-------- Original Message --------

Subject: (no subject)
Resent-From: Islandereast.Comments@noaa.gov
Date: Thu, 20 Nov 2003 23:55:23 EST
From: KKennedyMD@aol.com
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Please accept this final submission.

KennedyArticlesCollection2001-2003.doc

CT STOP THE PIPELINE POST OFFICE BOX 578 BRANFORD CT 06405

November 20, 2003

The Office of the General Counsel for Ocean Services
National Oceanic and Atmospheric Administration
U.S. Department of Commerce
1305 East-West Highway
Silver Spring, MD
20910

RE: Islander East Pipeline Appeal

Dear Sir/Madame:

The following collection of articles represent a selection from the series of ongoing op-ed pieces that I have written for one of our local shoreline newspapers, Branford's *The Sound.* This weekly newspaper, circulated free to the community, is owned by Shore Publishing, which also owns several other Connecticut shoreline weekly newspapers.

All of the following articles reflect some aspect of Long Island Sound concerns and/or the Islander East Pipeline project. All were published in the *Branford Sound* in the month indicated.

I submit these articles to NOAA in order to help create a better sense of how our shoreline community has experienced Islander East and how persistent our efforts have been to protect our Connecticut shoreline and Long Island Sound.

Please note that these articles are the property of Shore Publishing and should not be published in any other forum without the explicit permission of Shore Publishing.

Respectfully submitted,

Kiki Kennedy
Spokesperson, CT Stop the Pipeline

Published September, 2001

Scraping Bottom: Pipeline construction damages historic shellfish beds

By Kiki Kennedy

"The shellfish beds in Milford are scarred, still unworkable after ten years," Larry Williams calmly observes. He should know – a lifelong shellfisherman in Long Island

Sound, Larry works his oyster and hard clam beds year-round, 12 hours a day, 6 days a week.

Williams is talking about the damage done during the installation of the Iroquois natural gas pipeline in 1991. This pipeline carries gas through Milford across the Sound to Western Long Island. A different company, Islander East, has proposed a second gas pipeline across the Sound from Branford to Eastern Long Island. This new proposal has not yet been approved by the Federal Energy Regulatory Commission (FERC), and several local and regional organizations are opposing this proposal because of safety, economic and environmental concerns.

What happened in Milford 10 years ago tells a grim and cautionary story about the effects on shellfish if this second pipeline is allowed to be built. Williams watched work proceed on the Iroquois pipeline: "The way they lay the pipeline – they have a gigantic barge that needs six positioning anchors, three on each side, to keep it in position. These anchors are huge, 4000 pounds, the size of a pickup truck; they create craters in the bottom six feet deep," he says. "A tugboat runs the anchor 1000 feet out from the barge. Then, using lights on shore and GPS positioning, the anchors are put down."

Williams describes a conventional trenching technique: a 4 foot wide by 4 foot deep trench is cut, the pipeline laid and the area backfilled with the previously excavated material. However, in Long Island Sound, since the first 2 to 3 feet of the floor is composed of very fine material, much what was dug up was carried away as suspended sediment by the tides and currents. Bargeloads of sand were brought in as additional fill. Water quality declined during construction -- for months afterwards, the Sound turned brown "like coffee ground,." Says Williams. Where the pipeline crossed through oyster beds, bushels of shells were used as fill; this created a hard surface that oysters could not grow in. Finally, because Iroquois had promised to "rehabilitate to pre-construction profile, " after the trench was filled, a large beam was dragged across the Sound floor to smooth it out.

Digging, filling, and dragging. Williams shakes his head. "The effects were unforeseen. It was shocking to see the effects of siltation." A plume of silt buried adjacent oyster beds. Other beds were severely damaged. Siltation effects extended far beyond the construction corridor because of the tides, currents and positioning anchors. Oysters in outlying areas died. In addition, extensive material, like heavy ropes and cables presumed to be from the construction, were discovered on the floor of the Sound.

Williams believes some lawsuits were brought against Iroquois for the damages; they were settled out of court. Fines were levied against Iroquois for failing to return the area to a "pre-construction profile." Williams is concerned about the effects of another similar operation: "The bottom of the Sound is permanently scarred. I am extremely skeptical that any other technique will be any better because a lot of fine material will still be dispersed. In the shellfish industry, it is widely accepted that there has never been a successful rehabilitation of any bottom anywhere." The damage saddens Williams. "These beds in Branford are over 150 years old. They are a part of our heritage."

Jonathon Waters leases 1200 acres of shellfish beds in Branford and owns the Thimble Island Shellfish Company. He has loved oystering since he was a child. Waters harvests five days a week and spends a sixth day doing maintenance and repairs on his boat. "Stony Creek has a 200 year old history of oystering. I've got oyster beds adjacent to the proposed route and I'm concerned about siltation because of the proximity. I'm not convinced that they know the answers and I'm the guy that loses if they're wrong. It's a small business and we are just coming back after losing 90% of our oysters to a parasite three years ago." Waters pauses. "There is not any benefit to Connecticut (from the pipeline) and that bothers me. If I could see some good out of it then I would understand."

Kyle Nelson, the Chairman of the Branford Shellfish Commission, is also concerned. The current proposed pipeline route is within 2000 feet of the only unrestricted recreational shellfish bed in Branford. On September 7, after months of hard work, the Commission was pleased to open a new area on a conditional basis. "We have made great strides in terms of rebuilding recreational shellfishing in Branford. We see this pipeline project as proposed as a major setback in our efforts."

Nelson describes several issues. First, the unique shape of the Branford coastline and the currents create a sediment trap: sediment takes days to clear, and if excessive, may settle in new areas and create new problems. Second, the proposal includes a technique where a horizontal directional drill would be used to drill 4000 feet from the shore under the Sound. Since drilling under shellfish beds has never been done, the effects of vibration and soil disturbance are worrisome. Third, he notes that with barges drawing 12 feet and water levels in the proposed site getting as low as 14 feet, construction equipment could cause significant problems. Fourth, the remainder of the underwater construction would be by conventional trenching techniques – and could repeat what happened in Milford.

In a letter submitted by the town of Branford to the Federal Energy Regulatory Commission, the Branford Shellfish Commission "opposes the Islander East pipeline project," requests an Environmental Impact Statement and asks "that FERC review alternate proposals that may avoid or lesson environmental impact."

Oystering and clamming are part of our shoreline legacy. Ten years later, the shellfish beds in Milford still have not recovered. What will we say about Branford's shellfish beds a decade from now? If this pipeline goes through, I'm afraid I already know the answer.

Published September, 2001

The Gas Pipeline Approval Process: Do we have a voice?

By Kiki Kennedy

The clock is ticking. Islander East, L.L.C. gave notice to the Connecticut Siting Council(CSC) on Monday, September 17. We have 60 days now. This 60 day municipal consultation period requires Islander East to consult with the towns affected by their pipeline proposal. By November 16, Islander East will make its formal application to the CSC.

Islander East, you may recall, has proposed the construction of a large natural gas pipeline through Branford, traversing the Nature Trail and inland wetlands, upsetting shellfish beds to cross Long Island Sound. The pipeline would require a clear-cut area of 50 feet in perpetuity. The pipeline would supply gas to Long Island, not Connecticut.

"Hold on," you may say, " I am confused. Didn't Islander East already apply to the Federal Energy Regulatory Commission (FERC) in June? Where is FERC in its process? Why the Connecticut Siting Council now? Is this a state or federal question? And doesn't the town have a say?"

Clear questions, but we can only provide hazy answers.

- **Application to FERC:** Yes, Islander East applied to FERC on June 15, 2001. FERC is an independent regulatory agency within the Department of Energy. FERC has 5 member positions, each lasting for a term of 5 years. Members have been appointed by the current or former President, with Senate approval. Currently there are 4 members, including a new chairman, Pat Woods, recently appointed this summer. In its application, Islander East asked for a Preliminary Determination (PD) by December 31, 2001.
- **The process at FERC:** FERC's review process is complicated. Many factors are considered in making its determination – economic risks and benefits, numbers of properties affected, and grassroots organization's objections. Safety issues do not figure in the evaluation. It is unclear how much weight each of the factors carries. When a PD is requested, environmental concerns are NOT considered in that phase of the decision-making. However, FERC is never required to grant a PD. If a PD is issued, environmental concerns then are considered, but historically, these do not overturn a PD. FERC offers a website -- **www.ferc.gov** -- posting meeting dates, agenda items and other relevant information. Additionally, if an individual or organization has filed for "intervener status", then that entity can have access to current relevant documents and receive copies of new filings. At this time, FERC is evaluating Islander East's application and is making requests for more information from Islander East. Otherwise, we do not know much more of where the proposal stands. There is no clear schedule.
- **Connecticut Siting Council:** Islander East is required to apply to the Connecticut Siting Council (CSC), a seven-member group appointed by Governor Rowland. CSC takes into account the siting issues, environmental concerns and construction methods of many different projects. CSC's process is better understood. When notice is given that a formal application will be made, a 60-day municipal consultation period begins. Islander East is expected to cooperate by providing data to affected towns and attending public hearings. After this 60-day period

ends (in the case of Islander East on November 16th,) the CSC will consider the data presented, ask additional questions and hold hearings at which witnesses can testify. Then a vote is held, with the majority rendering the decision. The results of the vote, i.e. "two to five" or "six to one" are known.

