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July 26 2001

HAND DELIVERY

William F. Barton, 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 Project F-2001-0246
(formerly F-98-0173)

Dear Mr Barton:

Enclosed please find two copies of the Response of the Millennium Pipeline Company, L.P. ("Millennium") to the Comments filed on or about June 24, 2001 by the Village of Croton-on-Hudson ("Comments") regarding the consistency of the Millennium Pipeline Project ("Project") with the Village's Local Waterfront Revitalization Program ("LWRP"). Also enclosed are two copies of a Supplemental Coastal Zone Consistency Determination that reflects the most recent alignment in northern Westchester County, denominated as the ConEd Offset/Taconic Alternative, as that route affects two small areas in the Village of Croton-on-Hudson.

The attached documents should be read as a supplement to, and in conjunction with, the New York State Coastal Zone Consistency Determination filed by Millennium in March of 2001. Together, these filings demonstrate that construction of the Project will create only temporal, localized disturbances and, therefore, result in only short-term, ecologically insignificant

consequences. Accordingly, all segments of the Project, including the proposed ConEd Offset/Taconic Alternative route, are fully consistent with both the New York State Coastal Management Program ("CMP") and the LWRP.

The Comments filed by the Village raise a number of issues that will be addressed here. Most perplexing among these is the Village's continued claim that Millennium has misrepresented the nature and extent of its cooperative efforts with the Village. The Village's counsel, Mr. Levy, has taken issue with our statement that Millennium has worked closely with the officials from both the Arboretum and the Village regarding mitigation measures for the Con-Ed Offset/Taconic Alternative.¹ Although Mr. Levy states that the Village was critical of Millennium officials regarding statements concerning the discussions between Millennium and the Village officials concerning the Route 9/9A Proposal, the Village's representatives failed to point out that the Village publicly endorsed the Con-Ed Offset/Taconic Alternative. Likewise, Mr. Levy fails to point out the fact that he and I first met on a site tour of the area where the Millennium Pipeline will cross into or be near the Village of Croton-on-Hudson to discuss impacts and mitigation measures. This route tour was one of several tours attended by Millennium and Village officials to discuss particular issues and particular mitigation measures.

Thus, we are at a loss to understand why Mr. Levy believes that Millennium has not worked closely with officials from both the Arboretum and the Village. The relationship should be understood in light of the Village's previous expressions of support for the ConEd Offset/Taconic Alternative, both in the public arena and through correspondence to the Federal Energy Regulatory Commission ("FERC").

The record reveals that after the FERC Staff identified the ConEd Offset/State Route 100 Alternative as a viable option to the 9/9A Proposal in the SDEIS, the Village advised the FERC that it "strongly endorsed" the Staff's finding that the ConEd Offset/State Route 100 Alternative was a viable option, and proposed a variation that it called the ConEd Offset/Taconic Alternative.² This is the very same route that the Village now claims needs further study. The Village further advised the FERC that it and other affected communities "strongly endorse the FERC's suggestion that the PSCNY revise its MOU with Millennium

See Letter of June 12, 2001 to James P. King by Neil L. Levy of Kirkland & Ellis, as counsel for the Village of Croton-on-Hudson.

See Letter to Commission's Secretary dated March 28, 2001 from the Villages of Briarcliff Manor, Croton-on-Hudson and Ossining, New York and the Town of Ossining.

to encompass the ConEd Offset/Taconic Alternative,"³ and stated that its Board of Trustees would:

pass resolutions endorsing the FERC's proposal with the incorporation of the Taconic variation, and strongly urge that the PSCNY modify its MOU with Millennium to make the ConEd Offset/Taconic variation a reality, thereby avoiding further protracted legal proceedings . . . ⁴

On April 15, 2001, the Village Manager of Croton-on-Hudson informed the FERC that the Village's Board of Trustees had unanimously adopted a resolution "strongly urging" the PSCNY to designate the ConEd Offset/Taconic Alternative as the preferred route.⁵ According to the Village, the resolution stated that this "alternative, running alongside, by and large, the Con Edison right-of-way and the Taconic Parkway, will not pose a threat to people and property in the significant and severe way that the Route 9 and 9A proposal will."⁶

In light of the Village's apparently enthusiastic support of the ConEd Offset/Taconic Alternative, it is understandable that Millennium considered its relationship with the Village to be one of cooperation. In all fairness, the roots of any deterioration in that relationship should be traced to the Village's abrupt face regarding its position on the ConEd Offset/Taconic Alternative route.

The Village's Comments also raise a number of legal issues which merit brief responses. First, on a broad level, the Village has not demonstrated why either the Arboretum or the well field deserve special protection under the Coastal Zone Management Act ("CZMA") or the Village's LWRP. The Comments do not describe the coastal significance of either of these areas. Likewise, although the Comments state that projects located in or outside of the coastal zone that affect any natural resource of the coastal zone deserve consideration, they do not identify how the proposed Con-Ed Offset route, which passes through two small areas of the Village of Croton-on-Hudson, very remote from either the Hudson River or the designated significant fish and wildlife habitat section of the Croton River, will have any impact on any "coastal" resources.

Id. at 2

Id. at 3.

See Letter to the Commission's Secretary dated April 15, 2001

Id. at 2.

According to the CMP, throughout most of the Hudson River Valley, the New York State Coastal Area landward boundary generally extends 1000 feet inland.⁷ The boundary may extend over 10,000 feet inland in areas that are "exceptionally scenic."⁸ The Village asserts that its entire municipal boundary is included within the coastal boundary and the LWRP because the topography of the Village offers primary viewsheds of the River.⁹ However, the River is not visible to any degree from any point in either the Arboretum or the well field. Neither of these resources is a part of any viewshed. Thus, the Village seeks to boot-strap coastal significance to these resources on the ground that they are located within the LWRP boundary, though the extended limits of that boundary are based on a benefit that neither of these resources offers.

While the Arboretum and the well field may merit consideration by the FERC, there simply is no coastal zone significance to those resources, *i.e.*, no reason why those aspects of the project should be of any legitimate concern to the Department of State ("DOS").

The Village's Comments also dispute the extent to which the Project is entitled to priority treatment. The CZMA directs that as a matter of national policy state CMPs must provide priority consideration to coastal-dependent uses and orderly processes for the siting of major energy facilities.¹⁰ The Village, without any explanation or citation, states that the Project "is not a 'coastal-dependent-use.'"¹¹ The CZMA does not include any definition of that term. However, it strains credibility to consider that the Village does not recognize the "coastal" dependency of an interstate pipeline that proposes to transport natural gas from the Province of Ontario to the New York City metropolitan area.

Moreover, the CMP specifically includes pipelines as "water dependent" uses, and as one of the "proposed uses which are likely to be regarded by the Department as requiring a shorefront location."¹² Consistent with the CZMA, the CMP requires that local programs "incorporate the facilitation of appropriate industrial and commercial uses which require or can benefit substantially from a waterfront location," and states that "[l]ocal, State, and federal agencies should work together

See CMP at II-3-5, II-3-6

Id. at II-3-6.

See LWRP at I-3.

16 U.S.C.A. § 1452(2)(D).

See Comments at 3.

See CMP Policies 2 and 27 at pp II-6-9 and II-6-145, respectively

to streamline permitting procedures that may be burdensome to water dependent uses."¹³

Also relevant are the broad policy perspectives incorporated into the CMP through the individual policies, as directed by the State Legislature. Those policies by their own terms are intended to harmonize preservation of natural and scenic resources with human population growth and economic development.¹⁴ In this regard, both the federal regulations and the CMP, as required by the CZMA, include the requirement that any program must provide for consideration of the national interest in the planning for and siting of energy facilities that meet more than local requirements.¹⁵ According to the federal regulations, State plans must identify and utilize methods to assure that local land and water use regulation do not unreasonably restrict or exclude uses of regional benefit.¹⁶

According to the CMP, with regard to energy facilities, considerations of consistency with Policy 27 are to be guided by State energy policies.¹⁷ Those policies include specific statements encouraging the augmentation of New York's natural gas infrastructure in exactly the manner that the Project proposes. For instance:

* the State and its agencies should stimulate efforts to secure additional supplies of natural gas in order to reduce New York's dependence on oil; and

* interconnection of New York's natural gas supply system with Canada should be pursued as a vehicle for reducing costs and oil dependence.¹⁸

Clearly, the CZMA, our State Legislature, and the CMP recognize the importance of energy facilities in providing benefits of more than local nature, and thus they are provided with priority in the planning processes called for by the CMP and local programs.

See CMP at II-6-14 and II-6-13, respectively

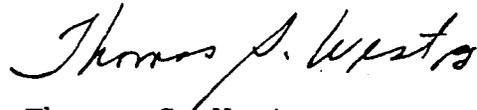
See, for example, Policy 5, which contemplates government action supporting development, "particularly large-scale development," and Policies 2 and 27.

See CMP at I-7; Executive Law at § 912(1) (declaring it public policy to achieve a balance between economic development and preservation.); 15 C.F.R. § 923.52 (a) and (b).
16 See 15 C.F.R. § 923.12 (b).
17 See CMP, Policy 27 at II-6-145.
See CMP at II-7-10 (emphasis added)

William F. Barton Assistant Director
July 26, 2001
Page 6

As stated, the enclosed documents, in conjunction with the Consistency Determination filed by Millennium in March, 2001, comprehensively demonstrates that construction of the Project, including the currently favored ConEd Offset/Taconic Alternative route, is fully consistent with both the New York State Coastal Management Program ("CMP") and the LWRP.

Very truly yours,



Thomas S. West

TSW/pag/71442
Enclosures

cc James P. King, General Counsel
New York State Department of State

Millennium Pipeline Co. L.P

RESPONSE TO

The Findings of the Waterfront Advising Committee/(WAC) Regarding the Consistency of the Millennium Pipeline Project with the Village of Croton-on-Hudson's Local Waterfront Revitalization program (LWRP)

The following responses correspond to the numbered items in Section II of the Findings of the WAC.

LWRP Consistency Findings

1 CZMA and LWRP Policies and Siting of "Major Energy Facilities"

The Millennium Pipeline Project is a major energy facility that is entitled to a preference under the CZMA. The CZMA recognizes that major energy facilities are entitled to preferential consideration because of the importance of transmitting energy, particularly natural gas, to markets that are dependent upon energy sources for growth and economic vitality. The Millennium Pipeline Project will satisfy the "public energy needs" of New York State and the Northeast U.S. region in a number of different respects. First, the Project will satisfy growing market demands, as evidenced both by executed contracts for the pipeline's capacity and the forecasts of various experts. Second, the project will supply low-cost Canadian gas supplies to one of the highest-priced gas markets in the United States -- New York. Third, the Project will improve electric power reliability and advance clean air objectives. Fourth, the Project will improve the reliability of gas service to New Yorkers by upgrading the existing natural gas infrastructure through the addition of more capacity, deliverability, delivery points, and interconnections. Fifth, the Project will provide gas producers and gas storage developers in western New York with increased access to markets. These benefits are explained in more detail in response to Policy 27 in Section 3.1.6.

Construction of the pipeline and Croton River crossing takes into consideration public need and environmental issues. The proposed project has been designed to use the best available construction technology to result in the least environmental impact. The river crossing is necessary because some of the capacity of the proposed project is planned to be delivered to the east side of the Hudson River, south of the Croton River, at the present time.

