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January 23, 2002

Patricia A. Kurkul  
Regional Administrator  
National Marine Fisheries Service  
Northeast Region  
One Blackburn Drive  
Gloucester, MA 01930

Re: Millennium Pipeline Project

Dear Ms. Kurkul:

On December 19, 2001, the Federal Energy Regulatory Commission ("FERC") issued an order which authorizes the construction and operation of the Millennium Pipeline Project, subject to compliance with a number of environmental conditions. The FERC's order states, *inter alia*, that the NMFS's biological opinion and incidental take statement, submitted to the FERC on September 14, 2001, set forth three non-discretionary terms and conditions with which Millennium must comply and four discretionary conservation recommendations with which Millennium should comply. A copy of the FERC's order is enclosed.

Millennium would in particular draw your attention to page 53 of the FERC's order, where the FERC determined that Millennium's notification to the U.S. Army Corps of Engineers of a potential need to blast along the easternmost 400 feet of the proposed Hudson River crossing was "new information" that required Millennium "to re-enter into consultation with . . . the NMFS." As directed by the FERC, Millennium is therefore requesting the NMFS to reinstate consultation under Section 7 of the Endangered Species Act. We would appreciate it if your staff would contact undersigned counsel for Millennium when convenient to proceed with the consultation process.

Millennium would note that it does not necessarily agree with the FERC's characterization of the possible need for blasting in the Hudson River as "new information" that requires the reinstatement of consultation with the NMFS. As Millennium explained in the enclosed December 17, 2001 letter to the FERC, Millennium informed the FERC as long ago as April 1998 that the crossing of the Hudson River would potentially require blasting, and that information was also provided to the NMFS, the Corps of Engineers, and other responsible

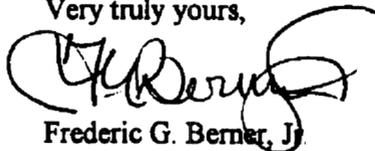
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federal and state agencies. Nevertheless, we recognize that Millennium has supplied a voluminous amount of information about the Hudson River crossing and that the possibility of blasting in the river may not have been sufficiently brought to the attention of one or more of the regulatory and resource agencies.

In any event, any new information about the Hudson River crossing would only require the reinitiation of formal consultation under the Endangered Species Act if it revealed effects that might impact listed species or critical habitat in a manner or to an extent not previously considered. 50 C.F.R. § 402.16(3). In this case, the enclosed analysis that has been provided in response to questions raised by the U.S. Army Corps of Engineers demonstrates that any removal of rock from the riverbed will be required for a distance of less than 200 feet and, whether accomplished through mechanical means or blasting, if necessary, will have only limited, short-term effects on fisheries and habitat in Haverstraw Bay.

Millennium requests a meeting with your staff when appropriate to discuss the enclosed analysis and provide any additional information that may be required. Thank you.

Very truly yours,



Frederic G. Berner, Jr.

Attorney for Millennium  
Pipeline Company, L.P.

cc: Dr. William Hogarth  
Chris Mantzaris  
Peter Colosi  
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Jeffrey A. Shenot