- **State or federal control?** State control or federal jurisdiction for an interstate utility is particularly confusing and murky. It does appear that state authority is significantly less for natural gas pipelines than for electrical transmission cables. For example, the CSC had considerable authority to stop the recent Transenergie proposal to lay electric cable through New Haven Harbor and across the Sound to Long Island. After a review revealed the deleterious effects a cable can have on Long Island Sound's ambient temperature and shellfish, especially young lobsters, the CSC unanimously voted not to permit the cable. (Since then, Transenergie has revised its proposal and its currently being re-reviewed by the CSC.) This demonstrates the authority CSC can have on an interstate utility. However, for natural gas pipelines, CSC's jurisdiction is far more limited. FERC requires that the applicant, in this case, Islander East, consult with local and state regulatory bodies that would usually have jurisdiction over the pipeline but for FERC's exclusive jurisdiction. However, it is likely that FERC will take CSC's decision into account. So, whether CSC is strongly for or against the pipeline will be an important factor. But FERC has the authority to overrule CSC, even if the council unanimously votes against the pipeline. FERC would likely consider CSC's recommendations in terms of the exact siting of the pipeline – moving it 50 feet here or there – but the pipeline would still go through even if CSC objected.
- **Branford's ability to shape its future.** The town of Branford will have a say, and hopefully what the town says will carry weight in the decisions by CSC and FERC. In fact, in response to the 60-day consultation period required by CSC, Branford has organized a "Blue Ribbon Committee" to draft a report for the Board of Selectmen. This eight-member committee, appointed by First Selectman "Unc" DaRos, will conduct at least three public hearings between October 1 – 12th . The hearings will focus on three main topics -- environmental, economic and community values. To find out the dates for the hearings, look for postings in local newspapers or call the First Selectman's office at 488-8394. And if you have relevant facts or expertise in any of these areas, call and ask to testify (Terence Elton, the coordinating Town staffer, can be reached at 315-5279.) All citizens can attend and hear the proceedings. The Blue Ribbon Committee will then review all material, write a report and submit their recommendations to the Board of Selectman who will adopt the Town's recommendations and forward them to Islander East and the CSC by November 16.

The process is complex and how much the different concerns about the pipeline – economic losses, environmental degradation, and grassroots opposition – will ultimately figure in the final decision is unclear. But what is clear is this: if you are concerned about the pipeline, say something, do something. Do not let silence be your answer. Call your elected officials and tell them you are opposed. Sign the petition. Go to the hearings. Ask to testify if you have good facts. Just like every vote counts, every voice counts.

"But," you may say. " I am tired. The tragedies of September 11 weigh heavy on me. I'm worried about America's future."

All of us are. What happened to our nation is horrifying. What threatens us feels terrifying. But we've also experienced the affirming feelings of caring and love that emerge after a catastrophe such as this. While we cannot know the future, we do know that we are a strong country and that we will fight to preserve our way of life.

Our way of life means having a vote and a voice. Rejoice in our freedoms. Use your vote and your voice.

Published October, 2001

Together We Can Make a Difference

Join a rally with your neighbors to oppose the pipeline.

By Kiki Kennedy

You are cordially invited to attend an old-fashioned rally – complete with balloons, hot dogs and a rousing rendition of "America the Beautiful", with speakers like State Senator Bill Aniskovich , State Representatives Pat Widlitz and Peter Panaroni, Save the Sound and – special guest speakers Attorney General Richard Blumenthal and US Representative Rosa DeLauro!

When? Saturday, November 3 from noon to 1 PM.

Where? The Branford Town Green.

Why? To show our opposition to the Islander East natural gas pipeline proposal – both the preferred route through Branford and the alternate route through Guilford.

The town of Guilford was a bit surprised in mid-September upon learning that Islander East had named Guilford an "alternate route" – cutting through Guilford Land Trust property, Westwoods, inland wetlands and leaving the Connecticut shoreline at Sachem's Head to travel across the Sound to Long Island. The "preferred route" remains in Branford – bordering the Branford Steam Railroad right-of-way and crossing Branford Land Trust land, inland wetlands and the Nature Trail between Stony Creek and Pine Orchard before crossing the Sound.

As you may recall, Islander East Pipeline Co, LLC submitted an application to the Federal Energy Regulatory Commission (FERC) requesting an expedited approval process with a Preliminary Determination (PD) by December 31 of this year. FERC has recently decided to do an Environmental Impact Statement (EIS) in lieu of a less detailed

environmental analysis; however, a planned EIS will not preclude the issuance of a Preliminary Determination, which is solely based on economic factors.

In addition, Islander East will formally apply to the Connecticut Siting Council(CSC) on November 16. The CSC will hold hearings and be expected to vote on the proposal. Although FERC can override the CSC, FERC does give some deference to the opinions rendered by the CSC. So if the CSC thinks these proposals would not be good for Connecticut, FERC just might listen.

FERC also is attentive to concerns of the people. FERC responds to grassroots opposition, like CT Stop the Pipeline. Although FERC can override a community's concerns, it often reacts positively to what citizens have to say. Industry analysts agree that strong community opposition CAN stop a pipeline.

Lets hope this is one of those times.

And that's why we need to have a rally – to let FERC and the Connecticut Siting Council know of our staunch opposition to both these routes.

First, having a rally is a way to express ourselves through our constitutional right to assemble – a right that our founding fathers fought hard to achieve. We honor our American heritage when we exercise our right to assemble peacefully.

Second, a rally will help unite our towns behind a single cause. I urge every shoreline citizen to come to the rally, not just residents of Branford and Guilford. Long Island Sound is a precious resource – what affects one part of the Sound can affect its entire ecosystem. We need to stand united against the prospect of our wetlands being despoiled, our bedrock blasted, our trees cut down, our shellfish beds covered by treacherous silt. We need to stand united against the prospect of a gas pipeline buried in our backyards, a potential hazard for our families' safety and security as well as our property values.

Third, we can feel connected with others who value the rocky beauty of our shores and want to preserve the peaceful wonder of the Sound for our children. We can experience a sense of real community that comes from meeting with others who care as much as we do about this shared concern.

Finally, a rally can help us in other ways, too. Since September 11, each of us has been struggling with our own losses and fears. For some, there has been the tragic loss of a friend or family member. For others, the loss of innocence -- of a time when we felt safe. For some, there are fears about anthrax in the mail, of an economy gone soft. For others, the fear of freedoms we might lose as we battle terrorism.

A rally can help us feel that we each still matter in this world. That there are efforts we can make that make a difference. We can still fight for causes we believe in. We can still shape our world, even in little ways that matter.

Please join your neighbors on Saturday, November 3 at noon on the Branford Town Green. Lets stand united.

Published October, 2001

Pipedreams: Pipeline deals aren't what they seem

By Kiki Kennedy

We had a great Rally on November 3! Hundreds of people gathered on the Branford Green, with bright balloons and inspiring music. Representative DeLauro, Attorney General Blumenthal, State Senator Aniskovich, State Representatives Panaroni and Widlitz -- each spoke with power and conviction. They are clearly on our side -- against the Islander East Pipeline proposal.

So what happens next?

There are two separate processes that go forward now.

1. The affected towns– Cheshire, North Haven, North Branford, Branford and Guilford -- after compiling the material from their own public hearings, will present their reports to Islander East. Those "recommendations" will be included in Islander East's application to the Connecticut Siting Council (CSC). After receipt of the application, the CSC will schedule a series of formal hearings, perhaps as soon as December. The public will be able to attend, but there will probably be only one hearing open to public comment. Although we'll all be getting into the holiday spirit, this process doesn't take a break! And neither can we. Be sure to look for notices announcing the CSC hearings during this holiday season.

2. The Federal Energy Regulatory Commission (FERC) will be deliberating whether or not to issue Islander East a Preliminary Determination (PD). Only non-environmental factors -- read "economic" factors -- will guide FERC in its decision. It will be a setback for us if FERC decides to issue a PD, but it still does not make this a "done-deal".

In considering a Preliminary Determination, FERC tries to balance the "proposed public benefits" against the "residual adverse effects." The adverse effects we know very well -- degrading our shoreline communities, trenching the Sound, destroying shellfish beds and creating a new safety hazard while lowering property values.

So what exactly are the "proposed public benefits"?

Well, first of all, Islander East likes to state that *Connecticut* will benefit: John Sheridan, Regional Director of Public and Government Relations for Islander East, wrote in a letter to the editor of the Branford Review on November 7 that the Islander East pipeline " will increase our capacity to meet the projected future demand here in Connecticut".

However, in Islander East's application to FERC, they have not cited even *one* Connecticut customer who might need the gas and they certainly have not signed any agreements to provide gas to any potential Connecticut customer.

Furthermore, currently there is little market for gas except in major Connecticut cities, since there is no gas delivery infrastructure to 74 percent of our state's homes. Conversion to gas for those homes would take years. In fact, by that time, the technology for cheap, energy-efficient fuel cells might have been developed, which would substantially decrease the current projected needs. Finally, if Islander East does meet its own projections for what New York and Long Island might need, there won't be enough pipeline capacity to supply the gas to *any* future Connecticut customers – unless Islander East tries for a future expansion of the pipeline.

So we know that this public benefit is not for Connecticut – then, for whom is it?

Islander East has signed "precedent agreements" with four potential customers – Brookhaven Energy LLC, AES Endeavor, KeySpan Energy Delivery Long Island(KEDLI) and KeySpan Energy Delivery New York (KEDNY). These customers are "potential" in more than one way. Two of the customers are just *potential* proposals themselves; each is a several hundred megawatt power plant still trying to get a permit from New York state. Brookhaven Energy LLC has just been told that its application is complete; formal hearings and an actual permit have yet to occur. In addition, Brookhaven's application indicates that their primary source of gas will come from an already existing pipeline that runs *east* up the Long Island Expressway – not requiring the Islander East pipeline at all. Its project manager and vice president, Robert Charlebois, stated in an email correspondance this fall that "we have reserved a transportation position on the Islander East pipeline but our project is not dependent on the pipeline being built". The other proposed power plant, AES Endeavor, to be located in Calverton, New York, is still a pipedream; the company has not made its application to New York State.

Add to this mix that the Long Island Power Authority (LIPA) has other plans for Eastern Long Island, including small 80 megawatt power plants that don't require the same level of state permitting as the big ones do. In addition, LIPA is very concerned that their power grids may not be big enough to handle all the power generated by Brookhaven and AES. This makes the permitting of both big power plants a bigger uncertainty.

The other two customers – KEDLI, which covers Long Island customers and KEDNY, which is Brooklyn Union Gas, near to NYC at the far western end of Long Island -- are both subsidiaries of KeySpan Energy, a corporation that on its Web site states "our vision is to become the premier energy and services company in the Northeastern United States." On November 8, 2001, KeySpan became "the largest gas distributor in the Northeast with approximately 2.4 million customers." And big surprise -- KeySpan Energy owns a 50 percent interest in the Islander East Pipeline project. So a "potential customer" of Islander East is also a "parent" of Islander East. KeySpan's subsidiaries,

KEDLI and KEDNY would be buying gas capacity from their parent company's subsidiary.

I doubt we'll see much sibling rivalry there -- these linkages seem all too cozy on the corporate level. How, we must ask, will consumers fare with this arrangement? Will this promote competition in the marketplace and provide a fair price for gas for all consumers? Is this a "public benefit" or future corporate profit?