2 (Numbered item is missing in Committee document)

3 Haverstraw Bay Crossing

The Committee Findings mischaracterize the habitat impairment test and as a result they fail to apply the provisions of the test in an ecologically meaningful way. The committee presumes that any of the actions listed (dredging, filling or bulkheading) would necessarily destroy habitat or impair the viability of the habitat. That presumption is

inconsistent with the position of the New York Department of State (DOS). In a letter to FERC (George Stafford, DOS to David Boerger, FERC, dated April 7, 2000), DOS stated the following regarding the impairment test:

The Department would like to comment upon an issue concerning the habitat impairment criteria listed in the narrative for the Haverstraw Bay significant coastal fish and wildlife habitat. The Haverstraw Bay narrative, in pertinent part, provides: "Any physical modification of the habitat or adjacent wetlands, through dredging, filling or bulkheading, would result in a direct loss of valuable habitat area." This narrative language has the effect of creating a presumption that certain activities, such as dredging, are incompatible with the Haverstraw Bay habitat. This presumption may be rebutted by the provision of appropriate and necessary information, acceptable to the Department of State.

Millennium has provided to DOS appropriate and necessary information regarding the effects of the Haverstraw Bay Crossing in its Coastal Zone Consistency Determination, March 2001.

The Committee fails to recognize the temporary nature of the project effects and the rapid recovery of the habitat following completion of pipeline installation (See CZM Determination, Ecosystem Effects p37-42). The Millennium pipeline installation will not permanently alter the physical characteristics of Haverstraw Bay, such as occurs with the construction and maintenance of shipping channels. The pipeline trench will be back-filled to its original depth with the sediment removed from the trench. Natural physical processes, which are continually shifting and sorting the substrates of Haverstraw Bay, will re-establish a substrate suitable for the typical benthic invertebrates of the Bay. Thus, the existing habitat is not destroyed and its viability as living space and a source of food for fishes and other aquatic life is maintained. When the effects of pipeline installation are placed in proper ecological perspective it is clear that the project passes the habitat impairment test.

There is a substantial database documenting the living aquatic resources of the Hudson River and the chemical constituents of its water and sediments. Millennium conducted site-specific sampling of biological resources and sediment contamination along the pipeline route in Haverstraw Bay. Biological information in the technical literature was used as general background and as a foundation for the Bay-wide and estuary-wide ecological assessment in the CZM Determination. The assessment of project effects on sediment contamination was limited to the site-specific data because this is the only area of sediment disturbed by the project.

The O'Brien & Gere report ("Proposed Millennium Pipeline, Local Waterfront Revitalization Plan/Coastal Zone Management & Program Evaluation," June 2001) discusses at length the availability of PCB sediment data from throughout the Hudson River and states that these data should have been included in Millennium's assessment of sediment contamination. After stating that these other data are directly applicable, they

provide no scientific rationale as to why PCB data from a site which will not be disturbed by the pipeline would be as relevant as data from the area which will be disturbed for pipeline placement. Given the acknowledged high variability in PCB concentrations in Hudson River sediments, what is the relevance of data from a site which may be miles from the pipeline route? Millennium collected site-specific sediment samples for its impact assessment so that it would not have to rely upon data from other locations. In consulting with NYSDEC on this issue, it was clear that only site-specific data on sediment contamination would be appropriate for an impact assessment on which they would base a decision on a Section 401 Water Quality Certification for the project.

A complete data report entitled "Predicted Sediment and Contaminant Concentrations, Hudson River Pipeline Crossing, Haverstraw Bay, New York" was presented to the FERC and DEC in 1998. These data represent the contaminant levels in sediments which could be disturbed and potentially resuspended by constructing the pipeline.

PCB's were not detected in the subsections of any of the cores from the pipeline footprint. This is not an unexpected result because PCB contamination of the Hudson River is a relatively new occurrence. Most sediment in the footprint of the pipeline was deposited in Haverstraw Bay before recorded history. There was no PCB pollution at the time of this sediment deposition, thus PCB's are not present in these sediments. PCB's have been deposited in locations that were deepened by dredging and on the surficial layer of the bottom substrates. These areas, including the federal channel and the access channels to other shoreline facilities may show contamination by PCB's.

The analyses conducted by Millennium were designed to estimate the concentrations of substances that could be resuspended in the plume generated by construction and backfilling of the sediments. The dredge plume modeling was used to estimate increases in suspended solids and associated chemical constituents. Four components of the dredging were modeled: dredging and backfilling in shallow water using a 6 CY environmental bucket, and dredging and backfilling in deep water using a 22 CY environmental bucket. The longest plume in deep water is 500 ft wide by 400 feet long for 30 minutes or less following backfilling. The longest plume in shallow water is 90 feet by 170 feet long, also during backfilling. The US Army Corps of Engineers, Engineering Research and Development Center reviewed the model analysis and results and determined the results were conservative. The pipeline crossing in Haverstraw Bay is approximately 4650 feet from the Village of Croton-On-Hudson boundary at its nearest point.

The Committee Findings state incorrectly that Millennium does not specify how dredging effects would be minimized and that no disposal method or site for dredged material has been identified. The lay-barge method of construction was developed specifically for the Hudson River crossing to minimize effects compared to standard dredging techniques (see CZM Determination, pp.18-25). The lay-barge method includes best management practices (BMP's) such as an environmental dredge bucket, controlled lift speeds during dredging and no barge overflow. In addition, there will be PCB sampling (2 stations) prior to the start of the work to confirm the original findings and a monitoring program

during the work to confirm the model predictions of sediment plume distributions. The lay-barge method includes retention of dredged sediments in barges at the work site and the use of these sediments to backfill the trench. Thus, there are no dredged materials to be disposed beyond the work area. With regard to the timing of construction, Millennium has been consulting with State and Federal resource agencies to establish the work window which minimizes environmental effects. Millennium will comply with the environmental window agreed upon by the resource agencies and FERC.

4 The Village Well Field and Water Supply

The Village claims that the well field is currently pumped at about 1.5 mgd, yet their annual report for 2000 notes that 341 mg was pumped (0.934 mgd). The Village's concern seems to be that the pipeline will somehow impact the water supply, yet there is no mechanism whereby either construction or the existence of the pipeline would have such an impact, particularly in a highly permeable aquifer such as that tapped by the well field. Furthermore, as documented in the Geraghty & Miller 1988 report, the greatest yield from the well field occurs from the deeper depths of the aquifer and the wells at its south end, not from the shallow zone where the pipeline will be installed at the northern part of the well field.

The well field area already has roads, a treatment facility, and pipelines constructed through the areas. The construction of the additional gas line poses no threat for any greater impact than maintenance of the existing system, and in fact far lesser impacts. The Village claims that Millennium proposes to use trench dewatering during construction. In fact this has not been established. The construction methodologies will include techniques to minimize the possibility of trench dewatering. In any case, if dewatering is needed it will be a temporary phenomena and the water pumped from the trench will be discharged within Zone 1 of the well field. Geraghty & Miller's report in fact estimates that the well field has the capacity to yield approximately 11 million-gallons-per-day (over 10 times the current annual demand), although the existing wells have the potential to only yield a fraction of this future capacity.

The same is true once the gas line is completed, the potential for impacts is below quantitation levels and there is no reasonable potential for impact. In the face of the data available from the Geraghty & Miller report there is no rationale, given the low potential for impacts, to perform any more quantitative modeling or site-specific evaluations of these conditions. The Village goes on to express concern about storage of various substances, presumably in the vicinity of the well field. No materials are proposed to be stored in this area which could impact the well field or the aquifer. In fact, construction precautions will be used throughout this area and equipment will not be stored here or in the vicinity. Construction activities and fuel storage will be closely monitored and performed in accordance with Millennium's Spill Prevention, Control, and Countermeasures Plan for this project.

The Village goes on to express concern about a pipeline leak and natural gas dissolving into groundwater. Natural gas is produced in nature and can be produced, for example, in

swampy areas. Impacts on the water quality from the natural gas are unlikely. Pipeline companies continuously monitor their systems to detect leaks. They are able to detect these leaks by monitoring pressure, walking or flying over the lines looking for dead grass along the route, using automated, remote-controlled robots called "smart pigs" to run through the lines to detect corrosion, as well as a number of other measures. Pipeline leaks are generally slow developing and are easily detectable before they become serious.

With respect to the pipeline potentially interfering with the Village's expansion of their existing well field, it is correct that the pipeline "will have no influence on the future citing of water-dependent uses," as stated in the DEIS. As noted by Geraghty & Miller the aquifer is extremely permeable, as are the shallow soils, and there is no limitation on placing a new well other than within 25 ft of the proposed pipeline. Given the detailed design drawings and location information that will be available virtually the entire well field is available for future development. Certainly all the water resources of the well field are available for development since location of the well 20 or 30 ft away from the pipeline would easily draw water from the vicinity of the pipeline in its yield.

5 The Jane E Lytle Memorial Arboretum

The ConEd Offset/Taconic Alternative will cross the Jane E. Lytle Memorial Arboretum (Arboretum) between mileposts (MP) 2.54 and 2.66, as indicated in Table DR1.9 filed with the FERC on May 8, 2001. Both Millennium and the FERC recognize the significance of the Arboretum to the community.¹ This is reflected in the specific request for additional information from the FERC dated April 16, 2001 (Data Request 2) and Millennium's subsequent response filed on May 8, 2001.

Subsequently, Millennium suggested to the NYPSC that it would be appropriate to shift the Project to the north as far as possible in the vicinity of the Arboretum, while still maintaining an adequate separation between the pipeline and the ConEd electric conductors. This would reduce the area within the Arboretum property that is affected by the Project. NYPSC agreed to this proposal in its June 19, 2001 letter to the FERC. Millennium filed revised mapping of the proposed route in the vicinity of the Arboretum on June 22, 2001. Based on the revised centerline and construction work area, the length of the crossing of the Arboretum is approximately 530 feet and approximately 0.23 acres of land lie within the proposed footprint for the Project within the Arboretum.

As indicated in Millennium's response to Data Request 2, Millennium's representatives met with Ms. Karen Jescavage-Bernard, President of the Board of Directors of the Arboretum on April 27, 2001 to discuss issues related to the construction of the Project through the northern edge of the Arboretum property. Millennium's letter of May 7, 2001 to Ms. Jescavage-Bernard, filed with the FERC on May 8, 2001 summarizes the discussions that took place at that meeting.

¹ Although Millennium and the FERC recognize the significance of the arboretum, that is not to say that it has any coastal significance. The arboretum is not mentioned in the LWRP, is remote from the Hudson River and the Croton River and does not offer any views to those resources.

The comments received from the Village of Croton-on-Hudson on impacts to the Arboretum raise several issues:

- that the Project will affect wetlands within the Village,
- that the Project will affect access to public water-related recreation resources,
- that the Project will adversely affect fish and wildlife resources through the introduction of pollutants,
- that the Project will result in impacts due to erosion and sedimentation, and
- that the Project will adversely affect local scenic resources.

Millennium believes that all of these issues have been addressed satisfactorily in its previous filings with the Commission.

6 Croton River Crossing

The planning for the Croton River crossing has not overlooked the potential for flooding during construction nor the potential impact of the crossing on water quality, designated significant habitat and endangered species. Millennium has developed construction standards for its pipeline work ("Environmental Construction Standards," July 1999) which addresses the potential effects on stream crossings and erosion, and provides techniques for minimizing environmental effects. These standards are the best management practices for the industry and are accepted by FERC as such. Prior to the start of any construction Millennium reviews the local laws regarding land and water protection (local best management practices) to confirm its practices are at least as stringent as the local law. In addition, Millennium employs inspectors who monitor construction activity on a daily basis and have the authority to modify work activity and stop work should site-specific conditions and weather create the potential for significant adverse impacts.

