbox"/> Article 36: Floodplain Management
<input type="checkbox"/> Article 15, Title 15: Long Island Wells	<input type="checkbox"/> Article 24: Freshwater Wetlands	<input type="checkbox"/> Articles 1, 3, 17, 19, 27, 37; 6NYCRR 380: Radiation Control
<input type="checkbox"/> Article 15, Title 27: Wild, Scenic & Recreational Rivers	<input type="checkbox"/> Article 25: Tidal Wetlands	<input type="checkbox"/> Other _____
<input checked="" type="checkbox"/> 6NYCRR 608: Water Quality Certification	<input type="checkbox"/> Article 27, Title 7; 6NYCRR 360: Solid Waste Management	

PERMIT ISSUED TO Islander East Pipeline Company L.L.C.		TELEPHONE NUMBER (203) 488-1800	
ADDRESS OF PERMITTEE 454 East Main Street Route 1, Branford, CT 06045			
CONTACT PERSON FOR PERMITTED WORK Joseph C. Reinemann		TELEPHONE NUMBER (203) 488-1800	
NAME AND ADDRESS OF PROJECT/FACILITY Islander East Pipeline Project			
LOCATION OF PROJECT/FACILITY See Description			
COUNTY Suffolk	TOWN Brookhaven and Riverhead	WATERCOURSE/WETLAND NO. Long Island Sound, Carmans and Peconic Rivers	NYTM COORDINATES E: . N: 4 .
DESCRIPTION OF AUTHORIZED ACTIVITY This Certificate authorizes the installation of The Islander East Pipeline Project. This project includes the construction of a new 24 inch diameter natural gas pipeline. Approximately 12 miles of the pipeline will be laid in New York's portion of Long Island Sound. The project will make landfall near Wading River, in the Town of Brookhaven. The upland section of the pipeline will extend 9 miles along the William Floyd Parkway and Long Island Expressway to near LIE Exit 66, south of Yaphank. The project also includes a 5.1 mile, 24 inch diameter lateral extension from Brookhaven to Calverton, in the Town of Riverhead.			

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, the General Conditions specified (See Page 2) and any Special Conditions included as part of this permit.

PERMIT ADMINISTRATOR  William R. Adriance	ADDRESS NYSDEC Div. of Envir. Permits, 4 th Floor, 625 Broadway, Albany, NY
AUTHORIZED SIGNATURE <i>William R. Adriance</i>	Date 2/7/03

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS**Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification**

The permittee expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

Item B: Permittee's Contractors to Comply with Permit

The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittee's agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the permittee.

Item C: Permittee Responsible for Obtaining Other Required Permits

The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.

Item D: No Right to Trespass or Interfere with Riparian Rights

This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.

GENERAL CONDITIONS**General Condition 1: Facility Inspection by the Department**

The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71-0301 and SAPA 401(3).

The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.

A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.

General Condition 2: Relationship of this Permit to Other Department Orders and Determinations

Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

General Condition 3: Applications for Permit Renewals or Modifications

The permittee must submit a separate written application to the Department for renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing.

The permittee must submit a renewal application at least:

- a) 180 days before expiration of permits for State Pollutant Discharge Elimination System (SPDES), Hazardous Waste Management Facilities (HWMF), major Air Pollution Control (APC) and Solid Waste Management Facilities (SWMF); and
- b) 30 days before expiration of all other permit types.

Submission of applications for permit renewal or modification are to be submitted to:

NYSDEC Chief Administrator, Division of Environmental Permits, 4th Floor, 625 Broadway, Albany NY 12233-1750

General Condition 4: Permit Modifications, Suspensions and Revocations by the Department

The Department reserves the right to modify, suspend or revoke this permit in accordance with 6 NYCRR Part 621. The grounds for modification, suspension or revocation include:

- a) materially false or inaccurate statements in the permit application or supporting papers;
- b) failure by the permittee to comply with any terms or conditions of the permit;
- c) exceeding the scope of the project as described in the permit application;
- d) newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;
- e) noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