Finally, KeySpan already has an existing major gas pipeline running *east* along the Long Island Expressway, bringing gas *from* the New York City area to Eastern Long Island. This pipeline is the one that would supply the future Brookhaven power plant. So then why does KeySpan want Islander East gas to supply gas to Eastern Long Island? Well, although we do not have access to KeySpan's pipeline map (because of security concerns since September 11) this suggests that the real target markets for Islander East are not Connecticut or even Eastern Long Island -- but New York City.

Islander East's own future market projections, made in their application to FERC, further confirm this. They indicate that the projected pipeline capacity for New York City markets is two to three times greater than the capacity needed for Long Island markets. That means that as much as *75 percent* of the gas that the Islander East pipeline would carry could be for *New York City*-- not Eastern Long Island.

Now, certainly we care about the people of New York City, especially since September 11 and then again last week when Flight 587 crashed in the Rockaways. But this compassion we feel should not translate into willingness to let our Connecticut shoreline and Long Island Sound be environmentally degraded and possibly exposed to more security threats. Why are we being asked to supply New York City with gas?

The answer lies in New York state's deregulation of its energy markets, a topic that will be addressed in next week's article. Stay tuned for more information and perspectives on the real issues behind the Islander East Pipeline proposal.

Meanwhile, the "proposed public benefits" for the Islander East pipeline primarily appear to be corporate-profiteering "parents" and power plant pipedreams – not the consumer public.

Published November, 2001

Energy Deregulation: Free market or free-for-all?

By Kiki Kennedy

"The goal of deregulation is to decrease costs for consumers by increasing competition," said Carl McCall, the New York State Comptroller, in a press release from his office in February 2001. "Unfortunately, the best thing that can be said about deregulation in New York is that it's not as bad here as it is in California – yet. New Yorkers actually pay

more per kilowatt-hour than in California and virtually every state. Deregulation in New York is a good idea done poorly."

Why are we discussing New York and the deregulation of its energy markets in a Connecticut shoreline newspaper?

Because New York's energy problems, as a result of deregulation, have no easy answers. So Connecticut is being asked by corporations like Duke and KeySpan, the "parents" of Islander East Pipeline Company, to provide solutions, like cross-Sound pipelines and electric cables.

What happened in New York State?

In 1996, New York State Governor George Pataki, following a national trend, thought that if utility monopolies were dismantled and -- at the same time -- if New York State relinquished its control over rate-setting and power plant construction, a new, more competitive energy market could emerge. This new market could solve New York's energy needs – for example, by building more energy-efficient power plants -- while keeping prices low for consumers through competition and price wars.

A deregulation plan was drafted by the New York State Public Service Commission. However, instead of proceeding slowly and cautiously – as other states like Pennsylvania did – the New York plan went for a *radical* transformation. The New York plan for deregulation assumed that the energy surplus would remain, that government limits on rate prices were unnecessary, that more power plants were not imminently needed, that corporate incentives to encourage energy conservation by consumers were dispensable and that local monopolies could be broken up by requiring the local utility companies to sell off their power plants to independent companies -- then buy that power back from the plant and sell it to consumers.

"They thought it was a classic win-win situation," said Attorney George M. Knapp, who represents power producers, in a New York Times article on June 1, 2001. "What could possible go wrong? – except everything that did go wrong."

According to the Times, the plan "ignored warnings that prices could rise under deregulation unless steps were taken to ensure adequate supplies of power. It cast aside expert findings that the utilities' plans to sell their power plants to just a few buyers might invite the new owners to engage in price gouging." In addition, New York did not set price limits to protect consumers from rate increases during the transition from a regulated market to a free market – like other states did -- and consumer rates sky-rocketed. Independent companies were not interested in building power plants – so none got built.

And forget conservation – today New York spends less on conservation programs than it did ten years ago. Consumers were no longer given economic incentives to cut back during peak usage times, despite an aging distribution system that wastes substantial

amounts of power -- especially during those peak times. Programs for the development of high-efficiency or renewable energy sources, such as fuel cells and high-efficiency solar cells, for which Long Island is particularly well suited, were also curtailed.

Nevertheless, the demand for power in New York continued to grow.

Now we have an energy market in chaos – not enough independent companies to promote a robust, competitive free market and little government control. In other words, power companies have no real limits and can do want they want.

Before deregulation, although the utility companies were few and monopolistic – they made and sold the electricity – at least the New York Public Service Commission regulated the rates to make sure that the prices were fair and there was always a reliable supply of power.

Today, New York must contend with ever-increasing energy rate hikes, diminished power supplies and the threat of blackouts.

The only governmental check potentially in place is the New York State Independent System Operator (NYISO), an independent body established in 1999 by the New York Public Service Commission to help create a more competitive market -- however, the NYISO has no authority to limit prices. Furthermore, critics contend that NYISO has been mismanaged and has not fostered competition or helped new companies join the market. Moreover, NYISO's computer software is so antiquated that it cannot predict demand or prices. Consequently, there is no thoughtful, overall plan in place for New York's energy needs.

What happens?

Corporations design their own corporate profit self-serving plans. And since New York is desperate, these plans become the solutions – even though these projects are environmentally destructive, based on questionable data and not intended to keep consumer rates down.

That's where we are now. That's why we have several cross-Sound pipeline and cable proposals, heedless of the additive effects on the Sound, to meet each corporation's projected profit margin.

Isn't there any other solution? Can't we have an overall regional plan that takes into account all aspects of these issues – energy needs, the environment, consumer costs, public safety – and comes up with something that makes sense for the people, not just the corporations?

Thankfully, New York has recognized its energy market failures. Two state agencies – NYISO and the New York State Energy Research and Development Authority (NYSERDA), a public benefit corporation created in 1975 by the New York State

legislature -- have commissioned a consultant, Charles River Associates, to develop a computer modeling system of the electric and natural gas infrastructure serving the Northeast. The report is expected to be completed in the Spring of 2002 and will assist new York in developing an energy plan.

In addition, State Comptroller Carl McCall has also called for a long-term strategy that takes into account the need for new power plants and balances that with energy conservation, environmental concerns and how rates are set for consumers.

Now perhaps New York will begin to have some idea of its future energy needs. And perhaps Connecticut can look to the Charles River Associates report to help answer some of our own energy questions. But we need to come up with our own state plan too. We cannot allow the corporate interests and the needs of New York state dictate what we do or don't do. It is time that we look to what is best for Connecticut.

Stay tuned for more about how Connecticut could benefit – or lose– by how we decide what role to play in an overall Northeast regional energy plan.

Published December, 2001

A Thank You Note

By Kiki Kennedy

Lets award a big blue ribbon to the Branford Blue Ribbon Committee. The seven member group, appointed by First Selectmen Unc DaRos, has spent countless hours – including over ten hours of public hearings -- compiling concerns and recommendations regarding the Islander East Pipeline proposal to present in their report to the Connecticut Siting Council.

The final report was submitted on Wednesday, November 28 to the Branford Board of Selectmen who voted unanimously to accept it.

I urge each of you to read the report, available at Branford Town Hall or online at www.ctstopthepipeline.com. The report is thoughtful, well-written and comprehensive.

First, the report notes that "the Islander East application is incomplete and premature". It goes on to say that "this application provides insufficient information for this Committee or any other regulatory agency to make an informed decision… details of construction techniques are woefully lacking…specific requests by the Committee for information were not met… Islander East doesn't even know how some of the most important procedures will be carried out and in some cases even lacks some of the basic information needed to develop those plans…. Time and again, the Committee was told that Islander East wants to work with the town, but the consistent unspoken message was "You don't need to know what we're going to do. Just trust us and stay out of the way".

Islander East should be told to reapply when it has the answers to some very basic and important questions."

At this point, even after completion of the report in late November, and despite their repeated assertions during the hearings that they "will respond", Islander East still has not provided data or answers for many of the questions raised by both the Committee and local citizens during the mid-October hearings. Islander East has simply acknowledged but not provided answers to many many questions.

For example, with regard to the issue of safety, which was raised by a number of citizens during the hearings, the report lists many headings as follows: "Islander East has not provided detailed information regarding the scope of its safety training program" and "Islander East has failed to adequately respond to concerns about pipeline safety" and "Islander East failed to provide information about its security plan".

With regard to construction methods, the report lists headings such as these " Islander East fails to consider prudent and feasible alternatives" and "the restoration plans proposed by Islander east for wetlands and wooded uplands are inadequate and based on erroneous assumptions" and "Islander East has not yet prepared a contingency plan for how the pipe will be laid should directional drilling fail".

The report goes on to point out that "Islander East's Proposal fails to meet local, state and federal standards and regulations" and details several examples.

Finally, the report includes the potential economic impacts of the pipeline to the town of Branford. Several concerns –like decreased property values, increased costs for police and fire services and damage to shellfishing and lobstering industry -- included an astonishing figure: the carefully worked out value of Branford's shellfish beds is $861,300,000!

The report concludes with the impression that the Islander East Pipeline project is ill-conceived and poorly developed. The proposal does not appear "to offset the potential environmental and economic impact that could have long-term economic value of $1 billion as well as permanent environmental destruction."

This report is a terrific effort to compile the specific concerns and issues that the pipeline creates for Branford and the shoreline. If only Islander East Pipeline Company, LLC had taken the time and money to research this route the way these dedicated Blue Ribbon Committee volunteers did with no budget or expense accounts. Many congratulations and deep appreciation to each and every Blue Ribbon Committee member!

Now lets hope that the inherent fairness in our governmental systems prevail. Lets hope that the Connecticut Siting Council and the Federal Energy Regulatory Commission recognize the flawed logic and missing data in Islander East's application. Lets hope that the Preliminary Determination is not granted.

Published January, 2002

Care about Connecticut: let's put our economic, environmental and energy needs first

By Kiki Kennedy

I hope that by now all of you are more relaxed, done with the holiday bustle and able to enjoy this quiet week before New Year's.

Although "the pipeline" may have seemed quiet, there have been many new developments.

First, the Federal Energy Regulatory Commission (FERC) has recognized the need to look more closely at the complex energy issues in the Northeast. Mark your calendars for Thursday, January 31. FERC will hold a one day conference in New York City "to discuss the adequacy of the electric, gas and hydropower infrastructure in the Northeast… the goal is to identify present infrastructure needs, investment and other barriers to expansion, and environmental and landowner concerns." The governors of the northeastern states are invited. "All interested parties" are invited to attend too – so if any of you can come, please do! You can call either the FERC contact, Carol Connors, at 202-208-0870 or CT Stop the Pipeline at 671-STOP for more information. The meeting will be held from 9AM to 4 PM at the Helmsley Park Lane Hotel, 36 Central Park South in New York City.