The Section 401 Water Quality Certificate (December 8, 1999) for the project contains a comprehensive set of conditions for the protection of upland and aquatic resources along the pipeline route. These conditions include pre-construction notifications and site reviews, the BMP's to be applied to work in wetlands, streams and steep slopes, contingencies for unforeseen problems and pending bad weather, and post-construction inspection of the work. These stringent conditions apply to all work in the Village of Croton-On-Hudson, including the Croton River Crossing.

With regard to the Croton River crossing for the Con ED Offset/Taconic Alternative, Millennium will carryout construction during a period of low river flow and will coordinate with New York City Department of Environmental Protection regarding discharges from New Croton Reservoir. Reservoir releases are reduced to 8.5 cfs from July 1 to March 31, providing an opportunity to use the dry ditch method for crossing the Croton River. The upstream reservoirs provide the potential to contain flood flows and prevent significant downstream effects should a high water event occur during

construction. The presence of the reservoirs in combination with monitoring of weather conditions minimizes the potential for flooding during construction.

As with all aspects of the Committee's Findings, its consideration of the effects of the pipeline crossing on the Croton River declares that there will be adverse impacts, but fails to evaluate the steps proposed by Millennium to minimize adverse impacts. For example, the presence of endangered species or species of special concern does not necessarily result in adverse effects on these species. Shortnose sturgeon are present in the Hudson River, including the mouth of the Croton River, but not in the river at the proposed Con Ed Offset/Taconic crossing point. Bald eagle are present at times in the Croton River Gorge, but it is not a species found only in remote, undisturbed habitats. Its increasing occurrence in the lower Hudson area is indicative of its ability to tolerate a substantial amount of human development. The work associated with the pipeline construction does not represent a level of activity which would cause this species to abandon its use of the gorge. Some individuals may be displaced temporarily from a small area of the gorge, but they will resume use of the area after construction is completed. With regard to the value of the Croton River as trout habitat, the river is stocked annually by NYSDEC, but because river flows are controlled at Croton Dam, the riverine habitat is diminished annually by low flows. While the river provides a recreational fishery for stocked trout, it should not be regarded as high quality trout habitat.

7. Village Trail System

The ConEd Offset/Taconic Alternative will affect two trails within the Village of Croton-on-Hudson. These are the Highland Trail between MP 2.22 and 2.31 and an unnamed trail at MP 2.39. Table DR1.10 filed with the FERC on May 8, 2001 also includes a crossing of a spur trail within the Arboretum between MP 2.61 and 2.67. Based on the subsequent revision made to the centerline in the vicinity of the Arboretum, this trail will no longer be affected by the Project.

The Highland Trail lies within the Project construction work area in property owned by the Hudson National Golf Course. The trail skirts the edge of the golf course in a narrow piece of land between the golf facilities and the adjacent ConEd ROW. The trail is paved and generally passes through open land at this location. The Highland Trail generally runs along the proposed ConEd Offset/Taconic Alternative for a distance of approximately 500 feet.

An unnamed trail is also crossed near the boundary of the Hudson National Golf Course property near MP 2.39. This unpaved trail makes a nearly perpendicular crossing of the proposed ConEd Offset/Taconic Alternative within forested land. The trail apparently continues north across the ConEd ROW.

The comments received from the Village of Croton-on-Hudson indicate that the Project will affect access to public water-related recreation resources.

Millennium's Environmental Construction Standards include the following provisions to promote public safety, while maximizing public access to trails:

- posting warning signs in each direction,
- erecting safety fencing,
- permitting hikers to safely cross the trench by leaving trench plugs or using other bridging devices,
- constructing and completing restoration through the area quickly, and
- coordinating with state and/or local park officials.

For perpendicular trail crossings, such as the crossing of the unnamed trail, the trench will not be opened until the pipe is ready to be installed and the trench will be backfilled the same day. The trench will not be left open overnight within 100 feet of the trail crossing.

In the case of the Highland Trail, where approximately 500 feet of the trail will lie within the construction work area for the Project, Millennium will work with the Village and the landowner to maintain safe passage around the construction site during construction, if appropriate agreements can be reached. This is possible since the Highland Trail approaches the construction work area for the Project from the northwest, runs within the construction work area adjacent to the proposed centerline for approximately 500 feet, and then exits the construction work area to the southwest. Thus, the trail does not actually cross the construction workspace for the Project, which presents the opportunity to move the trail temporarily to the western edge of the construction workspace for the duration of construction to allow passage through the area.

Neither of the affected trails would be permanently removed. Millennium does not intend to build permanent access roads in the vicinity of the Highland Trail or the unnamed trail at MP 2.39. Millennium expressed willingness to consider the construction of a permanent gravel access road in the vicinity of the spur trail within the Arboretum at the request of the Arboretum primarily as a method to control influx of invasive plants from the ConEd ROW into the Arboretum. As indicated previously in the discussion of the Arboretum crossing, this option for nuisance plant control is no longer necessary due to the shift in the proposed centerline for the Project in the vicinity of the Arboretum.

Millennium's Environmental Construction Standards require the rapid re-establishment of ground cover within the construction work area following construction. The requirement for erosion and sedimentation controls has been referred to previously in the discussion of the Arboretum crossing. Millennium does not believe that Project construction or operation will negatively impact trail maintenance or enjoyment.

For the above reasons, Millennium does not believe that the Project will have long-term impacts on trails. The Project will not pose any future limitations on trail uses.

8 Steep Slopes & Erosion

The Committee Findings conclude that construction for the pipeline in steep areas will create erosion, but provides no evaluation of the construction techniques which include

various measures to control erosion. These best management practices are described in Millennium's "Environmental Construction Standards" which are standard for the industry and accepted by FERC. The techniques used are site-specific along to route to accommodate varying slopes and soil conditions. Millennium will review local law prior to construction work on each segment of the pipeline and ensure that its standards are at least as stringent as local BMPs.

Each segment of the pipeline is planned in advance with regard to erosion control, monitored during construction, and inspected post-construction to confirm that land restoration is performing as planned. Corrective action is taken if a problem is found.

9. **Dioxin** (See attached affidavits.)

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Millennium Pipeline Company, L.P.

Docket Nos. CP98-150-000, et al.

SUPPLEMENTAL AFFIDAVIT OF THOMAS E. PEASE

STATE OF NEW YORK)

ss:

COUNTY OF ROCKLAND

THOMAS E. PEASE, being duly sworn, deposes and says:

1 I have been retained by Millennium Pipeline Company, L.P. ("Millennium") to evaluate the potential for herbicide and dioxin concentrations along the ConEd Offset Route in northern Westchester County. I previously submitted both an initial affidavit on that subject, which is Attachment A to the Reply Comment that Millennium filed on June 15, 2001, and a final report on that subject, which Millennium subsequently filed on June 22, 2001

2. I have reviewed pages 50-53 of the "Supplemental Comments" of the Village of Croton-on-Hudson, New York, filed on July 13, 2001, which addresses my affidavit and report, as well as the O'Brien & Gere report ("OBG Report") that is Attachment A to the "Supplemental Comments." As explained below, nothing in the "Supplemental Comments" or the OBG Report undermines any of my findings or conclusions in any way, and the test results in the OBG Report confirm my conclusion that any dioxin levels along the ConEd Offset Route pose no health risks.

3 The Village's "Supplemental Comments" advance three principal

conclusions, each of which is untenable. First, it is stated that my use of a 1-3 year half life for dioxin is a "blatant misrepresentation of scientific fact" because "scientific materials referenced in the OBG Report indicate that dioxin's actual half-life is well over 20 years." The half-life I used is one recently established by the U.S. Environmental Protection Agency ("EPA"), which has determined that dioxin degradation rates "vary from less than 1 yr. to 3 yr." (National Primary Drinking Water Regulations, Technical Factsheet on DIOXIN (2, 3, 7, 8-TCDD), updated April 12, 2001, epa.gov/OGWDW/Dwh/T-soc/dioxin). The dioxin half-life determined by EPA represents an accepted reference standard in my opinion, while my review of the relevant literature indicates that the half-life used in the OBG Report is unsubstantiated and inapplicable.

4. Second, the "Supplemental Comments" state that the Village's sampling results show "actual levels of dioxin" of 1.06 parts per trillion ("ppt"), which is "two to seven degrees of magnitude higher" than the maximum levels I found to be theoretically possible -- 0.02 ppt to 0.0000008 ppt. This comparison is inapt. The maximum residual I calculated is my estimate of the incremental dioxin level that might remain from the 2, 4, 5-T that was last applied in 1979, above and beyond any background levels that might exist as a result of other sources. In comparison, the maximum dioxin levels detected by the Village probably reflect the background, de minimis levels that commonly occur throughout the Northeast as a result of atmospheric deposition. (Locating and Estimating Air Emissions from Sources of Dioxins and Furans, EPA-454/R-97-003). Most of the Village's samples had no detectable dioxins at all, and the maximum detected level is nearly 1000 times lower than the 1000 ppt level that EPA suggests as a conservative guideline for residential properties. (EPA Directive on Dioxin at CERCLA, RCRA Sites, April 13, 1998).

5 Third, the "Supplemental Comments" state that "O'Brien and Gere

estimate that dioxin concentrations in the right-of-way could be as high as 120 ppb, a concentration which is well over levels of regulatory concern." In my professional opinion, this "estimate" is implausible. The OBG Report derives this "estimate" by multiplying my dioxin estimate by 120,000 to reflect a combination of the four most extreme assumptions conceivable. I have already explained why it is more reasonable to employ the EPA's dioxin half-life of 1-3 years instead of OBG's assumption of a half-life of "well over 20 years." OBG's other assumptions are equally unrealistic. For example, OBG assumes that ConEd applied the herbicide 2, 4, 5-T with a military-grade dioxin level of 50 ppm, while I have more reasonably assumed that ConEd applied commercially-available herbicides with a maximum dioxin level of 1 ppm. Similarly, OBG's assumptions regarding dioxin's soil penetration and years of application are extraordinarily conservative and require no "corrections" of my estimate for the reasons provided in my previous affidavit and report. In the final analysis, there is no way that the estimated dioxin concentration of 120 ppb can be substantiated. All of the evidence, including the Village's test results, shows unmistakably that the potential level of herbicides and dioxin along the route poses no possible health concern


Thomas E. Pease

Subscribed and sworn to
before me this 27 day of
July 2001



Notary Public

KENNETH M. NASS
Notary Public, State of New York
No. 01NA4821108
Qualified in Westchester County
Commission Expires Aug. 31, 2003

Print Name: _____
My Commission Expires: _____

Millennium Pipeline Project

New York State Coastal Zone Consistency Determination



Addendum July 2001

LMS Lawler, Matusky & Skelly Engineers LLP
One Blue Hill Plaza • Pearl River, New York 10965
ENVIRONMENTAL SCIENCE & ENGINEERING CONSULTANTS

A.3.2 Village of Croton-On-Hudson

A.3.2. Introduction

The Millennium Pipeline Project (the "Project") consists of 442 miles of underground natural gas pipeline extending from an interconnection in Lake Erie at the Canada/United States ("U.S.") border, through southern New York, to Mount Vernon, New York. The pipeline system will traverse the floor of Lake Erie, twelve New York State counties, and the Hudson River at Haverstraw Bay. The Project represents a \$650 million capital investment in New York State's energy future, and will be capable of transporting enough natural gas to supply 2.1 million homes per annum.