ADDITIONAL GENERAL CONDITIONS FOR ARTICLES 15 (TITLE 5), 24, 25, 34 AND 6NYCRR PART 608

1. If future operations by the State of New York require an alteration in the position of the structure or work herein authorized, or if, in the opinion of the Department of Environmental Conservation it shall cause unreasonable obstruction to the free navigation of said waters or flood flows or endanger the health, safety or welfare of the people of the State, or cause loss or destruction of the natural resources of the State, the owner may be ordered by the Department to remove or alter the structural work, obstructions, or hazards caused thereby without expense to the State, and if, upon the expiration or revocation of this permit, the structure, fill, excavation, or other modification of the watercourse hereby authorized shall not be completed, the owners, shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may require, remove all or any portion of the uncompleted structure or fill and restore to its former condition the navigable and flood capacity of the watercourse. No claim shall be made against the State of New York on account of any such removal or alteration.
2. The State of New York shall in no case be liable for any damage or injury to the structure or work herein authorized which may be caused by or result from future operations undertaken by the State for the conservation or improvement of navigation, or for other purposes, and no claim or right to compensation shall accrue from any such damage.
3. Granting of this permit does not relieve the applicant of the responsibility of obtaining any other permission, consent or approval from the U.S. Army Corps of Engineers, U.S. Coast Guard, New York State Office of General Services or local government which may be required.
4. All necessary precautions shall be taken to preclude contamination of any wetland or waterway by suspended solids, sediments, fuels, solvents, lubricants, epoxy coatings, paints, concrete, leachate or any other environmentally deleterious materials associated with the project.
5. Any material dredged in the conduct of the work herein permitted shall be removed evenly, without leaving large refuse piles, ridges across the bed of a waterway or floodplain or deep holes that may have a tendency to cause damage to navigable channels or to the banks of a waterway.
6. There shall be no unreasonable interference with navigation by the work herein authorized.
7. If upon the expiration or revocation of this permit, the project hereby authorized has not been completed, the applicant shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may require, remove all or any portion of the uncompleted structure or fill and restore the site to its former condition. No claim shall be made against the State of New York on account of any such removal or alteration.
8. If granted under 6NYCRR Part 608, the NYS Department of Environmental Conservation hereby certifies that the subject project will not contravene effluent limitations or other limitations or standards under Sections 301, 302, 303, 306 and 307 of the Clean Water Act of 1977 (PL 95-217) provided that all of the conditions listed herein are met.
9. All activities authorized by this permit must be in strict conformance with the approved plans submitted by the applicant or his agent as part of the permit application.
Such approved plans were prepared by _____ See Special Conditions.
_____ on _____.

DEC PERMIT NUMBER
1-4799-00052/00013

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401 Water Quality Certificate Special Conditions
for the Islander East Gas Pipeline
NYSDEC Permit # 1-4799-00052/00013
February 7, 2003

1.0 Pre-Construction Conditions

A. All activities authorized by this Certificate must be in strict conformance with the Joint Application for Permit (JAP) filed with the New York Department of Environmental Conservation on February 28, 2002 and supplemental filings including the Alignment Sheets, Drawings # IE-A-NY-0001 thru IE-A-NY-0013, Rev 1, May 10, 2002, the Alignment Sheets, Drawings IE-A-NY-SR01 thru IE-A-NY-SR05, dated August 6, 2002 and supplemental filings of June 14, November 13, and December 11 and 17, 2002.

B. Any provision included in the Joint Application for Permit or any other application materials that are in conflict with the conditions included in this 401 Water Quality Certificate are superseded by these conditions.

C. Within 120 days of the effective date of this 401 Certificate, but before the start of construction at each of the respective construction sites, Islander East shall:

- 1) Employ a third party inspector, at the permittee's expense, that will report directly to DEC.
- 2) Submit a 3rd party inspection program to the NYSDEC Project Manager for review and approval. The plan shall identify and detail the qualifications and responsibilities of 3rd party environmental inspectors. This plan shall provide for the pre-mobilization environmental compliance inspection and certification of work vessels associated with the marine portion of the project. The plan may provide for cooperative utilization of 3rd party inspector services between State and Federal agencies.
- 3) The 3rd party inspector shall be empowered to order correction of acts that violate the environmental conditions of this certificate and to order the temporary cessation of construction activities in violation of this certificate until corrective action has occurred.
- 4) Submit an implementation and training program plan that details all environmental protection aspects of this project to the NYSDEC Project Manager for review and approval. The training program must include all environmental protection provisions presented in the Amended Joint Application for Permit, these 401 Water Quality Certificate conditions, and all other necessary environmental protection precautions.
- 5) Demonstrate that its construction staff, contractors, sub-contractors, environmental inspectors, and 3rd party inspectors have completed the training program prior to start of construction and are prepared to implement all environmental protection aspects of the project. Such training shall be made available to DEC staff listed in Appendix A of this Certificate.
- 6) File a contingency plan with the NYSDEC Project Manager that details and commits all necessary extra equipment and personnel, on stand-by basis, that may be used for environmental protection and construction should unforeseen events be encountered during construction.
- 7) Within 30 days of certificate issuance, file for authorization pursuant to the Department's General SPDES Stormwater Runoff Construction Permit. The Department's approval of the Stormwater Pollution Prevention Plan must be received prior to the start of construction.