However, for those of you who cannot take the time to attend the New York City conference, I strongly encourage you to participate in another way – by writing a letter or two– as I will explain shortly.

In their announcement, FERC emphasizes their interest in fostering a "comprehensive, collaborative approach to energy infrastructure development and reliability for the northeastern states". We are not sure if the definition of "northeastern states" includes the State of New York – usually termed a "mid-Atlantic state" – however, we can guess that since the conference is being held in New York City that, indeed, New York is considered by FERC to be a "northeastern state". So, given that, what this may mean is that, among other issues, FERC wants Connecticut to assume a more collaborative approach with New York.

Now, as we've written in this space, New York is beset with many energy problems caused, in large part, by the ways they tried to deregulate -- i.e. lessen governmental control over -- their energy system. New York made sweeping changes in a very short period of time while ignoring several critical factors. As a result, their rates have sky-rocketed and their supply of power may not meet their demand. Now, FERC, a federal agency, appears to be stepping in to bail out New York. Does that make sense?

First, New York is trying to solve its own energy mess and may not welcome federal solutions. The New York Independent Service Operator (NYISO) and the New York State Energy Research and Development Authority (NYSERDA) have commissioned a consultant, Charles River Associates, to develop a computer modeling system of the electric and natural gas infrastructure serving the Northeast. The report is expected to be completed in the Spring of 2002 and will assist New York in developing an overall energy plan.

Second, it is likely that part of FERC's solution will be to ask Connecticut to supply additional power to New York – primarily through cables and pipelines that criss-cross Long Island Sound. This would put a great economic and environmental burden on Connecticut – whether by the increase in energy rates that Connecticut ratepayers would likely suffer or the environmental damage incurred by the installation of these cables and pipelines. Then there's the extra air pollution for Connecticut when the electric power is generated here for those underwater cables to New York.

Third, although Connecticut has a sound power supply and fair rates TODAY, we do not know about our energy needs for TOMORROW. Connecticut has not yet developed an overall state plan to identify and meet its future energy needs, which are projected to grow. If, at this conference, Connecticut agrees to provide energy to New York, what happens when our energy needs increase? Do we pay more or do without? To avoid the threat of blackouts, would our rates would climb and approach the outrageous power rates of New York – the second highest in the country?

For all these reasons, we can't sit back and let the economy and environment of Connecticut suffer in order to remedy New York's problems. There are ways that New York's problems can be solved – through conservation, further implementation of fuel cell technology, new ideas from the Charles River Study – before we allow corporations to build more infrastructure that benefits their bottom lines and overlooks more modern solutions which New York might prefer.

We need to make sure that Connecticut's economic, environmental and energy needs are considered – before we agree to be an energy conduit to New York. We need to develop our own comprehensive state plan first.

And that's where you can help. If you can't go to the FERC conference in New York, then at least communicate your concerns to Governor Rowland, who will most likely be there. Make sure he puts the concerns of Connecticut AHEAD of the concerns of New York. Write him and tell him that we need a STATE energy plan before we can agree to any REGIONAL plan. And while you're writing that letter, please be clear about your worries regarding the Islander East pipeline proposal – and what the economic, environmental and safety costs to our community would be. You can write to the Governor at: 210 Capitol Avenue, Hartford, CT 06106. Please take the time to let him know.

If you feel like writing one more letter, please write the Connecticut Energy Advisory Board, Office of Policy and Management at 450 Capitol Avenue, Hartford, CT 06106 and let them know your concerns as well.

Finally, and briefly, there are two more significant developments: on December 14, Iroquois filed with FERC. Iroquois is proposing to construct a new gas pipeline to Eastern Long Island. This pipeline would be a direct competitor with Islander East. Iroquois would put a tap a few miles offshore from their existing gas pipeline and run about twenty miles of new pipeline to Long Island. There would be little disturbance to either Connecticut shellfish beds or shoreline. From an environmental point of view, Iroquois' plan is far preferable to Islander East's proposal. Connecticut would suffer far less environmental destruction. However, the issue of supplying power to New York would remain.

Finally, as we go to press, Islander East is on the FERC agenda. Despite the upcoming conference and despite the filing by Iroquois, FERC could still issue a Preliminary Determination to Islander East before December 31. Please do not lose heart – a Preliminary Determination is only a step in the process and does not confer any federal powers or guarantees onto Islander East. We have a lot of excellent economic, environmental and legal arguments that could overturn a Preliminary Determination.

So, be of good cheer! We are doing the best that we can with "the pipeline issue". The process is long, arduous and exhausting. But if we all pull together (write your letter to the Governor!) we can help our community and Connecticut.

I would like to wish each of you a wonderful holiday season!

Published January, 2002

What's Happening with the Pipeline?

By Kiki Kennedy

I have been getting a lot of the same question recently: "So – what's happening with the pipeline?"

There are a number of answers that I could give. The process is long, complicated and confusing. I thought it might be helpful to look at three "happening" areas to get a fuller picture.

However, for those of you who want the short answer: "the pipeline" is going as well as can be expected.

Translation: we are very optimistic and there are still many fronts to do battle on. We are working hard with good spirits and enthusiasm fully recognizing that this is a long, hard campaign. We are trying to stop the Islander East Pipeline Company from constructing a

natural gas pipeline through Branford or Guilford across Long Island Sound to New York. We are trying to protect our precious land trust land, inland wetlands, shellfish beds, property values, energy rates and the safety of our community. We are trying to stop a corporation that has substantial money, political lobbying and legal power from taking advantage of us in order to add to its bottom line.

Now lets get to the "happening" areas.

1. Islander East was issued a Preliminary Determination on Wednesday, December 19, by the Federal Energy Regulatory Commission (FERC). According to our legal advisors, this was entirely expected. We are now asking FERC to reconsider their decision, for a variety of reasons, related to both the procedural aspects as well as the content of their decision.

Please know that a Preliminary Determination (PD) is NOT a guarantee that the pipeline will ultimately be given a final certificate. Nor is it a guarantee of any special powers. Also, a PD does NOT take into account any of the ENVIRONMENTAL aspects of the issue: thankfully, a full Environmental Impact Statement (FEIS) is currently being performed; the final results are still months away. Only after the results of the FEIS are looked at will FERC make a final ruling.

A PD means that from FERC's view, the economic benefits of the pipeline are greater than the economic disadvantages. FERC thinks that the economic benefits to Long Island outweigh the negative economic impacts to Connecticut. From our view, we disagree strongly with that – besides the decrease in our property values, the environmental degradation and the added expense for training police and firefighters to deal with "an incident", this pipeline could eventually siphon away needed gas from Connecticut to New York that we would need to buy back at higher rates. The pipeline potentially creates an economic hardship for Connecticut.

We also question the extent of the economic benefit to New York since Islander East has only FOUR precedent agreements. That means that there are only four potential customers that have indicated that they might want to get gas from Islander East: one is AES, a power plant that has not yet been built, nor even applied for a permit to be built. A second is Brookhaven, a power plant not yet built but currently in the permitting stages; however, Brookhaven has indicated that they have an alternate source of gas and can fully operate without Islander East. These first two customers are weak cases for real need. The other two entities, and indeed the only viable ones, are two subsidiaries of KeySpan – and guess what! KeySpan is a 50% investor in Islander East. Is maximizing KeySpan's corporate profits worth more than the economic and environmental well-being of Connecticut?

2. The second major development has been the Iroquois Pipeline Company's filing with FERC for their Eastern Long Island Extension Project. Iroquois is proposing to construct an extension off of its existing pipeline from Milford. This pipeline would come off a tap

a few miles off the Connecticut shore, cross Long Island Sound and make landfall in Shoreham, a few miles away from where Islander East is proposing to go.

Iroquois' pipeline extension would have little negative effect on Connecticut's shoreline or shellfish beds. There would be no new destruction of land trust property, inland wetlands and residential communities. From the viewpoint of Connecticut's environment, the Eastern Long Island Extension is a dream compared to Islander East.

Both these projects go to nearly the same Long Island location. Although Eastern Long Island and Islander East have different precedent agreements now, conceivably one pipeline could serve everyone. (After all, they even have almost the same name!) We hope that FERC and Connecticut officials – like the Governor – will decide to compare these two projects together and – if we are required to have a pipeline to Long Island after all -- at least choose the ONE that has the least environmental effect on Connecticut: Iroquois' Eastern Long Island Extension Project. Let's not have two pipelines to the same place.

3. The third important area is a reminder about FERC's one day conference in New York City on Thursday, January 31. The focus of the conference will be "to discuss the adequacy of the electric, gas and hydropower infrastructure in the Northeast." All four FERC Commissioners will attend. The governors of all the northeastern states have been invited, too. "All interested parties" are invited as well. Please come if you can – you may not be able to contribute directly, but this will be an important opportunity to understand the politics and policy underlying the FERC decision process. You can call either the FERC contact, Carol Connors, at 202-208-0870 or CT Stop the Pipeline at 671-STOP for more information. The meeting will be held from 9AM to 4 PM at the Helmsley Park Lane Hotel, 36 Central Park South in New York City.

Whether you decide to come or not, please write Governor Rowland and urge him to take an active position against Islander East. Ask him to put the long-term interests of Connecticut's economy and environment over Islander East's short-term corporate profits. His address is 210 Capitol Avenue, Hartford, CT 06106.

Those are the major recent "happenings". Other "happenings" and the pipeline have to do with the fall of Enron and Connecticut, New Haven's Cross Sound Cable decision and Connecticut's energy policy. These will be discussed in this space in the coming weeks and months. It is exciting that what is happening on our Connecticut shoreline resonates with and has repercussions for many state and national issues.

So for now, keep up your spirits and your smiles – our fight has only begun!

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Cross-Sound Cable: not a sound idea

By Kiki Kennedy

This is a space where we usually talk about the Islander East pipeline. Today we'll look at the Cross-Sound Cable proposal. Now what does an electric cable have to do with a gas pipeline? A lot.

We can learn a lot about Connecticut policies and politics by taking a look at what's been going on with Cross-Sound Cable.