The need for the Project is clear, as the Public Service Commission of the State of New York has found. The infrastructure associated with the Project will allow the plentiful natural gas reserves in the U.S. and Canada to be economically supplied where it is critically needed by customers in the northeastern U.S. Moreover, the clean, efficient and cost-effective energy supplied by the Project will have the additional societal benefit of reducing the northeastern U.S.'s dependence on coal and oil fired fuel-burning power plants with significant environmental benefits - a potential reduction of SO₂ emissions by 235,000 tons and No_x emissions by more than 55,000 tons each year.

Potential environmental impacts of the Project are being reviewed in accordance with the National Environmental Policy Act ("NEPA") under the federal permitting process implemented by the Federal Energy Regulatory Commission ("FERC"). In April 1999, the FERC issued a Draft Environmental Impact Statement ("DEIS"). Therein, the FERC Staff concluded that the Project would be environmentally acceptable if constructed and operated in accord with mitigation measures outlined in the DEIS. That determination notwithstanding, Millennium Pipeline Company, L.P. ("Millennium") further refined the Project to minimize potential environmental impacts, which impacts are anticipated to occur only in the construction phase. Millennium is committed to constructing the Project in the most environmentally sensitive manner possible by, *inter alia*, (1) utilizing existing utility corridors for more than 86% of the pipeline's length; (2) engaging in vigorous right-of-way restoration and reconstruction programs; and (3) utilizing low impact stream crossing techniques and employing mitigation measures that minimize impacts on aquatic ecosystems.

Following project refinements and route revisions to address concerns in Westchester County, the FERC Staff issued in January of 2001 a Biological Assessment under the Endangered Species Act and an Essential Fish Habitat Assessment under the Magnuson – Stevens Fishery Conservation and Management Act. The FERC Staff also issued a Supplemental Draft Environmental Impact Statement ("SDEIS") in March of 2001. Those documents resoundingly support Millennium's route selection and the efforts of Millennium to reduce environmental impacts for the entire project and, specifically, those portions of the project in the coastal zone, including the crossing of the Hudson River at Haverstraw Bay.

Despite these project refinements, and the use of existing utility corridors and easements for all but 14% of the pipeline's length, sections of the Project still fall within the coastal zone boundary of New York State. Specifically, the Project's proposed Hudson River crossing at Haverstraw Bay, certain portions of the Project in the Village of Croton-On-Hudson, and the Lake Erie landing at Ripley, New York, are within New York State's coastal zone. Under federal and state law, this necessitates an evaluation of the Project's impact on New York's coastal zone resources.

The routing of the pipeline from the Eastern Shore of the Hudson River at the Veteran's Administration Hospital to Mount Vernon has undergone several changes in an effort to accommodate local concerns. Initially, Consolidated Edison's (Con Ed) major north/south transmission right-of-way (ROW) through the western part of the county was the preferred alignment because it maximized the use of existing corridors such as public roads, the Con Ed ROW, abandoned railroad grades and bike paths. The placement of the gas pipeline within the cleared area of the existing pipeline was rejected in order to protect Con Ed's important transmission line.

Millennium developed the Route 9/9A alignment as an alternative to the Con Ed ROW. This alignment introduced coastal zone issues in that it passed through a waterfront park in Croton-On-Hudson and passed under (by directional drilling) the Croton River in an area designated as Significant Coastal Fish and Wildlife Habitat. Because of the potential direct effects on coastal resources, Millennium's March 2001 Coastal Zone Consistency Determination included an evaluation of the pipeline construction on Croton-On-Hudson's Local Waterfront Revitalization Plan (LWRP).

Subsequent to the March 2001 submittal of the Coastal Zone Consistency Determination, the Village of Croton-On-Hudson elected officials requested an alternative alignment which placed the pipeline adjacent to the Con Ed ROW, but not within the existing cleared area. This alignment, known as the Con Ed Offset/Route 100 Alternative was included in FERC's Supplement Draft EIS (March 2001).

In a March 28, 2001 letter, the Villages of Briarcliff Manor, Croton-On-Hudson and Ossining, New York, and the Town of Ossining, New York suggested a modification to the Con Ed Offset/State Route 100 Alternative as identified in the Millennium Pipeline Project Supplemental Draft Environmental Impact Statement (SDEIS). This alternative (the Con Ed offset/Taconic Alternative) would begin at milepost (MP) 391.2 on the 9/9A Proposal. Near MP 399.OA (a milepost with an "A" is on the original route) in the Millwood area, it would follow the Taconic State Parkway rather than State Route 100 to a point where the Con Ed powerline and Taconic State Parkway rights-of-way converge in southern Briarcliff Manor near MP 403 on the 9/9A proposal just north of State Route

117

The Con Ed Offset/Taconic Alternative removes the pipeline from direct contact with coastal zone resources, but because the Village of Croton-On-Hudson has designated its

entire village as part of its coastal zone, Millennium is obligated to address the Village's LWRP. In fact, the pipeline passes through Village land in two small areas, both on the eastern edge of the village. The Pipeline will pass through the Jane E. Lytle Memorial Arboretum and on adjacent area where it abuts the Con Ed ROW and in a small area on the north side of the Croton River Gorge (see April 16, 2001 FERC data/request responses submitted to FERC: May 8, 2001). Neither of these locations have direct contact with coastal resources, but the Croton River Crossing is approximately one mile upstream of Significant Coastal Fish and Wildlife Habitat. However, despite this proximity, the Croton River can be crossed with a dry-ditch technique during low flow conditions which avoids any downstream effects. This dry-ditch technique has been previously certified by New York State Department of Environmental Conservation (DEC) as meeting 401 Water Quality Standards.

This document was prepared to meet Coastal Zone Management Act requirements for an evaluation where an LWRP applies. It should be used in conjunction with Millennium's March 2001 Coastal Zone Consistency Determination.

A.3.2.2 Description of Proposed Action

The proposed route for the Millennium Pipeline would cross the Hudson River at Haverstraw Bay in Rockland and Westchester Counties, following a 2.1-mile route from Bowline Point on the western side of the Bay to the Veterans Administration hospital property on the eastern-shore (Figure 3, Attachment A-1). The proposed Hudson River-Haverstraw Bay route from Bowline Point to the Veterans Hospital property facilitates Millennium's plans to provide gas service to Southern Energy New York's Bowline Point Generating Station, located on the western shore of Haverstraw Bay in Haverstraw, New York. On balance, the proposed route represents the best overall route which can be constructed from an environmental perspective.

In Westchester County, the Con Ed Offset/Taconic Alternative begins at milepost (MP) 391.2 on the previously described 9/9A Proposal. Near MP 399.OA (a milepost with an "A" is on the original route) in the Millwood area, it would follow the Taconic State Parkway rather than State Route 100 to a point where the Con Ed powerline and Taconic State Parkway rights-of-way converge in southern Briarcliff Manor near MP 403 on the 9/9A proposal just north of State Route 117 (Figure 1).

A.3.2.3 Alternative Routes Evaluated

The routing of the Millennium pipeline through Westchester County has involved the evaluation of several major alternatives and a number of variations. The willingness to address these alternatives is indicative of Millennium's commitment to minimize environmental effects while meeting local concerns. The alternatives have been aligned to maximize the use of existing ROW's and previously disturbed areas, and to minimize effects on natural and human resources. The alternatives and variations considered

through March of 2001 have been presented in detail in FERC's Supplemental Draft Environmental Impact Statement (March 2001). At the end of March, 2001 the Villages of Briarcliff Manor, Croton-On-Hudson and Ossining requested an evaluation of another alternative, designated the Con Ed Offset/Taconic Alternative. Millennium responded to FERC's April 16, 2001 request for additional information regarding this alternative with its May 8, 2001 submission.

The May 8 submission provides details of the Con Ed Offset/Taconic Alternative where that alternative passes through the Village of Croton-On-Hudson, which is the subject of this evaluation.

A.3.2.4 Impacts On the Village of Croton-On-Hudson

A.3.2.4 The Bay Crossing

The Millennium Pipeline will be constructed across Haverstraw Bay using an open-water, lay-barge method, with all excavated material stockpiled in barges and eventually used as trench backfill. The construction activities are subject to the best management practices as defined in the State Section 401 Water Quality Certificate, which includes preconstruction confirmation of a lack of PCB contamination and construction monitoring of the turbidity plume. The construction plan is described in **Section 3.1.3 Alternative Construction Techniques**. FERC recognized the reductions in potential impacts that will be achieved by the lay-barge method in its Essential Fish Habitat Assessment and the SDEIS.

Potential impacts on Haverstraw Bay are evaluated in **Section 3.1.4 Environmental Impacts Associated with Lay-Barge Dredging Method in Haverstraw Bay** and in response to State Policies 7 and 8 (p. 27-46). The pipeline crosses the Bay about 4650 feet north of the Village of Croton-on-Hudson's municipal boundary. There is no direct impact to the Village's waterfront. Dredge plume modeling (conducted by GAI) was used to estimate increases in suspended solids, the extent of the visible plume and the thickness of sediment deposition associated with dredging and backfilling the pipeline trench. Four components of the construction method were modeled: dredging and backfilling in shallow water using a 6 CY environmental bucket, and dredging and backfilling in deep water using a 22 CY environmental bucket. The longest plume in deep water is 500 ft wide by 400 feet long and lasts for 30 minutes or less following backfilling. The longest plume in shallow water also occurs after backfilling and is 90 feet by 170 feet long. The US Corps of Engineers, Engineering Research and Development Center reviewed these model results for the FERC and determined that the results were conservative. The plume will not extend to the Village boundary, nor be a visible impairment for individuals on the shoreline.

Site specific sediment sampling along the pipeline route was conducted to determine the presence of chemical contaminants in the sediments which could be disturbed during

pipeline placement. The analyses of these samples revealed the presence of low concentrations of some metals, but no PCB's. The lack of PCB's is not unexpected because the sediments along the pipeline route were deposited long before PCBs were discharged to the Upper Hudson River. PCBs will not be resuspended during dredging. Because the dredged sediments will be used to backfill the trench, and because the vast majority of sediments suspended by dredging will redeposit close to the trench, the distribution of existing contaminants will be essentially the same as before dredging.

A.3.2.4.2 Inland Impact

The Con Ed Offset/Taconic Alternative will pass through the Village in two small areas along the eastern edge of the Village boundary adjacent to the Con Ed ROW. In both areas, the Jane E. Lytle Memorial Arboretum (Arboretum) and the Croton Gorge and Croton River crossing, the pipeline has been aligned to minimize effects on both environmental and human resource values.

With regard to the Arboretum, the Con Ed Offset/Taconic Alternative will cross it between mileposts (MP) 2.54 and 2.66, as indicated in Table DR1.9 filed with the FERC on May 8, 2001. Both Millennium and the FERC recognize the significance of the Arboretum to the community. This is reflected in the specific request for additional information from the FERC dated April 16, 2001 (Data Request 2) and Millennium's subsequent response filed on May 8, 2001.