8) Within 45 days of certificate issuance submit to the NYSDEC Project Manager for review and approval a Sediment Erosion Control Plan and a Spill Prevention Containment and Control Plan.

D. Mitigation of Construction Impacts to Pine Barrens Core Preservation Area:

In a letter to the Region 1 Director of the Department of Environmental Conservation, dated February 6, 2003, the applicant requested that the following two conditions be included in the 401 Water Quality Certification to reflect the applicant's agreement to acquire mitigation parcels to offset impacts to the Pine Barrens. In that letter, the applicant agreed that the following two conditions shall constitute enforceable conditions of this 401 Water Quality Certification.

1. To mitigate the potential adverse environmental impacts to the Core Preservation Area ("CPA") of the Central Pine Barrens of Long Island that may result from construction activities related to the project, the applicant shall acquire, or cause to be acquired, acreage in or adjacent to the CPA not less than the amount of forested acreage cleared in the CPA by the project; such acreage is to be based on a certified survey that the applicant shall conduct and provide to the Department.

2. The applicant shall acquire, or cause to be acquired, said lands in or adjacent to the CPA prior to any request it may make to the Federal Energy Regulatory Commission for final authorization to commence with construction of the project or any portion thereof. The applicant shall convey said lands, when acquired, to the federal, state or local governmental entity selected by the Department's Regional Director for Region 1 for the sole purpose of CPA preservation.

Upland Pipeline Construction 2.0

Mainline Construction Procedures 2.1

A. The Peconic and Carmans Rivers and associated wetlands shall be crossed by Horizontal Directional Drill(HDD).

B. In the event of an HDD Drill failure Islander East shall submit an alternative plan to the DEC Project Manager for review and approval prior to implementation.

C. In the event of an HDD Drill failure, the alternative plan shall not include open trenching of the Peconic or Carmans River or associated wetlands.

Calverton Lateral Construction Procedures 2.2

A. All construction activities on the Calverton Lateral shall be deferred until after construction has started on the AES Calverton Plant.

B. Horn Pond and associated wetlands shall be crossed by Horizontal Directional Drill.

C. In the event of an HDD Drill failure Islander East shall submit an alternative plan to the DEC Project Manager for review and approval prior to implementation.

Marine Pipeline Construction 3.0

Coordination with Local Fisherman 3.1

- A. To reduce the impacts on permitted American lobster and conch harvesting activities, all American lobster and Conch licenses holders shall be notified of all pre-construction and construction activities such that fisherman can temporarily remove gear from the construction pathway;
- B. Any legal fishing gear still in the construction pathway after proper notification and sufficient time to move the gear from the pathway may be moved out of the corridor, with the assistance of local fishermen. Any animals in the traps or pots moved are to remain in the traps or pots and the new location is to be plotted and the owner notified of the new location;
- C. No gear is required to be moved back after construction. However, fisherman must be notified when they can return their gear to its original location;
- D. The department shall be notified as to the amount of ghost gear (non-legal or non-active gear) encountered. All such ghost gear shall be removed from the water. If ownership can be determined the owner must be notified and provided an opportunity to recover the gear. Unclaimed gear and gear for which an owner cannot be determined, shall be properly disposed of.

Work Windows 3.2

- A. Boulder pre-sweeping is not permitted between March 31st and September 1st.
- B. Sub-sea Flowing and Backfilling is not permitted between March 31st and October 1st.
- C. Excavation of the Shoreham Landfall HDD pit and associated transition zone shall not be allowed between March 31st and September 1st.
- D. To reduce the entrainment of fish eggs and larvae, hydrostatic test waters shall not be withdrawn from the marine environment between March 31st and October 1st.