Cross-Sound Cable is a 330 megawatt high voltage direct current (HVDC) electric cable that is proposed to run from New Haven harbor across Long Island Sound to Brookhaven, New York. The cable's economic and environmental impact to Connecticut would be substantial, although it would provide electricity for only about 10,000 Long Island homes. Despite this imbalance, the Connecticut Siting Council approved the proposal on January 3, 2002.

However, only 10 months ago, in March 2001, the Connecticut Siting Council voted 7 to 1 AGAINST the proposal by Cross-Sound Cable (known then by the name of TransEnergie). Why? The cable's impact on Connecticut was deemed to be too great. The cable negatively impacted Long Island Sound's fragile ecosystem and destroyed 12,000 feet of valuable New Haven harbor shellfish beds – including vulnerable seed oyster beds -- by directly crossing them.

What changed between March and January? Not much. The corporation changed its name. It also changed the cable's route to go through only 700 feet of shellfish beds – routing the cable directly under the harbor federal marine navigation channel instead.

Long Island Sound still harmed by new cable proposal

This may seem better for shellfish, but its not. The route still goes very close to acres of valuable shellfish beds that could smother from the siltation that would ensue from the trenching method used to place the cable. Shellfish as far as 2000 feet away could be killed off -- not just the shellfish lying directly in the cable's path.

There are other environmental impacts. Despite its insulation, the cable gives off heat. Some scientists predict that the cable could cause an overall increase in the temperature of Long Island Sound of as much as 1 degree Fahrenheit. This could substantially negatively impact many species of finfish that migrate to Long Island Sound to spawn. Also, the local water temperature adjacent to the cable could be even higher – compromising New Haven harbor shellfish even more. The cable also gives off an electromagnetic force that could affect aquatic life, like juvenile lobsters, that use the earth's natural electromagnetic force as a compass for navigation.

Patricia A. Kurkul, the Regional Administrator for the National Marine Fisheries Service is very concerned. She warned that both shellfish and finfish in Long Island Sound could be harmed: "The proposed project will adversely affect Essential Fish Habitat…This project could result in substantial and unacceptable impacts on aquatic resources of

national importance protected under the Manguson-Stevens Fishery Conservation and Management Act and the Fish and Wildlife Coordination Act."

Cable creates economic hardships for Connecticut

Besides environmental impacts, this new route is deals a considerable blow to the commercial shipping industry of New Haven, an important economic consideration for Connecticut's economy.

New Haven is one of the first ports of call and one of the largest ports on the Eastern seaboard. It imports over 75% of the region's oil and jet fuel. New Haven is also a city struggling to keep itself out of economic blight (Bridgeport and Waterbury are testimony to the difficulties Connecticut cities face). New Haven Mayor John DeStefano has been an active and vocal opponent to both versions of the Cross-Sound Cable plan.

The cable will impair New Haven harbor in several ways. First, the cable will limit future harbor expansion. The cable is to be buried 6 feet under the federal marine navigation channel (some experts say that it will be an engineering feat to bury the cable even that deep). The trend in commercial shipping is for the draughts of ships to be built deeper and deeper – so that harbors need to get dug deeper and deeper. However, because of the cable, New Haven harbor may not be able to be dug much deeper. Consequently, the harbor might not be able to accommodate its future commercial shipping customers.

Goods that could have been brought directly into New Haven harbor would either need to be offloaded onto a barge outside the harbor –incurring additional expense – or need to be brought to another port, like Elizabeth, New Jersey, and then transported in trucks along Connecticut's already congested highway system. This latter option would also incur considerable added expense. And who would bear the added costs? The Connecticut consumer, of course.

We would have less economic gain for New Haven harbor, more trucks on our already strained state highway system, and higher costs for goods like our home heating oil.

We should note that Cross-Sound Cable has indicated that they would dig up the cable if the harbor needed to be deepened. However, the removal and replacement of the cable would create as much environmental damage -- siltation and consequent shellfish suffocation -- as the initial placement.

Another concern is the hazards created by an electric cable running longitudinally down a federal marine navigation channel. The American Association of Port Authorities has reported that there is no other federal marine channel in the entire United States where a cable runs longitudinally underneath. The dangers are formidable for harbor pilots trying to negotiate their way into the harbor, especially during a storm. Dropping an anchor in an emergency would risk snagging the cable – with perilous consequences. And who would bear the responsibility – the harbor pilot or Cross-Sound Cable? Since Cross-Sound Cable is a limited liability company or LLC (it is a joint venture between two large corporations, TransEnergie U.S. Ltd., a subsidiary of Hydro-Quebec,

and United Investments Inc., a subsidiary of United Illuminating) this is a real and serious concern.

This cable would also effectively link Connecticut's energy grid with New York State's energy grid. Mary Healey, the Consumer Counsel for the State of Connecticut predicts that as a result, our overall energy costs would increase, since New York's energy rates are 20% higher than Connecticut's.

Corporate payouts silence shellfish companies

Finally, Cross-Sound cable has essentially bought the silence and acquiescence of three New Haven shellfish companies by agreeing to pay them millions dollars BEFORE the cable is laid -- $1.5 million when the Connecticut Siting Council approves the project, another $1.5 million just before the cable is laid and then over $5 million in installments once the cable goes in. According to an editorial last week in the Hartford Courant by Barbara Gordon, executive director of the Connecticut Seafood Council, "this debacle has torn the industry apart, made enemies of friends and replaced trust with suspicion." This cable now creates a precedent for future Long Island Sound utility projects – where private merchant power companies can buy off local shellfish companies for millions of dollars. And guess what? According to our sources, some local lobstermen, seeing what happened in New Haven, are cutting deals with -- Islander East.

Did politics play a role in Siting Council's reversal?

In summary, the Cross-Sound cable creates new economic and environmental burdens for Connecticut while providing little benefit. Many individuals, organizations and state officials have come out vehemently against Cross-Sound Cable including State Attorney General Richard Blumenthal, Save the Sound, the Long Island Sound Assembly, the Connecticut Pilot Commission and the Long Island Sound Action Committee. So if there is so little benefit and so much against the cable, why did the Connecticut Siting Council do a complete flip-flop from last March to this January?

Some say that the Connecticut Siting Council was severely criticized by the Bush administration after their March vote. Was political pressure put on them to okay the new version of the Cross-Sound proposal?

Or was it simply a little help from political allies in high places? After all, Rita Bowlby is a Vice President at TransEnergie and has been described in the press as the spokesperson for Cross-Sound Cable. Ms. Bowlby also happens to be a member of the Connecticut Energy Advisory Board, a legislated commission empowered to report to both the Governor and the General Assembly on Connecticut's energy needs. Isn't that a bit of a conflict of interest? Ms. Bowlby is paid by Cross-Sound Cable and sits on a state board. Notably, the chairman of the Connecticut Siting Council, Mortimer Gelston, also sits on the Connecticut Energy Advisory Board.
Did I mention that the Long Island Power Authority will pay Cross-Sound Cable a PROFIT of over $750 million dollars if the cable is installed? Yes, there is a lot of money at stake – most of

the cash designated for the coffers at Cross-Sound Cable, not the pockets of Connecticut citizens who will bear the burden.

Does all of this sound familiar? Yes, to be sure, there are many similarities with the Islander East pipeline: two major corporations create a LLC that proposes a utility line across Long Island Sound from Connecticut. The silence of shellfishermen is bought. There is little benefit to Connecticut but the proposal wreaks considerable economic and environmental damage to Connecticut. A corporation's gain is a community's loss.

I encourage you to pay attention to what happens with the cable. It may give a scenario of the politics and policies that we will have to deal with when the Islander East pipeline comes before the Connecticut Siting Council.

And if you feel like writing, please let Governor Rowland know your thoughts. He can be reached at 210 Capitol Avenue, Hartford, CT 06106.

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Northeast Energy Conference: who has the power to decide our future?

By Kiki Kennedy

Crystal chandeliers and beveled mirror walls. Dark suits, silk ties and pearls. The elegant New York City ballroom overlooking Central Park was overflowing with men and women from the energy industry. There were also attorneys, state officials, concerned citizens, environmentalists and reporters. Although invited to attend, Governor Rowland was absent; if a representative was sent, he or she was not apparent. At the front of the conference sat all four Commissioners of FERC, the Federal Energy Regulatory Commission.

Those four people have the power to approve or reject the Islander East pipeline proposal.

I went to that conference on January 31 to observe the proceedings of FERC's one day conference, held to focus on the adequacy of the electric, gas and hydropower infrastructure in the Northeast. I wanted to better understand the policies underlying the FERC decision process. I was pleased to see the Guilford Land Trust president, Red Erda there, as well as attorneys from the Connecticut Attorney General's office.

Pat Wood, FERC's chairman, and a Bush appointee who had formerly been head of the Texas Public Utility Commission, opened up the conference. He explained that FERC's three goals are to "ensure high-quality, secure and environmentally responsible energy infrastructure, foster competition and protect customers by vigilant overseeing." During this conference, FERC wanted to "uncover all the issues" and figure out how to best work collaboratively with the Northeast. In his Texas drawl, Wood playfully finished by saying that FERC wants to know "what needs fixing so we can get fixing on it."

What are our future energy needs?

There were several presenters and panel discussions over the next 7 hours. The first presenters had tables and graphs that demonstrated how our growing population correlates with our growing energy needs. Subsequent speakers and panels discussed the figures, the problems and their recommendations. There was debate about whether the calculations reflected our current post-September 11, post-Enron and current recession realities. There was discussion about when our economy will recover and what our real energy needs will be. However, most panelists thought the only solution to meet our future energy needs involved "increasing infrastructure," i.e. putting in more gas pipelines and electric transmission cables.

The focus was certainly not on ways to keep our energy consumption at the current level – although a few panelists suggested alternatives like energy-saving technologies and demand reduction through pricing strategies. However, the most worrisome omission was the lack of any long range planning for a future only 30, 40 or 50 years away. What happens when our natural gas and other fossil fuel sources decline or disappear? How will our children solve their energy needs? The longest projection was only to the year 2020.

There was also scant mention of security issues post-September 11 or Enron's effect on the market.

However, there was a lot of data, facts and debate. I'll just touch on the highlights.

Mary Novak, the Managing Director of DRI-WEFA, an economic consulting firm, projected that coal will become increasingly utilized in the Mid-Atlantic region, including New York, because of new cleaner technologies for coal-burning power plants. New England will depend increasingly on natural gas. (My question: then why should Connecticut ship natural gas along the Islander East pipeline to New York?)