Subsequently, Millennium suggested to the NYPSC that it would be appropriate to shift the Project to the north as far as possible in the vicinity of the Arboretum, while still maintaining an adequate separation between the pipeline and the Con Ed electric conductors. This would reduce the area within the Arboretum property that is affected by the Project. NYPSC agreed to this proposal in its June 19, 2001 letter to the FERC. Millennium filed revised mapping of the proposed route in the vicinity of the Arboretum on June 22, 2001. Based on the revised centerline and construction work area, the length of the crossing of the Arboretum is approximately 530 feet. Approximately 0.23 acres of land lie within the proposed construction work area within the Arboretum.

As indicated in Millennium's response to Data Request 2, Millennium's representatives met with Ms. Karen Jescavage-Bernard, President of the Board of Directors of the Arboretum on April 27, 2001 to discuss issues related to the construction of the Project through the northern edge of the Arboretum property. Millennium's letter of May 7, 2001 to Ms. Jescavage-Bernard, filed with the FERC on May 8, 2001 summarizes the discussions that took place at that meeting.

The comments received from the Village of Croton-on-Hudson on impacts to the Arboretum raise several issues:

that the Project will affect wetlands within the Village,

that the Project will affect access to public water-related recreation resources,
that the Project will adversely affect fish and wildlife resources through the
introduction of pollutants,
that the Project will result in impacts due to erosion and sedimentation, and
that the Project will adversely affect local scenic resources.

Millennium believes that all of these issues have been addressed satisfactorily in its previous filings with the Commission. Additional information is provided below in Millennium's response to the specific local waterfront development policies.

A3.2.5 Review of Coastal Zone Policy Consistency

The Village of Croton-on-Hudson borders on Haverstraw Bay in the area of designated significant coastal habitat. In addition, because the Village has designated the entire village within the coastal zone, those areas which are crossed by the pipeline, but which do not directly involve coastal resources, are included in this evaluation. The designated significant habitat in Haverstraw Bay is discussed in detail in 3.1 in relation to the effects of Haverstraw Bay. Both the Haverstraw Bay shoreline and the inland areas are addressed below in relation to the coastal zone policies of the Village of Croton-on-Hudson's Local Waterfront Revitalization Program ("LWRP"). Millennium will apply for all local permits related to construction activities.

1) *Restore, revitalize and redevelop deteriorated and underutilized waterfront areas for commercial, industrial, cultural, recreational and other compatible uses.*

The Con Ed Offset/Taconic Alternative route through the Village parallels the existing Con Ed ROW. In this location the pipeline does not provide an opportunity to restore revitalize or redevelop waterfront areas.

1A) *Existing planning and zoning documents should be reviewed and amended where necessary to ensure development within the community is consistent with adopted goals and policies.*

This local policy is not applicable to the pipeline project.

1B) *Redevelop and revitalize village owned land at the metro north station, including village garage and bay area. Encourage integrated development of village property to assure fulfillment of requirements relating to parking and accessory uses of metro north train station, while facilitating public access to bay area and recreational use.*

The Con Ed Offset/Taconic Alternative route is not in the vicinity of the Metro North Station, and will not affect parking for the station or public access to the bay area.

1C) *Every effort should be made by the municipality to encourage the mutual cooperation and exchange of information between governmental agencies involved in clean-up of Croton landfill and metro-north lagoon in order to develop commercial use of resources found in the coastal area.*

This local policy is not applicable to the pipeline project.

1D) *Require restoration of deteriorating structures related to railroad use and assure appropriate maintenance and screening to reduce visual impact.*

This local policy is not applicable to the pipeline project.

1E) *Develop the old sewage treatment plant site at the intersection of Route 9A and Municipal Place.*

This local policy is not applicable to the pipeline project.

2) *Facilitate the siting of water-dependent uses and facilities on or adjacent to coastal waters.*

The placement of the pipeline along the Con Ed Offset/Taconic Alternative will have no influence on the future siting of water dependent uses and facilities in Croton-on-Hudson. Any such water dependent uses would be sited along the waterfront.

2A) *Expand restrictions on the use of power boats on the Hudson River and Croton River and bay by further enforcing the parameters that regulate boat traffic such as speed, turbidity, safety, and mooring and sludge disposal. Such controls will further increase the compatibility of power boat use with other forms or recreation use within the coastal zone area.*

This local policy is not applicable to the pipeline project.

3) *The State coastal policy regarding the development of major ports is not applicable to Croton.*

The state coastal policy is deemed not applicable to Croton by the LWRP

4) *The State coastal policy regarding the strengthening of small harbors is not applicable to Croton.*

The state coastal policy is deemed not applicable to Croton by the LWRP.

5) *Encourage the location of development in areas where public services and facilities essential to such development are adequate.*

The pipeline will have no influence on the location of future development in the Village.

5A) *When feasible, development within the village should be directed within the current service area of existing water and sewer facilities or in close proximity to areas where distribution lines currently exist.*

This local policy is not applicable to the pipeline project.

5B) *The extension of water and sewer distribution lines beyond areas currently served should be undertaken cautiously and with prudent regard for village water resources and the preservation of environmental values in undeveloped areas.*

This local policy is not applicable to the pipeline project.

5C) *Limit proposed development within those portions of the coastal zone boundary area, where traffic impacts such as site distance and carrying capacity of the roadways are restricted, particularly along Route 9A, Albany Post Road and Route 129.*

This local policy is not applicable to the pipeline project. The pipeline will follow the existing Con Ed ROW through the Arboretum area and Hessian Hills. To avoid impingement on residences near the Croton River it will deviate to the South of the ROW from Batten Road to Rt. 129 where it rejoins the ROW to cross the river. After construction the pipeline will have no impact on site distance or carrying capacity of Rt. 129.

6) *Expedite permit procedures in order to facilitate the siting of development activities at suitable locations.*

The placement of the pipeline within the Croton coastal zone would not involve the siting of development activities, thus this policy does not apply.

6A) *To expedite permit procedures, the village shall coordinate all relevant local laws into a development package for applicants proposing development activities.*

This local policy is not applicable to the pipeline project.

Significant coastal fish and wildlife habitats will be protected, preserved, and where practical, restored so as to maintain their viability as habitats.

The shoreline of Croton-on-Hudson on Haverstraw Bay would not be effected directly or indirectly by the pipeline crossing of Haverstraw Bay from Bowline Point to the

Veteran's Administration Hospital. The shoreline facilities in the Village, the recreational opportunities and scenic vistas will not be degraded by the pipeline crossing (see Section 3.7, Policy 7). The turbidity plume during dredging and backfilling would be far removed from the Village shoreline and would be temporary in nature. The physical effects on habitat and the effects on aquatic life will be localized in the vicinity of the pipeline footprint and of short duration. After backfilling natural restoration of the site will prevent any long-term effects.

The pipeline's contact with the Village is limited to areas not having direct contact with coastal resources. In the vicinity of the Arboretum, the effects of pipeline construction would be confined to the near vicinity of the pipeline ROW. Construction techniques designed to minimize habitat disturbance and erosion would be employed as they would throughout the length of the pipeline. At the Croton River crossing the low flows of the river controlled at the upstream Croton Dam provides protection against high water events and permits the use of a dry ditch crossing. With this method the excavation and placement of the pipeline would not cause streambed or bank erosion which could adversely effect the Significant Coastal Fish and Wildlife Habitat downstream of the crossing point.

The Con Ed Offset/Taconic Alternative avoids direct contact with coastal resources and through the use of Best Management Practices (BMPs) assures that this alignment is compatible with this Policy.

7A) *The quality of the Croton River and Bay significant fish and wildlife habitat and Haverstraw Bay significant fish and wildlife habitat shall be protected and improved for conservation, economic, aesthetic, recreational, and other public uses and values. Its resources shall be protected from the threat of pollution, misuse, and mismanagement.*

Placement of the pipeline across the Croton River will not harm the quality of the significant fish and wildlife habitat in this area. Millennium proposes to use the dry ditch, dam and pump method to cross the Croton River, described in the Environmental Construction Standards, November 1998 Section IV Stream and Wetlands Crossings (Figure 19). This method has been previously certified by the DEC to comply with 401 Water Quality Standards such that no visible downstream turbidity will result from construction activities. In compliance with DEC timing restrictions, the crossing will be constructed between July 1 and November 30 to protect habitat for fish and invertebrate resources. To assure maintenance of downstream habitat during construction water levels in New Croton Reservoir will be monitored by Millennium, as well as weather conditions in order to avoid a high flow event during construction of the crossing. The crossing can be accomplished in 4 days, which minimize the chances of adverse flow conditions during construction.

7B) *Materials that can degrade water quality and degrade or destroy the ecological system of the Croton River and Bay significant fish and wildlife habitat and the Haverstraw Bay significant fish and wildlife habitat shall not be disposed of or allowed to drain in, or land within, the area of influence in the significant fish and wildlife habitats.*

The ECS defines techniques to assure that no materials that can degrade habitat are released to the Croton River. Site specific BMP's and a spill contingency plan have been developed and previously submitted to the DOS and other appropriate regulatory agencies will be followed.

7C) *Storage of materials that can degrade water quality and degrade or destroy the ecological system of the Croton River and Bay significant fish and wildlife habitat or Haverstraw Bay significant fish and wildlife habitat shall not be permitted within the area of influence of the habitat unless best available technology is used to prevent adverse impacts to the habitat.*

The construction of the Croton River crossing will utilize best available technology to contain all materials which could degrade water quality or the ecological system. Spill prevention containment and control methods are described in the ECS.

7D) *Restoration of degraded ecological elements of the Croton River and Bay and Haverstraw Bay significant fish and wildlife habitats and shorelands shall be included in any programs for cleanup of any adjacent toxic and hazardous waste sites.*

This local policy is not applicable to the pipeline project.

7E) *Runoff from public and private parking lots and from storm sewer overflows shall be effectively channeled so as to prevent oil, grease, and other contaminants from polluting surface and ground water and impact the significant fish and wildlife habitats.*

This local policy is not applicable to the pipeline project.

7F) *Construction activity of any kind must not cause a measurable increase in erosion or flooding at the site of such activity, or impact other locations. Construction activity shall be timed so that spawning of anadromous fish species and shellfish will not be adversely affected.*

Construction activity will not cause erosion or flooding because BMPs that will be as stringent as those required in local regulations will be used to control site runoff. The primary spawning activity for anadromous fish is during spring (April-June), but the pipeline construction would not begin until after July 1. The construction activity will be compatible with this policy.

7G) *Such activities must not cause degradation of water quality or impact identified significant fish and wildlife habitats.*

The pipeline project is consistent with this local policy. See response to policies 7A through 7F.

8) *Protect fish and wildlife resources in the coastal area from the introduction of hazardous wastes and other pollutants which bio-accumulate in the food chain or which cause significant sub-lethal or lethal effect on those resources.*

The pipeline project does not utilize materials that could become hazardous wastes which bioaccumulate in the food chain or could cause sublethal effects in fish and wildlife. BMP's addressing shore zone and stream crossing construction activities are in place as part of the DEC Water Quality Certification. The ECS includes practices to reduce the possibility for accidental release of small amounts of wastes and materials to the river waters from the construction activities due to poor maintenance and housekeeping practices. Proper lubrication and fueling procedures will be followed with provisions made for leak and spill containment, and diligence will be exercised to oversee waste management practices. These practices will be as stringent as those required in local regulations and will ensure consistency with this policy.

