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May 9, 2002

HAND DELIVERED

George Stafford, Assistant Director
New York State Department of State
Division of Coastal Resources &
Waterfront Revitalization
41 State Street
Albany, New York 12231-0001

Re: Millennium Pipeline Company, L.P.
F-2001-0246 (formerly F-98-0173)

Dear Mr. Stafford:

The purpose of this letter is to respond to your letter of May 1, 2002 concerning the Millennium Project. Given the inability of the Department of State ("DOS") to bring review of this project to a close or even project a deadline for the completion of review, we have no choice but to declare the DOS beyond the deadlines required by 15 CFR Section 930.62. Accordingly, consistency is presumed as a matter of law.

As you are aware, this project has been before the DOS since late 1997. Although there have been many times when the DOS exceeded the regulatory time limits, there is no question that the DOS conceded that it had adequate information to review the Millennium Project in April of 2001 when it declared: "The Department's review of the proposed Millennium Pipeline and the

George Stafford, Assistant Director
May 9, 2002
Page 2

consistency certification that was submitted for it, pursuant to 15 CFR Part 930, Subpart D, began on March 12, 2001." DOS Letter, April 5, 2001. On September 12, 2001, we wrote to the DOS to confirm an extension of time for the DOS to act until after the issuance of the FEIS for the Millennium Project. Letter to DOS, September 12, 2001. Any uncertainty concerning the limits of that extension were resolved by the DOS in its letter of the same date wherein it declared that it expects consistency review to be complete in 30 to 60 days following issuance of the FEIS. Of course, the FEIS was issued on October 4, 2001, and the DOS failed to determine consistency within the self imposed 30 to 60 day deadline. Accordingly, as of December 3, 2001 (60 days following issuance of the FEIS) consistency was presumed as a matter of law.¹

Nor can the DOS use the issue of the potential for limited blasting in the Hudson River as a basis to redeem itself from its untimely action. As the December 14, 2001 DOS letter admits, the DOS was aware of the blasting issue as of November 27, 2001. Even if that were a basis for starting a new review period, six months from November 27, 2001 expired April 29, 2002 (taking into consideration the weekend date on which the six month anniversary falls). More importantly, Millennium has demonstrated conclusively that the potential for a limited amount of blasting will not produce the impacts to the resources at Haverstraw Bay over and above the impacts that were projected for dredging without blasting. Accordingly, there is no basis to assert the potential for blasting extended DOS's deadline in any respect.

We would also note that, in accordance with 15 CFR Section 930.62 (b) (d), DOS has not reached out to Millennium to identify any problems associated with consistency or attempted to resolve any concerns that it may have following the procedures specified in paragraph (d) of Section 930.62. The failure of the DOS to abide by these regulatory obligations is further grounds for a presumptive concurrence.

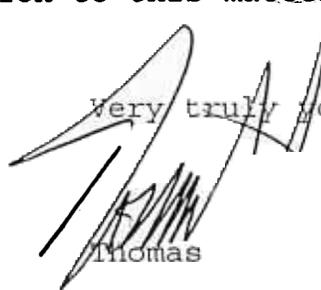
Finally, although Millennium has attempted to supply you with additional information concerning blasting, those

¹ See DOS Letter, December 14, 2001, conceding receipt of the DEIS on October 5, 2001. Thus, even if receipt of the FEIS was the operative trigger for the DOS' self imposed deadline, the time for DOS to act expired on December 4, 2001.

George Stafford, Assistant Director
May 9, 2002
Page 3

submissions did not extend the review period. To the extent that you have made a contrary interpretation, please consider this letter notice that any extension of time you have interpreted from Millennium's conduct is terminated immediately.

Thank you for your attention to this matter.

Very truly yours

Thomas

TSW/pmo/75769

cc: Millennium Pipeline Company, L.P.
Frank P. Milano, First Deputy Secretary of State
James King, General Counsel