Ms. Novak also projected an energy surplus for New England over the next several years, but Steve Whitley, a Senior Vice-President for New England ISO said his view is "not that rosy." He is very concerned that our reserves will significantly decrease, especially on a cold winter's day.

"Reliability" was a term bandied about by a lot of the speakers from the energy industry, like the representative from Hydro Quebec (a big investor in Cross Sound Cable) who pressed for increasing infrastructure – putting in more power plants and transmission lines to "improve reliability" for customers. And why not emphasize this to FERC? Putting in transmission lines is a way that Hydro Quebec makes money.

Alternatives to infrastructure and the need for future planning

But Richard Cowart, Director of the Regulatory Assistance Project, wondered if alternatives to infrastructure were ever seriously considered. His recommendation to FERC: "Before proceeding with construction of transmission as the most cost-effective solution, have they looked at non-transmission options…such as pricing, demand reducing and strategic placement of generators?"

Sonny Popowski, the Pennsylvania Consumer Advocate, agreed that there are viable alternatives to increasing infrastructure. He strongly asserted that these alternatives should "be the first question before we assume more infrastructure with its environmental and social costs." He advocated "the elimination of market power" and urged the creation of an independent board -- that would NOT favor the energy industry -- to look at all the issues together. In Pennsylvania, using this approach, overall costs and environmental impacts have gone down.

Other speakers also urged the need for a comprehensive planning authority for the Northeast region, but supported a free market approach for the answers. FERC clarified that they are not that kind of planning agency. Utility planners used to be the agencies to wrestle with the spectrum of issues, but since deregulation, there is not a single agency that looks at all the factors – need, pricing, environmental and community impact, safety, coordination of projects – together.

Do community concerns count?

There were scattered moments when the issue of community impact was raised. One of the FERC Commissioners alluded to the difficulties raised in putting a natural gas pipeline through a heavily populated area, presumably a reference to the Millenium pipeline in Westchester County, New York, which has tough community opposition. In fact, members of that grassroots group, Numb-in-NY, were at the conference in significant numbers. One of the afternoon panelists even included a Mt. Vernon City Councilman, William Randolph, who strongly expressed the fervent wish that community opposition and "environmental justice" be factors considered by both energy producers and energy regulators. "My challenge to FERC…. is to establish means by which analysis of communities are done with the same sincerity and due diligence … as engineering analysis are done."

A different -- yet fascinating -- perspective on community opposition came from a surprising source: an Electric Analyst with Charles Schwab, Christine Uspenski. She wowed the audience with her no nonsense, dry style as she explained that "community opposition" is a significant, and worrisome, variable for the potential Wall Street investors she advises. These stakeholders invest money in energy projects. They want some assurances, like the ability to predict what the return will be on their cash and when they might see that return. Community opposition creates a significant problem for these investors: community opposition delays projects and substantially drives up the overall costs. That does not make investors happy – or as likely to invest in energy ventures in the future. Ms. Uspenski asserted that the initial costs of a project are misleading since "all the costs are not rolled into a project" and urged the energy industry to take "community factors" into account when designing and pricing a proposal. This is encouraging for us: our opposition to Islander East could raise the overall project costs and lessen its viability.

Oh and yes, Richard Kruse, Senior Vice President of Duke Energy, one of the parent companies of Islander East was there. He sat on a panel entitled "Energy infrastructure barriers and alternatives to construction." Mr. Kruse said little, although he encouraged FERC to get their Preliminary Determinations out quickly to "make a project real". He also referred to Duke's style of working with landowners as "the more communication you have, the more trust you have." How ironic. Islander East has failed to communicate effectively with us (many of our questions remain

unanswered) and their practices engender little trust (they give misleading information and are cited for illegal drilling in our shellfish beds.)

We need an agency independent from the energy industry

In sum, the day was an interesting window into the principles that primarily guide this process. I was impressed that time and consideration were given to community concerns and that FERC seemed interested in recognizing the range of complicated issues that our energy needs create. But I was disappointed to discover, as I had feared, that our nation's future energy planning essentially stops in 2020 and that short-sighted corporations looking to benefit their bottom line are ignoring alternatives – like increasing fuel efficiency, promoting consumer-driven demand reduction and looking for more non-fossil fuel energy sources – because they can't make money on them. I am all for a free market economy when it's a simple commodity. But energy is complex and involves many factors beyond a simple free market system. We need some kind of an independent agency -- separate from the energy industry -- that can look at our energy situation from many perspectives, including the important long-term view.

If you want more details of the conference, transcripts are available, for a fee, from Ace Reporting Company by calling 202-347-3700. Also, the transcript should be available on the FERC website (www.ferc.gov) by mid-February. If you have thoughts about the conference, I would encourage you to write. Refer to Docket Number AD02-6-000. The FERC address is: The Honorable David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426.

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Pipeline rehearing: why didn't you hear us the first time?

By Kiki Kennedy

Some mornings my daughter sits at the kitchen table and stares into space. I ask whether she wants a waffle or Rice Krispies. She doesn't hear me. I stand and smile (well, that depends on if we are late or on time) and call her name a few times. Finally she answers.

"Huh?" she says.

Finally – I get her attention, ask her the question, and she makes a decision. Breakfast is on its way.

That is very much like what happened with the issuance of the Preliminary Determination (PD) for the Islander East Pipeline Company last December 21, 2001 by the Federal Energy Regulatory Commission (FERC.)

This PD decision was FERC's "huh" response – a kneejerk-this-is-what-we-say-when-we-aren't-listening-but-we-need-to-respond answer.

FERC issued a PD because that is what they usually do. That is what we were told to expect them to do. But that doesn't mean we have to accept that as FERC's final decision on the PD.

We can ask them to pay attention, listen and think.

And that is what we are doing.

Several requests for a rehearing have been made since the PD issuance. In January, the Connecticut Attorney General's office, the Town of Branford, the Southern Connecticut Gas Company, the Connecticut Natural Gas Company and the Central Pine Barrens (a Long Island preservation group) all filed documents asserting that FERC made several errors in judgment and requested that FERC take another look at Islander East.

Of course, Islander East filed a reply to all of this on February 6.

We will have to wait to see what FERC does. Do they keep with their first answer–"huh" – or pay attention, listen and give a more considered response?

Meanwhile, let's look at what kinds of errors that FERC made.

First, please understand that a PD is not a guarantee that the pipeline will ever get its final certificate. A PD is based on "all pertinent non-environmental issues," for example, the economic risks for Connecticut balanced against the economic benefits for New York. Second, and no matter what the outcome of the PD rehearing issue, there is a full Environmental Impact Statement being done which must be considered before FERC can make any final certificate ruling.

The Town of Branford makes a strong statement

The Town of Branford identified two errors in FERC's decision. FERC "erred by failing to consider and appropriately weigh the significant, adverse, non-environmental effects on landowners" and "by failing to consider the effect of other competing pipeline projects on the need for Islander East."

The Town of Branford asserts that FERC did not follow its own policy of balancing the economic risks with the benefits. FERC does not demonstrate how they arrived at an economic analysis, or even which economic factors they used. Branford points out that not only did FERC fail to "even mention" the Branford Blue Ribbon Committee's Report, but FERC– also referred to as the Commission -- did not include "the estimates that the Islander East project could result in losses valued at over $861 million associated with the destruction of the Town's shellfish beds, as well as an estimated $500,000 impact on the Town's tourism industry…There is no evidence that the Commission even considered this evidence of adverse impacts…. The Commission simply asserts that the benefits of the project, however they are quantified, outweigh the adverse effects…whatever they are. If the Commission has not calculated these

costs and benefits – and the Order fails to indicate that it has – there can be no economic balancing test."

The Town of Branford recommends that FERC should hold a rehearing in order to " carefully evaluate all the record evidence, judiciously evaluate the benefits and the adverse effects of the Islander East project, and then engage in the balancing test that its Policy Statement requires."

The Town of Branford also points out how FERC " rightly discourages the building of unnecessary, duplicative facilities, so as to avoid unnecessary disruption of the environment, unneeded exercises of eminent domain, and other adverse impacts." However, in the PD, FERC ignores the filing on December 14, 2001 by Iroquois for their Eastern Long Island Expansion project -- a proposed gas pipeline that would come off a tap from the only existing Long Island Sound pipeline and, like Islander East, serve eastern Long Island -- when FERC states that "there are no other similar proposals before the Commission." Branford argues that FERC's "conclusion that there are no similar proposals before it is simply incorrect." Branford asserts that FERC should consider a competing "superior alternative" like Iroquois in their PD decision process: "if a competing project renders Islander East unnecessary, the adverse economic impacts of the project on landowners outweigh any benefits."

The Connecticut Attorney General supports Branford

The Connecticut Attorney General's request echoes all of Branford's points and adds concerns about the effect on Connecticut's future energy prices: "There are serious concerns that the Islander East project will not result in any appreciable new natural gas infrastructure capacity but merely permit the applicant to leverage its existing mainline pipeline system to gain increased profits while simultaneously increasing rates on existing customers." The Connecticut Attorney General cites a recent report by ISO-New England that warns that our natural gas needs are expected to increase by 45% by 2005 and that pipelines like Islander East have " potentially ominous strategic implications for the security of New England's power supply." The implication is that in only a few years, Connecticut will be competing with New York for gas – at substantially higher rates -- if pipelines like Islander East get built.

Connecticut gas companies are concerned about Islander East

The Southern Connecticut Gas Company and Connecticut Natural Gas Corporation have filed together (they call themselves the Connecticut Companies) for a rehearing request. They contend that there is a gross discrepancy between the rates they pay and the rates that Islander East would have to pay for service from Algonquin – the existing gas pipeline that runs from northeastern Connecticut through the middle of our state and currently supplies gas to the Connecticut Companies -- and also that the service (or amount of gas) from Algonquin could substantially decrease if Islander East were built. They assert that FERC "committed three errors" in the PD decision.

The Connecticut Companies explain that Connecticut consumers, over the years, paid for Algonquin. Now, Algonquin is being expanded as part of the Islander East application (note that both Algonquin and Islander East are partly owned by Duke Energy and that Algonquin could

expand on its own without Islander East being built.) As a consequence, Algonquin is going to give Islander East great rates – in fact Islander East will have to pay 75% LESS than the Connecticut Companies. This is not fair, contend the Connecticut Companies, because Islander East never paid a dime for the original cost of Algonquin – Connecticut customers did. Algonquin's expansion "is being subsidized by existing customers." This goes directly against FERC Policy: a project must be "financially viable without subsidies from existing customers."