Millennium believes that existing requirements of the 401 Certificate as well as the other project environmental requirements are sufficient to protect fish and wildlife from pollutants associated with Project construction and operation. Construction of the Project will be monitored to ensure that movement of soils through erosion and sedimentation is prevented. During operation of the pipeline, Millennium will monitor the pipeline condition using equipment capable of identifying areas of potential pipeline failure prior to any event that would release pollutants. Thus, Millennium does not believe that construction or operation of the pipeline will result in exposure of fish or wildlife to hazardous wastes, to pollutants that have potential to bioaccumulate within the food chain, or to pollutants in sufficient quantities to produce sublethal or lethal effects.

9) *Expand recreational use of fish and wildlife resources in coastal areas by increasing access to existing resources, supplementing existing stocks, and developing new resources. Recreational uses include: (1) consumptive uses such as fishing and hunting; and (2) non-consumptive uses such as wildlife photography, bird watching and nature study.*

The pipeline project will not involve activities, which could expand recreational use of fish and wildlife resources in coastal areas, thus this policy is not applicable.

9A) *Ensure continued recreational use and public access to the rivers through village-owned land adjacent to the metro-north parking lot, at Croton point park and at Senasqua Park, along the Croton river, and at the Croton Yacht Club. Efforts should be made to encourage recreational use of the fish and wildlife resources found in these areas by increasing the opportunities for public access and enjoyment.*

The Con Ed Offset/Taconic Alternative will not affect the park facilities. Existing access and use of parks will be maintained, thus the project is consistent with this local policy.

9B) *Encourage passive recreational enjoyment of the wildlife in the designated significant fish and wildlife habitats, on the Audubon society sanctuaries, on other public or private lands within the village, where wildlife habitats are located. Encourage the recreational use of areas where such resources are found, as well as the protection of such resources.*

The Con Ed Offset/Taconic Alternative will cross the Arboretum between mileposts (MP) 2.54 and 2.66, as indicated in Table DR1.9 filed with the FERC on May 8, 2001. Both Millennium and the FERC recognize the significance of the Arboretum to the community. This is reflected in the specific request for additional information from the FERC dated April 16, 2001 (Data Request 2) and Millennium's subsequent response filed on May 8, 2001.

Subsequently, Millennium suggested to the NYPSC that it would be appropriate to shift the Project to the north as far as possible in the vicinity of the Arboretum, while still maintaining an adequate separation between the pipeline and the Con Ed electric conductors. This would reduce the area within the Arboretum property that is affected by the Project. NYPSC agreed to this proposal in its June 19, 2001 letter to the FERC. Millennium filed revised mapping of the proposed route in the vicinity of the Arboretum on June 22, 2001. Based on the revised centerline and construction work area, the length of the crossing of the Arboretum is approximately 530 feet and approximately 0.23 acres of land lie within the proposed construction work area within the Arboretum.

As indicated in Millennium's response to Data Request 2, Millennium's representatives met with Ms. Karen Jescavage-Bernard, President of the Board of Directors of the Arboretum on April 27, 2001 to discuss issues related to the construction of the Project through the northern edge of the Arboretum property. Millennium's letter of May 7, 2001 to Ms. Jescavage-Bernard, filed with the FERC on May 8, 2001 summarizes the discussions that took place at that meeting.

10) *Further develop commercial finfish, shellfish and crustacean resources in the coastal area by encouraging the construction of new, or improvement of existing on-shore commercial fishing facilities, increasing marketing of the state's seafood products, maintaining adequate stocks, and expanding aquaculture facilities.*

Construction of the proposed pipeline project and Croton River crossing would have no effect on commercial fishing resources or activities in the Croton River or Haverstraw Bay areas of the Hudson River. Therefore, the proposed project would not conflict with this policy.

11) *Buildings and other structures will be sited in the coastal area so as to minimize damage to property and the endangering of human lives caused by flooding and erosion.*

The pipeline project does not involve the siting of buildings or other above ground structures in the Village of Croton-On-Hudson, thus this policy does not apply.

11A) *Erosion and sediment control measures shall be undertaken in order to safeguard persons, protect property, prevent damage to the environment, and promote the public welfare by guiding, regulating, and controlling the design, construction, use and maintenance of any development or other activity which disturbs or breaks the topsoil or results in earth movement.*

BMPs for erosion and sediment control that are as stringent as local regulations will be applied to the construction activities, thus the project is consistent with this local policy.

12) *Activities or development in the coastal area will be undertaken so as to minimize damage to natural resources and property from flooding and erosion by protecting natural protective features including beaches, dunes, barrier islands and bluffs.*

The pipeline project will not alter any natural features which provide protection from flooding and erosion. The land along the pipeline route will be restored to its original contours after construction is completed.

12A) *Every effort should be made to protect Croton Point, a natural protective barrier to Croton Bay from activities or development that would increase erosion of or flooding of the point.*

The project will have no effect on Croton Point, thus it is consistent with this local policy

13) *The construction or reconstruction of erosion protection structures shall be undertaken only if they have a reasonable probability of controlling erosion for at least thirty years as demonstrated in design and construction standards and/or assured maintenance or replacement programs.*

The pipeline project will have no effect on any existing erosion protection structures, thus this policy does not apply.

13A) *Any bulkheads along the Hudson must be maintained in good condition and private landowners should be required to restore and maintain erosion control mechanisms along their river frontage which are designed for long term stability.*

The Con Ed Offset/Taconic Alternative is not near the shoreline of Haverstraw Bay in Croton, the natural and manmade features of the shoreline will not be disturbed.

14) *Activities and development, including the construction or reconstruction of erosion protection structures, shall be undertaken so that there will be no measurable increase in erosion or flooding at the site of such activities or development, or at other locations.*

As stated above, Millennium will use BMPs to control erosion and sedimentation during Project construction. Millennium, as well as the agencies' third party compliance monitors will be on-site at all times to ensure that the erosion and sedimentation control plan for the Project is fully implemented and that movement of soils is minimized. Project construction will not result in impacts from erosion and sedimentation.

15) *Mining, excavation or dredging in coastal waters shall not significantly interfere with the natural coastal processes which supply beach materials to land adjacent to such waters and shall be undertaken in a manner which will not cause an increase in erosion of such land.*

All project construction activities will employ BMPs to control erosion so that there will be no interference with natural coastal processes, ensuring that there is consistency with this policy.

16) *Public funds shall only be used for erosion protective structures where necessary to protect human life, and new development which requires a location within or adjacent to an erosion hazard area to be able to function, or existing development; and only where the public benefits outweigh the long-term monetary and other costs including the potential for increasing erosion and adverse effects on natural protective features.*

No public funds will be used in the proposed project. Therefore, this policy does not apply.

16A) *Public funds shall be appropriated for the yearly maintenance of Senasqua Park until such time that is determined that expenditure of funds outweighs the cost of acquiring, constructing and maintaining a similar public park on Croton's waterfront.*

This local policy is not applicable to the pipeline project.

17) *Nonstructural measures to minimize damage to natural resources and property from flooding and erosion shall be used whenever possible.*

Construction of the proposed project will be in accordance with the ECS and will include site specific BMPs to minimize damage to natural resources in the project area. Flooding and erosion is not expected to result from the proposed project, and thus no flood or erosion control measures beyond those already prescribed for the project will be required. Therefore, the proposed project is in compliance with this policy.

17A) *Efforts to control erosion along the rivers and on the steep slopes rising from areas inland shall be of a non-structural nature, wherever possible, in consideration of the visual impact of structural measures. The retention or planting of vegetative covers will be preferred to structural measures.*

Millennium will employ non-structural methods to control erosion as described in the ECS. The project will be in compliance with this policy.

18) *To safeguard the vital economic, social and environmental interests of the state and of its citizens, proposed major actions in the coastal area must give full consideration to those interests, and to the safeguards which the state has established to protect valuable coastal resource areas.*

Construction of the proposed project would provide a source of clean-burning natural gas to a large section of New York State, providing vital energy and infrastructure to the State. The proposed Haverstraw Bay and Croton River crossings are based upon the best available technology and will result in the least environmental impact while meeting all applicable regulations, standards and criteria. Safeguarding social and environmental

interests of the state and its citizens is being given full consideration in this consistency evaluation and through the Federal NEPA process. The proposed project would be consistent with this policy.

19) *Protect, maintain, and increase the level and types of access to public water related recreation resources and facilities.*

During the 4 day construction period of the Croton River crossing, fishing will be prohibited in the 75 ft wide crossing area. Following construction, there will be no change to the level and types of access to public water recreational resources.

19A) *Encourage the linkage of open space along the Hudson and Croton rivers in the form of a trail or walkway system. Such systems should be provided along undeveloped and underutilized land as well as along previously developed land.*

The pipeline project does not provide an opportunity to link open space areas.

19B) *Increase physical access to areas that have specific value for their physical and visual access to the Hudson River or Croton River and Bay.*

The Con Ed Offset/Taconic Alternative does not provide opportunity to enhance park facilities or access to the Hudson or Croton Rivers.

19C) *Encourage the expansion of public transportation, when feasible, to areas within the coastal zone area where water dependent and water enhanced recreation activities are located.*

This local policy is not applicable to the pipeline project.

19D) *Increase access to Croton River and bay at the village owned land south of the village parking lots at the Croton-Harmon station.*

This local policy is not applicable to the pipeline project

19E) *Maintain the trail, which provides access to the Croton River waterfront, in its current undeveloped condition as a pedestrian walkway.*

The Con Ed Offset/Taconic Alternative does not affect the trail which provides access to the Croton River waterfront

The ConEd Offset/Taconic Alternative will affect two trails within the Village of Croton-on-Hudson. These are the Highland Trail between MP 2.22 and 2.31 and an unnamed trail at MP 2.39. Table DR1.10 filed with the FERC on May 8, 2001 also includes a crossing of a spur trail within the Arboretum between MP 2.61 and 2.67. Based on the

subsequent revision made to the centerline in the vicinity of the Arboretum, this trail will no longer be affected by the Project.

The Highland Trail lies within the Project construction work area in property owned by the Hudson National Golf Course. The trail skirts the edge of the golf course in a narrow piece of land between the golf facilities and the adjacent ConEd ROW. The trail is paved and generally passes through open land at this location. The Highland Trail generally runs along the proposed ConEd Offset/Taconic Alternative for a distance of approximately 500 feet.

An unnamed trail is also crossed near the boundary of the Hudson National Golf Course property near MP 2.39. This unpaved trail makes a nearly perpendicular crossing of the proposed ConEd Offset/Taconic Alternative within forested land. The trail apparently continues north across the ConEd ROW.

The comments received from the Village of Croton-on-Hudson indicate that the Project will affect access to public water-related recreation resources. However, Millennium's ECS includes the following provisions to promote public safety, while maximizing public access to trails:

- posting warning signs in each direction,
- erecting safety fencing,
- permitting hikers to safely cross the trench by leaving trench plugs or using other bridging devices,
- constructing and completing restoration through the area quickly, and
- coordinating with state and/or local park officials.

For perpendicular trail crossings, such as the crossing of the unnamed trail, the trench will not be opened until the pipe is ready to be installed and the trench will be backfilled the same day. The trench will not be left open overnight within 100 feet of the trail crossing.

In the case of the Highland Trail, where approximately 500 feet of the trail will lie within the construction work area for the Project, Millennium will work with the Village and the landowner to maintain safe passage around the construction site during construction, if appropriate agreements can be reached. This is possible since the Highland Trail approaches the construction work area for the Project from the northwest, runs within the construction work area adjacent to the proposed centerline for approximately 500 feet, and then exits the construction work area to the southwest. Thus, the trail does not actually cross the construction work space for the Project, which presents the opportunity to move the trail temporarily to the western edge of the construction work space for the duration of construction to allow passage through the area.