Marine Pipelaying and Trenching 3.3

- A. All pipelaying and trenching vessels shall employ Mid-line Buoys to reduce the effects of anchor cable sweep.
- B. All portions of the the marine section of the pipeline located in 20 or more feet of water (MLW) will be trenched and covered using a sub-sea mechanical plow and backplow.
- C. A minimum of 2 feet of cover will be established during pipeline burial operations.
- D. The transition between the Shoreham HDD pit and the 20 foot (MLW) water depth contour may be mechanically dredged. All spoil material shall be stockpiled on barges prior to replacement in the trench. No sidcasting of spoil material is permitted.

E. The Shoreham Landing shall be accomplished by Horizontal Directional Drill (HDD) as noted on Potential HDD route on Alignment Sheet IE-A-NY-0001 Rev1, dated May 10, 2002.

Marine Monitoring 4.0

Long Island Sound 4.1

A. Prior to in-water construction the applicant shall submit to the NYSDEC Project Manager for review and approval, a suspended sediment monitoring plan. This monitoring plan shall describe in-water monitoring which will measure the increase in suspended solids in the water column caused by construction activities compared to background conditions, depict the extent and duration of the turbidity plume generated by the construction, and measure the amount and areal extent of sediment redeposition caused by the construction activities. The applicant shall conduct monitoring as per methods detailed in the approved monitoring plan, during construction activities in the in-water phase of the project including both HDD pit construction and plowing operations.

Hydrostatic Testing 5.0

General Testing 5.1

A. The Hydrostatic testing of the new compressor stations, compressor station upgrades and upland and marine sections of pipeline shall be as follows:

- 1) The NYSDEC Regional Water Engineer shall be notified, by telephone 48 hours prior to the commencement of any discharge of hydrostatic test water.
- 2) The applicant shall notify all owners of property to which hydrostatic test waters will be discharged, 48 hours prior to the commencement of any discharge of hydrostatic test water.
- 3) The discharge of hydrostatic test waters shall be under constant supervision.
- 4) A positive means of controlling the rate of hydrostatic test waters discharge, and if necessary, terminating the discharge, shall be provided.
- 5) Sea-water hydrostatic test waters shall be discharged directly to Long Island Sound.
- 6) Freshwater hydrostatic test waters shall be discharged either to an upland location, sufficiently distant from any water body to prevent the entry of silt and suspended solids or directly to Long Island Sound.
- 7) The discharge of any hydrostatic test waters containing the biocide, Magnacide 535, at concentrations not exceeding 1.2 ppm of the active ingredient Tris (hydroxymethyl) phosphonium sulfate (THPS), shall be into Long Island Sound at least 1000 ft seaward of the mean low water line. Prior to discharge of these chemicals, the applicant shall file with the NYSDEC Project Manager for review and approval a hydrostatic test water plan that demonstrates the applicant's ability to maintain this concentration. Such plan shall include specifications for neutralization of the THPS by Hydrogen Peroxide, specific water testing procedures and or mixing zone and dilution ratio information. No other discharges of chemicals or additives are authorized in any hydrostatic test water.
- 8) All work areas disturbed during the hydrostatic testing shall be seeded immediately upon project completion, and covered with hay or straw to prevent erosion. If seeding is not possible due to the time of year, a temporary mulch shall be applied and final seeding shall be performed at the earliest opportunity.

9) All necessary precautions shall be taken to preclude the contamination of any wetlands or waterways by suspended solids, sediment, fuels, solvents, lubricants, epoxy coatings, paints, concrete leachate, or other environmentally deleterious materials associated with the project work.

B. Within 30 days of the completion of the pressure testing work, a written summary report is to be provided to the NYSDEC Project Manager. The report shall provide detailed information regarding the amount and duration of the discharge, including all analytical results.

Appendix A
NYSDEC Contact List

Title	DEC Contact	Phone	Work Area
NYSDEC Project Manager	Kent Sanders	(518) 402-9175	General
Marine Inspector Contact	Richard D'Amico	(631)444-0467	Marine Compliance
Upland Inspector Contact	Steve Lorence	(631)444- 0275	Upland Compliance
Regional Water Engineer	Robert Schneck	(631)444-0420	Hydrostatic Testing Notification