This subsidy is worsened by the fact that the Connecticut Companies pay higher "incremental rates" on a certain portion of pipeline. This was worsened even more when Algonquin misrepresented to FERC that the Connecticut Companies don't pay higher incremental rates – when in fact they do. FERC used this misinformation, supplied by Algonquin, in their PD decision.

Further concerns cited by the Connecticut Companies have to do with a pressure drop that Islander East would create; this could compromise service to Connecticut consumers. This is exacerbated by the fact that Islander East and "Algonquin initially represented to Southern Connecticut that the…pressures would rise…Algonquin's certificate application not only failed to show this significant pressure increase, but reflected a pressure drop." Algonquin's calculations were off by more that 70%! Yet Algonquin declared this to be "irrelevant." The Connecticut Companies conclude "that there is no basis to trust Algonquin's pressure predictions" and worries that the real pressure drop could be even greater. They request that FERC either grant them relief or schedule a rehearing.

Finally, our Long Island Neighbors are even requesting a rehearing. The Long Island Pine Barren's Society are asking "that FERC review the Islander East and Iroquois proposals to provide natural gas to Long Island simultaneously and comparatively." They also complain about their treatment by Islander East in terms of lack of response, poor procedure and misinformation. Sound familiar?

Islander East asks FERC to deny the requests

So what does Islander East say in their response to all these requests for a rehearing?

They ask that FERC not consider those requests because "none of the requests…presents any new argument or evidence that was not before the Commission…thus, none would justify rehearing of the PD."

They state that the filing of Iroquois' Eastern Long Island Expansion project "is irrelevant."

Islander East ignores the essential feature of the rehearing requests: FERC made errors in the PD decision process that are at odds with FERC's own policy and FERC did not look at all the evidence it had or based some of their decision on faulty information supplied by Algonquin. This is not an issue of new or old evidence – this is an issue of policy and procedure.

Why wouldn't Islander East want policy and procedure to be fairly applied and followed? Why wouldn't Islander East want all the facts considered instead of just a portion? Why wouldn't Islander East want a real and fair economic analysis of their project?

What will happen? Another "huh"? Or a complete, well-reasoned economic analysis?

We will have to wait and see.

Published March 2002

Hearings on the pipeline: will the truth be heard on April 2?

By Kiki Kennedy

Hear Ye! Hear Ye! The pipeline hearings are coming! Come to the pipeline hearings!

Wait a minute -- hearings? Didn't we have hearings last fall?

Yes – but those were hearings by each of the affected local towns, Branford, Guilford and North Branford. Each of those towns solicited public opinion and testimony and drafted a report. Not surprisingly, each report came out strongly critical of the Islander East pipeline project.

Now we have the Conecticut Siting Council (CSC) holding hearings on this proposed pipeline.

Although some of the hearings are formal and some are public, all are open to everyone to attend. In early April, public hearings will be held in the towns of Branford, Cheshire and North Haven. Anyone can speak about his/her concerns about the pipeline – there will most likely be a sign-up sheet at the door.

The Branford public hearing will be held on Tuesday, April 2 at 7 PM at the Branford High School Auditorium.

Formal hearings will follow at the New Britain offices of the CSC on April 11, 12, 15 and 16. These hearings are indeed very formal – legions of blue-suited attorneys usually take up the first several rows. Complicated pre-printed agendas of intervenors, parties and issues are set up in advance. Witnesses are sworn in, give written testimony and are subject to cross-examination. The scene can be intimidating – I recently saw a prominent public figure silenced in mid-sentence by the Chairman's gavel.

However, at the public hearings, like the one coming up on April 2, each person can get a turn to tell the CSC their particular concern about the pipeline.

You can talk about any issue – your love of the natural beauty of the nature trail and the loss of that beauty if there was a permanent clear-cut right-of-way through it, your concern for the impact to local residences and businesses by an adjacent pipeline, the destruction of shellfish beds by the sedimentation produced from the trenching in the Sound – anything you are worried about.

Even if you don't intend to speak, please -- PLEASE – make an effort to come to the public hearing. And please tell all your friends and neighbors about the April 2 public hearing. Invite them to come. We need to demonstrate how our community really feels about this pipeline to the CSC.

But what is the CSC anyway? How does it relate to this whole process?

According to their website, www.state.ct.us/csc, the CSC "is made up of nine members for energy and telecommunications.... five appointed by the Governor including the chairperson, one appointed by the Speaker of House, one appointed by the President Pro-tempore of the Senate, the chairperson of the Department of Public Utility Control, and the commissioner of the Department of Environmental Protection."

Please note that a majority of the CSC members are appointed by the Governor. In addition to the five members he appoints, Governor Rowland has previously appointed the heads of the Departments of Public Utility Control and Environmental Protection. So, all in all, the Governor has had a hand in seven out of the nine members of the CSC.

The website further states that "by statute, at least two Council members appointed by the Governor shall be experienced in the field of ecology and not more than one member shall have an affiliation with any utility, government utility regulatory agency, or facility under the Council's jurisdiction."

In terms of money, the CSC "is funded primarily by application fees and assessments, and administrative assessments of the electric utilities, hazardous waste generators, and telecommunications providers of the State."

The website states that the mission of the CSC is "to objectively balance the statewide public need for adequate and reliable services at the lowest reasonable cost to consumers with the need to protect the environment and ecology of the state."

So, the CSC is supposed to balance public need with cost and environmental protection.

However, past experience has indicated that the CSC primarily concerns itself with the environmental impacts of a particular proposal – whether it is an electric transmission line, electric cable or pipeline – and less with need. We should not expect them to concern themselves with the issues of "need" for this pipeline.

Furthermore, the CSC has a recent history of surprising decisions. You may recall their unanimous denial of the electric cable proposal, filed under the name TransEnergie, from

New Haven harbor, across Long Island Sound to Shoreham, New York back in March 2001. TransEnergie changed its name to Cross Sound Cable, barely altered its route and refilled its "new" proposal. Nine months later the CSC gave a nearly unanimous approval to the Cross Sound cable. Why did the CSC reverse their decision? Good question – we have yet to see an answer.

Finally, although the CSC will be weighing in on the Islander East pipeline, the CSC does not have final jurisdiction. The Federal Regulatory Energy Commission (FERC) is the federal agency that has the final say – and could potentially override the decision by the CSC. However, FERC does not like to override state agencies, and FERC does take the decision of the CSC into account, so the final decision by the CSC does carry weight.

We need to convince the CSC that this pipeline will destroy too much of the natural beauty of our shoreline communities of Branford, Guilford and North Branford. We need to convince the CSC that the pipeline will sacrifice too many shellfish beds and degrade the quality of Long Island Sound. We need to convince the CSC that they need to protect the environment and communities of Connecticut and make the only right decision: deny the application of the Islander East Pipeline Company.

I hope to see you at Branford High School on April 2 at 7 PM.

Published March, 2002

The Pipeline: a small victory and a gift

By Kiki Kennedy

Last week, Islander East was wrong on two major counts. We have known that Islander East has been all wrong from the start, but we are pleased to see some of their bad ideas exposed to FERC, the Federal Energy Regulatory Commission.

Remember how Islander East asked FERC to deny the requests for a rehearing because none of the requests were justified?

Wrong.

Remember how Islander East asserted to FERC that Iroquois'new project – a pipeline from Connecticut to nearly the same location on Long Island as Islander East – is not in direct competition with Islander East and is "irrelevant"?

Wrong.

On both counts Islander East was wrong. And, in the process, we were given a small victory and a gift.

First – our small victory. Thankfully, FERC did not ignore the truth. FERC did not deny the requests for a rehearing of the Preliminary Determination. FERC agreed to take a second look – hopefully more focused and probing -- at the concerns and issues raised by several parties regarding the economic pros and cons of the Islander East project.

You may recall that on December 21, 2001, FERC issued a Preliminary Determination (PD) in favor of Islander East, based only on non-environmental factors. However, several parties raised red flags and requested a rehearing of the PD, including the Town of Branford, the Connecticut Attorney General's Office and – a bit of a surprise – our local Connecticut gas companies, Southern Connecticut Gas and Connecticut Natural Gas. The red flags were numerous and had to do with omission of critical evidence, misinformation that FERC used as fact and, most importantly, concerns that FERC did not follow its own policy.

Now FERC will take another look at these issues. The rehearing will most likely take place at the end of the process, after the full Environmental Impact Statement is completed. That time is still several months away. We hope that FERC will take our concerns and critiques seriously the second time around. At least we will be heard again – and this is a real victory, however small.

Second – our gift.

Remember that on December 14, 2001, Iroquois filed with FERC for a new project, the Eastern Long Island Expansion project (ELI), which would start at an offshore tap in Milford, cross Long Island Sound and come ashore on Long Island very near to where Islander East makes land. Unlike Islander East, there would be no new pipe laid on the Connecticut shoreline and very little disturbance to Connecticut shellfish beds. Certainly there would be disruption to the Long Island shoreline by both projects and, like Islander East, ELI would still cross Long Island Sound and pose an environmental and safety risk. Although we do not support ELI, we do find that the ELI project would create far less environmental degradation for Connecticut.

However, Islander East told FERC that their pipeline had nothing to do with Iroquois' ELI. They called ELI "irrelevant" and urged FERC to ignore ELI as a direct competitor to Islander East.

Iroquois knows that is wrong.

Iroquois gave us a gift by taking Islander East to task. On February 19, 2002, Iroquois made it very clear to FERC that the two pipelines are indeed going at it head to head.

Iroquois asserted to FERC that ELI "directly competes with Islander East… these projects are not mutually exclusive." Iroquois further affirms that "current and future market data does not support building two interstate natural gas transmission lines to the eastern Long Island area and that only one pipeline to Eastern Long Island will be constructed." Iroquois knows that the real energy needs of the Long Island gas market are far less than Islander East claims. Only one pipeline is needed.

Iroquois uses the law to back it up. Iroquois contends that "the principles of the *Ashbacker* doctrine apply in this situation and the Islander East and ELI projects should be considered together… *Ashbacker* provides that where two bona fide, timely applications are pending before an agency and the grant of one would either foreclose the grant of the other or place it under a greater burden…a comparative hearing on the merits of the two applications is required." We have legal doctrine on our side – Islander East and ELI should be compared together.