Neither of the affected trails would be permanently removed. Millennium does not intend to build permanent access roads in the vicinity of the Highland Trail or the unnamed trail at MP 2.39. Millennium expressed willingness to consider the construction

of a permanent gravel access road in the vicinity of the spur trail within the Arboretum at the request of the Arboretum primarily as a method to control influx of invasive plants from the ConEd ROW into the Arboretum. As indicated previously in the discussion of the Arboretum crossing, this option for nuisance plant control is no longer being considered due to the shift in the proposed centerline for the Project in the vicinity of the Arboretum.

Millennium's ECS requires the rapid re-establishment of ground cover within the construction work area following construction. The requirement for erosion and sedimentation controls has been referred to previously in the discussion of the Arboretum crossing. Millennium does not believe that Project construction or operation will negatively impact trail maintenance or enjoyment.

For the above reasons, Millennium does not believe that the Project will have long-term impacts on trails. The Project will not pose any future limitations on trail uses.

20) *Access to the publicly-owned foreshore and to lands immediately adjacent to the foreshore or the water's edge that are publicly-owned shall be provided and it shall be provided in a manner compatible with adjoining uses.*

The Con Ed Offset/Taconic Alternative does not provide shoreline access.

21) *Water-dependent and water-enhanced recreation will be encouraged and facilitated, and will be given priority over nonwater related use along the coast.*

Construction of the proposed project would not materially affect water-related recreation resources and facilities. Therefore, the project would be consistent with this policy.

21A) *Boating activities should be encouraged provided that they do not restrict other recreational opportunities and are undertaken in a manner compatible with existing water dependent uses.*

This local policy is not applicable to the pipeline project.

22) *Development, when located adjacent to the shore, will provide for water related recreation, whenever such use is compatible with reasonably anticipated demand for such activities, and is compatible with the primary purpose of the development.*

The proposed project does not involve shoreline development which could inhibit water-related recreation.

23) *Protect, enhance and restore structures, districts, areas or sites that are of significance in history, architecture, archaeology or culture of the state, its communities, or the nation.*

The project area within Croton has been subjected to appropriate cultural resource reviews. The resulting reports have been previously filed with the State Historic Preservation Office and DOS. Based on these reviews the project will not effect cultural resources, nor can it enhance or restore such structures.

24) *Prevent impairment of scenic resources of statewide significance. This impairment would include: (a) the irreversible modification of geologic forms, the destruction or removal of structures, whenever the geologic forms, vegetation or structures are significant to the scenic quality of an identified resource; and (b) the addition of structure which, because of siting or scale will reduce identified views or which because of scale, form, or materials, will diminish the scenic quality of an identified resource.*

The pipeline will be underground throughout its route through Croton-on-Hudson. For most of its route the pipeline follows the existing Con Ed ROW along its Western vegetated boarder. After completion of construction there will be no structures remaining which could impair scenic resources of statewide significance.

25) *Protect, restore or enhance natural and man-made resources which are not identified as being of statewide significance but which contribute to the overall scenic quality of the coastal area.*

The construction of the Project will require the removal of vegetation within the 50-foot-wide construction work area, a portion of which lies within the Arboretum. However, as indicated above, Millennium has offered to replant areas outside of a 10-foot-wide clear zone centered on the pipeline with trees and shrubs selected in consultation with the Arboretum. While Millennium will need to maintain the 10-foot-wide clear zone by removal of tree and shrub seedlings, the pipeline ROW should not be visually different from the adjacent Arboretum at maturity. Spacing between mature trees within the affected area of the Arboretum at present generally exceeds 10 feet.

Finally, Millennium's offer to construct a 15-foot-wide access road across the wetland within the Arboretum was made in response to a suggestion made by Ms. Jescavage-Bernard during the on-site meeting of April 27, 2001. Millennium has no need to establish a permanent access road through the Arboretum for typical operation and maintenance of the pipeline. The suggestion was that an access road of this sort might be useful in preventing the spread of invasive plants from the Con Ed ROW into the area disturbed by Project construction. However, based on the revised centerline for the Project filed with the FERC on June 22, 2001, the plan to construct an access road in the

vicinity of the Arboretum would no longer be useful to deter the spread of nuisance plants.

As indicated above, Millennium continues to believe that the best options for control of nuisance plants are a regular maintenance program of hand removal coupled with creation of conditions for rapid re-establishment of a closed canopy. Given the revised location of the pipeline into the Con Ed ROW, it is unlikely that invasive plants will spread into the wetland area owned by the Arboretum.

All areas disturbed by construction for pipeline installation will be restored to grade. The vast majority of the pipeline route through the Village of Croton-on-Hudson is adjacent to the existing Con Ed ROW. After construction is completed, there will be no structures which could intrude on views. The pipeline corridor will not modify the scenic quality of the coastal area, thus the project is consistent with this policy.

25A) *Protect local scenic resources by preventing: (i) The irreversible modification of geological forms, the destruction or removal of vegetation or wetlands, the destruction, or removal of structures, whenever the geological forms, vegetation or structures are significant to the scenic quality of an identified resource; and (ii) The addition of structures which because of siting scale will reduce identified views or which because of scale, form, or materials will diminish the scenic quality of an identified resource.*

The project will not alter any significant geological forms or remove structures (see response above).

25B) *Secure the designation of the panoramic views from Croton Point as a scenic area of statewide significance.*

This local policy is not applicable to the pipeline project.

25C) *Secure the designation of Route 9 and 129 within the Croton boundaries as a scenic road. Ensure developments on or adjacent to Route 9 do not impair scenic resources or views of or from the Hudson and Croton Rivers.*

The pipeline will pass under Route 129. After restoration of the construction zone, there will only be a 10 ft ROW in which vegetation would be controlled. This ROW will not impair scenic views and is thus consistent with this policy.

25D) *Establish and protect identified viewsheds which provide visual access to the Hudson River, including but not limited to the views of the Hudson River from the western shoreline of the village, and from Prickly Pear Hill, Lounsbury Hill, and river Landing. In addition, protect viewsheds to and of the Croton River and gorge.*

As discussed above, the presence of the pipeline in the ground will not impair views of the Hudson River from the village shoreline and views to and of the Croton River and Gorge.

26) *The state coastal policy regarding the protection of agricultural lands is not applicable to Croton.*

The state coastal policy is deemed not applicable to Croton by the LWRP.

27) *Decisions on the siting and construction of major energy facilities in the coastal area will be based on public energy needs, compatibility of such facilities with the environment, and the facility's need for a shorefront location.*

The Millennium Pipeline Project is a major energy facility that is entitled to a preference under the CZMA. The CZMA recognizes that major energy facilities are entitled to preferential consideration because of the importance of transmitting energy, particularly natural gas, to markets that are dependent upon energy sources for growth and economic vitality. The Millennium Pipeline Project will satisfy the "public energy needs" of New York State and the Northeast U.S. region in a number of different respects. First, the Project will satisfy growing market demands, as evidenced both by executed contracts for the pipeline's capacity and the forecasts of various experts. Second, the project will supply low-cost Canadian gas supplies to one of the highest-priced gas markets in the United States -- New York. Third, the Project will improve electric power reliability and advance clean air objectives. Fourth, the Project will improve the reliability of gas service to New Yorkers by upgrading the existing natural gas infrastructure through the addition of more capacity, deliverability, delivery points, and interconnections. Fifth, the Project will provide gas producers and gas storage developers in western New York with increased access to markets. These benefits are explained in the sections that follow. These benefits are explained in more detail in response to Policy 27 in Section 3.1.6.

Construction of the pipeline and Croton River crossing takes into consideration public need and environmental issues. The proposed project has been designed to use the best available construction technology to result in the least environmental impact. The river crossing is necessary because some of the capacity of the proposed project is planned to be delivered to the east side of the Hudson River, south of the Croton River, at the present time. Therefore, the proposed project is in compliance with this policy.

28) *Ice management practices shall not interfere with the production of hydroelectric power, damage significant fish and wildlife and their habitats, or increase shoreline erosion or flooding.*

Construction and operation of the pipeline will not require ice management, thus this policy does not apply.

28A) *Ice management practices must consider short and long term impacts on the Croton River and Bay and Haverstraw Bay significant fish and wildlife habitats.*

See above.

29) *The state coastal policy regarding the development of energy resources is not applicable to Croton.*

The state coastal policy is deemed not applicable to Croton by the LWRP

30) *Municipal, industrial, and commercial discharge of pollutants, including but not limited to, toxic and hazardous substances, into coastal waters will conform to state and national water quality standards.*

There will be no discharge of pollutants during and after the pipeline installation in the coastal zone. Millennium will amend its DEC 401 Water Quality Certificate to include the Con Ed Offset/Taconic Alternative. All techniques proposed for this alternative were previously approved by DEC. The project is consistent with this policy.

30A) *Municipal, industrial, and commercial discharge of pollutants, including but not limited to, toxic and hazardous substances, into coastal waters will conform to state and national water quality standards.*

This local policy is not applicable to the pipeline project.

30B) *Storage and Disposal of all materials shall be monitored by the state to assure there will be no discharge or leaching of materials into coastal waters.*

This local policy is not applicable to the pipeline project.

31) *State coastal area policies and management objectives of approved local waterfront revitalization programs will be considered while reviewing coastal water classifications and while modifying water quality standards; however, those waters already overburdened with contaminants will be recognized as being a development constraint.*

This local policy is not applicable to the pipeline project.

This local policy is not applicable to the pipeline project.

31A) *Clean water is desired and NYSDEC should continually monitor water quality in the Hudson River and Croton Bay which have already been overburdened with pollutants. Recommendations for mitigation and upgrading water quality classifications cannot be determined without continual monitoring and testing of the waters.*

Construction of the proposed project crossing would not affect the water classification or water quality standards in the proposed project area. The Section 401 Water Quality Certification has been issued for the Project. Croton Bay will not be crossed or affected by the Con Ed Offset/Taconic Alternative.

32) *Encourage the use of alternative or innovative sanitary waste systems in small communities where the costs of conventional facilities are unreasonably high, given the size of the existing tax base of these communities.*

The project does not involve sanitary waste systems, thus this policy does not apply.

33) *Best management practices will be used to ensure the control of stormwater runoff and combined sewer overflows draining into coastal waters.*

This project does not involve stormwater runoff through combined sewer overflows, thus this policy does not apply. Best management practices at least as stringent as local requirements will be utilized to stabilize construction areas and manage stormwater runoff.

33A) *Encourage new developments to retain stormwater runoff on site so as to not increase flows within the existing system or to improve existing stormwater runoff systems so that runoff from such developments does not impact coastal waters.*

This local policy is not applicable to the pipeline project.

33B) *Improve existing village stormwater discharge to control flow of pollutants from street and parking areas, etc. directly in the rivers.*

This local policy is not applicable to the pipeline project.

34) *Discharge of waste materials into coastal waters from vessels subject to state jurisdiction will be limited so as to protect significant fish and wildlife habitats, recreational areas and water supply areas.*

The project does not involve discharge from vessels, thus this policy does not apply

34A) *There shall be no discharge from moored structures or marine vessels, due to shape of cove and lack of tidal flushing.*

This local policy is not applicable to the pipeline project

35) *Dredging and dredge spoil disposal in coastal waters will be undertaken in a manner that meets existing state dredging permit requirements, and protects significant fish and wildlife habitats, scenic resources, natural protective features, important agricultural lands, and wetlands.*

The project will not conduct dredging in the Croton coastal zone, thus this local policy does not apply. The dredging and disposal methods for the Haverstraw Bay crossing are described in the EIS, in the DEC's Water Quality Certification, and in Section 3 of the CZM document (March 2001).

36) *Activities related to the shipment and storage of petroleum and other hazardous materials will be conducted in a manner that will prevent or at least minimize spills into coastal waters; all practicable efforts will be undertaken to expedite the cleanup of such discharges; and restitution for damages will be required when these spills occur.*

The project will not involve shipments of petroleum and other hazardous materials, thus this policy does not apply.

37) *Best management practices will be utilized to minimize the non-point discharge of excess nutrients, organics and eroded soils into coastal waters.*

The project will use BMP for erosion control that will be as stringent as those required in local regulations. The non-point discharge of excess eroded soils will be controlled, thus the project is consistent with this policy.

37A) *Standards and specifications for the control of non-point source discharge as set forth in Westchester County's best management practice manual or other recognized reference shall be utilized during development of any site.*

The best management practices will be as stringent as those in Westchester County's manual.

37B) *Control of the development of hilltops, and steep slopes should be exerted in order to prevent erosion and minimize runoff and flooding from new construction.*

This local policy is not applicable to the pipeline project.

38) *The quality and quantity of surface water and groundwater supplies will be conserved and protected particularly where such waters constitute the primary or sole source of water supply.*

There is no mechanism whereby either construction or the existence of the pipeline would have an impact on the Village's water supply, particularly in a highly permeable aquifer such as that tapped by the well field. Furthermore, as documented in the Geraghty & Miller 1988 report, the greatest yield from the well field occurs from the deeper depths of the aquifer and the wells at its south end, not from the shallow zone where the pipeline will be installed at the northern part of the well field.

The well field area already has roads, a treatment facility, and pipelines constructed through the area. The construction of the gas line poses no threat for an impact greater than maintenance of the existing system, and in fact far lesser impacts. The construction methodologies will include techniques to minimize the possibility of trench dewatering. If dewatering is needed it will be a temporary phenomena and the water pumped from the trench will be discharged within Zone 1 of the well field. Geraghty and Miller's report estimates that the well field has the capacity to yield approximately 11 million-gallons-per-day (over 10 times the current annual demand), although the existing wells have the potential to only yield a fraction of this future capacity. Hypothetically construction of the pipeline could have some temporary impact below quantitation levels, the fact that the well field has excess capacity to meet the Village's requirements, even with the existing wells, shows that there is no potential for impact from temporary construction of a gas line.

The same is true once the gas line is completed, the potential for impacts is below quantitation levels and there is no reasonable potential for significant impact. In the face of the data available from the Geraghty & Miller report there is no rationale, given the low potential for impacts, to perform any more quantitative modeling or site-specific evaluations of these conditions.

No materials are proposed to be stored in this area which could impact the well field or the aquifer. In fact, construction precautions will be used throughout this area and equipment will not be stored here or in the vicinity.

Natural gas dissolving into groundwater has been raised as a concern. Natural gas is produced in nature and can be produced, for example, in swampy areas. Impacts on the water quality from natural gas are unlikely.

With respect to the pipeline potentially interfering with the Village's expansion of their existing well field, it is correct that the pipeline "will have no influence on the future citing of water-dependent uses," as stated in the DEIS. As noted by Geraghty & Miller the aquifer is extremely permeable, as are the shallow soils, and there is no limitation on placing a new well other than within several feet of the proposed pipeline. Given the

detailed design drawings and location information that will be available virtually the entire well field is available for future development. Certainly all the water resources of the well field are available for the development since location of the well 20 or 30 ft away from the pipeline would easily draw water from the vicinity of the pipeline in its yield.

39) *The transport, storage, treatment and disposal of solid wastes, particularly hazardous wastes, within the coastal areas will be conducted in such a manner so as to protect groundwater and surface water supplies, significant fish and wildlife habitats, recreation areas, important agricultural land, and scenic resources.*

The project will not transport, store, treat or dispose of solid wastes of any kind, thus this policy does not apply.

39A) *Requires transporters, producers and storers of hazardous materials to inform the public or allow public access to records involving the transport, storage, treatment and disposal of hazardous materials. This is of particular concern with respect to rail transport of such materials, storage of identified materials on railroad property and uses in the waterfront area involved in the treatment, storage and disposal of such materials.*

This local policy is not applicable to the pipeline project.

39B) *In accordance with title III, section 302, emergency planning and community right-to know of the 1986 superfund reauthorization act, the local emergency planning committee and the Croton fire department shall be notified if hazardous substances exceed the established threshold planning quantity.*

The proposed project does not involve the transport, storage, treatment or disposal of solid wastes. Therefore, this policy does not apply.

40) *Effluent discharged from major steam electric generating and industrial facilities into coastal waters will not be unduly injurious to fish and wildlife and shall conform to state water quality standards.*

This project does not involve discharges from generating stations, thus this policy does not apply.

41) *Land use or development in the coastal area will not cause national or state air quality standards to be violated.*

The proposed project would not result in the violation of any Federal, state or local air quality standards. The potential reduction in marine traffic and congestion related to the delivery of petroleum products to the Bowline Point Generating Station and other

industrial facilities would benefit overall air quality in the general area. The proposed project would therefore be consistent with this policy.

41A) *A NYSDEC point-source air monitoring station should be established within the Village of Croton-On-Hudson.*

This local policy is not applicable to the pipeline project.

42) *Coastal management policies will be considered if the state reclassifies land areas pursuant to the prevention of significant deterioration regulations of the Federal clean air act.*

The project would not effect state classifications of land areas, thus this policy does not apply.

43) *Land use or development in the coastal area must not cause the generation of significant amounts of acid rain precursors nitrates and sulfates.*

The proposed project would not cause the generation of significant amounts of acid rain precursors: nitrates and sulfates. In fact, the proposed project will deliver a clean burning fuel that should result in the overall reduction of acid rain precursors in this region. The project is consistent with this policy.

43A) *Encourage the use of shuttle bus service to the train station, thereby decreasing dependency on the automobile use and reduce the generation of acid rain precursors.*

This local policy is not applicable to the pipeline project

43B) *Encourage the use of low sulphur fossil fuels for rail vehicles and encourage the development of a monitoring program to assess rail vehicle engines emissions.*

This local policy is not applicable to the pipeline project.

44) *Preserve and protect tidal and freshwater wetlands and preserve the benefits derived from these areas.*

The only wetland within the boundaries of the Village of Croton-on-Hudson that will be crossed by the Con Ed Offset/Taconic Alternative was identified in Table DR1.5 of the May 8, 2001 filing as wetland W08CT. This wetland extends from at least the northern edge of the Con Ed ROW downslope into the center of the Arboretum. The portion of this wetland within the Con Ed ROW was identified during the field survey of the Con Ed ROW conducted in 1998 as part of the survey of the original Project route. The wetland was identified as wetland W8WC in project documents prepared at that time.

Although areas north of the Con Ed ROW were not surveyed as part of the effort in 1998, it is apparent from examining the Haverstraw, NY USGS topographic map that a likely connection exists between wetland W8WC within the Con Ed ROW and a complex of ponds in the vicinity of Upland Road and Foster Court in the Town of Cortlandt immediately upslope and north of the Con Ed ROW.

During the field survey of the Con Ed Offset/Taconic Alternative in April 2001, the southern edge of the Con Ed ROW was surveyed for the presence of both wetlands and surface waters. During this survey, wetland W08CT and stream S07CT were identified. Based on field observations, wetland W08CT is obviously a downslope continuation of wetland W8WC that was identified within the Con Ed ROW during the 1998 survey. Similarly, stream S07CT obviously originates as drainage from wetland W8WC, identified within the Con Ed ROW during the 1998 survey. Based on observations made during the April 27, 2001 visit to the Arboretum, it was also apparent that stream S07CT continues downslope to eventually drain into the Arboretum's wetland. Wetland W08CT also borders the stream on both banks between the Con Ed Offset/Taconic Alternative centerline and the wetland that forms the core of the Arboretum. These observations conform to wetland mapping within the Arboretum conducted by Hudsonia Ltd. (Stevens and Kirk 1995) for the Arboretum. This document was supplied to Millennium by Ms. Jescavage-Bernard and reviewed prior to the time of the meeting on April 27, 2001. Thus, the Arboretum wetland is connected, both by wetland and by stream to a much larger upslope wetland area that likely extends beyond the boundaries of the Village of Croton-on-Hudson.

Millennium indicated in its filing of May 8, 2001 that the crossing of wetland W08CT will be constructed within a narrowed 50-foot-wide construction work space. This will minimize the extent of the wetland temporarily affected by construction, while preserving as much natural habitat as practicable.

Millennium indicated in its letter of May 7, 2001 to Ms. Jescavage-Bernard that the entire construction work area will be returned as closely as possible to pre-construction contours. As discussed in FERC's SDEIS at page 5-18, Millennium will have an on-site wetland specialist to ensure that the original hydrological patterns of wetlands are restored to the fullest extent practicable. Further, outside of a 10-foot-wide clear zone centered on the pipeline, Millennium is proposing to replant areas with trees and shrubs selected in consultation with the Arboretum. Given the existing spacing of mature trees within the Arboretum and the wetland, the permanent ROW within the wetland will not differ appreciably from adjacent undisturbed areas. This will minimize the permanent effects of the Project on wetland W08CT.

Erosion and sedimentation within and into the wetland and within the general construction work space overall will be controlled through the use of BMPs as mandated by the FERC, the U.S. Army Corps of Engineers, and NYSDEC. These BMPs are contained in Millennium's ECS and represent state of the art within the industry. These

standards include the installation of silt fences and sedimentation barriers along steep slopes, across the construction work area at all wetland boundaries, and at the downslope edge of the construction work area where it passes through wetlands. Millennium's Environmental Inspectors and the agencies' 3rd party compliance monitors will monitor construction activities within wetlands and across streams to ensure that the work complies with the ECS and other environmental commitments and requirements as well.

Millennium spent considerable time during the on-site meeting of April 27, 2001 discussing control of invasive species with Ms. Jescavage-Bernard. While various suggestions are made in the letter concerning control of invasive plants, Millennium continues to believe that the best short-term option for control of nuisance plants is a maintenance program of hand removal within the construction work area following construction of the Project. Millennium remains willing to discuss the details of such a maintenance program, including frequency and timing of inspections, with both the Arboretum and the Village of Croton-on-Hudson. In the long-term, Millennium believes that control of nuisance plants is best achieved through re-establishment of a closed canopy in the construction work area. The implementation of a replanting program within the Arboretum is suggested as a means of accelerating this goal.

In summary, Millennium believes that the Project will not alter the extent of wetland W08CT. While the effect of construction within the 50-foot-wide construction work area will result in removal of existing vegetation, Millennium has made a commitment to implement a replanting program within the Arboretum, including the wetland, and limit maintenance to a 10-foot-wide space centered on the pipeline. Given the existing spacing of mature trees within the Arboretum and the wetland, the permanent ROW within the wetland will not differ appreciably from adjacent undisturbed areas.

44A) *Wetlands, water bodies and watercourses shall be protected by preventing damage from erosion or siltation, minimizing disturbance, preserving natural habitats and protecting against flood and pollution.*

See above statement.