Furthermore, this comparison, according to the Natural Environmental Policy Act, would require that FERC "evaluate the environmental impact of each proposal." Iroquois describes at length what we know is true – that ELI is "a more environmentally benign method of serving the proposed market." Iroquois tells FERC that if this is "going to be more than just an empty process, the Commission must pay attention to information provided to it that demonstrates there is an environmentally preferable alternative available, such as the ELI Project." They exhort FERC to NOT "let the market decide." Iroquois concludes by urging FERC to "review the projects simultaneously and take a close, hard look at Iroquois' ELI project."

Thank you, Iroquois, for telling FERC what we know is true: FERC cannot sit back and issue permits to every pipeline project that is proposed. FERC cannot simply let corporate profiteering determine these critical energy issues. FERC must take an active role, at least in this case. FERC cannot ignore the market needs and the environmental concerns in this situation. If there has to be a pipeline at least let there be just ONE and let it be the least damaging to our environment.

We hope there is not any pipeline. We believe that there are other solutions to Long Island's energy needs that do not involve either Connecticut or any Long Island Sound crossings. Our next step? Get FERC to see that too.

Published March 13, 2002

A Moratorium for Long Island Sound: before any more pipelines or cables get placed, let's stop and think

By Kiki Kennedy

Last Wednesday, after finally finding a parking spot far away from the elegant Legislative Office Building in Hartford, I carried 60 copies of my testimony into the formal hearing room. Legislators milled about, talking with staffers and colleagues; journalists waited in their seats as cameramen checked out different angles. There was a serious air of anticipation.

I was there to present testimony on House Bill 5609. This bill, fathered by State Senator "Doc" Gunther and sponsored by the Environment Committee, is entitled "An Act Concerning the Protection of Long Island Sound."

The bill currently reads as follows: "Notwithstanding any other provision of the general statutes, the Connecticut Siting Council shall make no decision on any applications relating to crossings of Long Island Sound that are received after the effective date of this act until April 1, 2003. During such six-month moratorium on applications relating to crossings of Long Island Sound,

the Institute of Sustainable Energy at the Eastern Connecticut State University shall convene a working group of all interested parties to establish priorities and develop strategies for minimizing the number and geographical distributions of such crossings of Long Island Sound and shall make recommendations to the General Assembly concerning such strategy."

Basically, this bill calls for a moratorium on all cables and pipelines across Long Island Sound so that a comprehensive, objective, scientific study – not sponsored by the energy industry -- can be completed. This study would, hopefully, stop the spaghetti-like proliferation of cable and pipeline projects across Long Island Sound. How? By evaluating New York's energy demands in the context of Connecticut's environment and energy needs. The concern is that these pipelines and cables will siphon away gas and electricity that we might need in the future – and have to buy back from New York at a higher rate – as well as destroy priceless Connecticut shoreline and degrade Long Island Sound. The spirit of the bill is to protect both the environment and consumers of Connecticut.

The hearings begin

In the hearing room, the audience was quiet as Senator "Doc" Gunther introduced the bill to the Environment Committee. He spoke forcefully and passionately, his gruff voice emphasizing his concerns. Richard Blumenthal, the Connecticut Attorney General, followed. He supported "Doc" Gunther absolutely. "Nine or ten more proposed cables and pipelines threaten dire, irreversible damage to a priceless resource," stated the Attorney General, and went on to caution the Environment Committee about the doomsday forecasts promoted by the energy industry, referring to a headline that morning warning of potential blackouts. He said "do not be persuaded by these false arguments and fear-mongering."

Other officials, administrators and environmentalists all had their turn at the microphone. Every speaker expressed support for the bill. Amendments, suggestions and criticisms were offered in the spirit of strengthening its aim.

I felt a bit nervous when, finally after several hours, it was my turn to speak.

What follows are excerpts from my fairly lengthy – six pages – testimony. I hope I will give a sense of the nine main points. I, too, support the bill, but changes need to be made order for the bill to be effective. Also, as you will see, some of the dates and the language need to be amended to include the pipeline that we are all especially concerned about – Islander East.

Excerpts from my testimony

1. First, we must protect Long Island Sound. This is a valuable and vibrant -- yet delicate -- estuary that is Connecticut's most precious resource. The floor of Long Island Sound is soft and composed of layer upon layer of very fine silt, laid down over thousands of years. Any disruption to this bottom -- by dredging or trenching in order to lay a pipe or a cable -- can never be fully repaired or restored. The damage is permanent.

2. Connecticut needs to act NOW -- in this legislative session -- before we become overrun by

electric cable and gas pipelines criss-crossing Long Island Sound in order to supply the energy needs of New York. Many think that there are no other alternatives other than to cross Long Island Sound; they say "we have to turn the lights on somehow." However, this is simply not true: there are ways to meet New York's energy needs without crossing Long Island Sound.

Our current situation has developed out of the deregulation of the energy markets, especially New York's. Now, with few barriers, powerful corporations, eager to further their bottom line, can take advantage of cheap, easy opportunities by crossing Long Island Sound with a cable or a pipeline and make an enormous profit in New York's lucrative energy market.

These corporations can make more money going across Long Island Sound -- especially if Connecticut does nothing -- than by choosing an alternative non cross-Sound route.

Is Connecticut going to allow corporate profiteering to desecrate Long Island Sound?

Connecticut needs to examine alternative projects like Blue Atlantic and Neptune, which also avoid crossing Long Island Sound but still supply Long Island and New York with energy.

If Connecticut does not act in this legislative session, it will be too late. There will be several pipeline and cable projects too far along in the process to stop. Long Island Sound will be irrevocably altered and our energy rates could climb.

3. Connecticut needs to do its own comprehensive evaluation of its energy needs and the environmental impacts to Long Island Sound.

Our current energy planning is inadequate. We need competent scientific analysis. Connecticut cannot let the industry make predictions about our future energy needs. State agencies have tried but have not been able to develop a comprehensive plan for Connecticut's future energy needs.

The federal government -- including the Federal Energy Regulatory Commission (FERC) and Congress -- are NOT looking out for what is best for Connecticut and Long Island Sound, from either an environmental or an energy need point of view. FERC is not in the business of planning. They believe that market forces completely define any regional energy strategy.

4. Some of the horses are already out of the barn – i.e. Islander East and Cross Sound Cable have already applied to the CT Siting Council.

The effective date for this bill ignores those projects that have applications pending or are already approved as well as gives an unfair advantage to those same projects. The dates need to be amended to include all cross-Sound projects in every phase of development. During this time there should be no construction, even of projects already approved by the CT Siting Council. In addition there should be no cross-Sound hearings or decisions made by the CT Siting Council.

5. The process of developing a comprehensive, regional environmental assessment for Connecticut that preserves Long Island Sound and takes into account Connecticut's own future energy needs

requires further clarification. Priority should be given to energy projects that do NOT cross Long Island Sound.
The crossing of Long Island Sound by any cable or pipeline should be considered as a last resort. Comparisons between different projects as well as overall cumulative impacts to Long Island Sound must be a major focus. This working group must include at least one representative from each community affected by each potential project.

6. Since FERC has sole jurisdiction over the siting of natural gas pipelines, FERC could choose to ignore the moratorium. The General Assembly must direct the CT Siting Council to request that the Federal Energy Regulatory Commission (FERC) respect the Long Island Sound moratorium.

7. One of the best ways to preserve Connecticut's environment is to level the playing field through the establishment of an "Intervenor's Fund". The corporations that apply have millions of dollars and legions of paid experts and attorneys on hand. Connecticut communities do not have these resources available.

Connecticut communities have been strained to provide monitoring and supervision for the many aspects of the electric cable and gas pipeline approval process. Many intervening towns and organizations cannot afford independent expert testimony, independent expert evaluations of pipeline and cable applications, or burdensome legal expenses. Usually, the amount of money available to fight depends on the economic demographics of the affected area.

This is not a fair or level playing field.

These extraordinary local efforts are never remunerated. This bill must provide for an "Intervenor's Fund" so that local municipalities and citizen's groups can have access to funds in order to defray unexpected and costly expenses.

This has been done in other states. For example, New York requires power plant applicants to contribute to an "Interveners Fund". Any electric generation project greater than 80 megawatts must comply with the 1992 New York Article X of the New York State Public Service Law as can be confirmed from their website, http://www.dps.state.ny.us/articlex_process.html#INTERVENOR-FUND.

8. Shellfish beds are the property of the people of Connecticut. Shellfishermen who lease these beds through the Department of Environmental Protection for the express purpose of cultivation should not be paid millions of dollars by energy corporations to cease cultivation.

Cross Sound Cable has bought the silence of shellfishermen by offering millions of dollars to them to not cultivate their shellfish beds. Other energy corporations are very likely doing the same. We will lose our shellfish industry if we allow this to persist.

Furthermore, this money should go to the people of Connecticut, who are the real owners of the shellfish beds, not the shellfishermen.

9. Although construction bonds are mandated, environmental bonding for the lifetime of the pipeline or cable is not. Most cables or pipelines carry liability insurance that protects them, but does not protect surrounding property in the event of an incident. Adjacent public or

private land or Long Island Sound that is damaged as the result of a pipeline or cable incident would need to resort to litigation to collect damages.

The operator of a pipeline or cable must be REQUIRED to carry an environmental bond. The amount of the bond could be tied to environmental costs incurred by past energy projects or a formula could be determined by an independent, credible agency during the moratorium.

What is the next step?

The Environment Committee will deliberate and decide how to amend the bill. Hopefully, the bill will come out of Committee and make it to the floor of the General Assembly, where it will be voted on during this legislative session. Although there is broad bipartisan support for this bill – many State Senators and Representatives have already expressed support for this bill, including our own State Senator Bill Aniskovich and
State Representatives Pat Widlitz and Peter Panaroni -- the energy industry has a powerful lobbying force. We
cannot be certain that this bill will pass.

If you want this bill to pass, now is the time to make your voice heard. Let your elected officials know – even
if they already support the bill – that you want them to vote for the bill. Call, write or e-mail.
Tell them how you want the bill amended, too. Even more importantly, urge your friends who live in other districts in Connecticut to call or write their elected officials and ask them to vote for the bill.

Now is the time we need to work together to try to save our Connecticut shoreline and Long Island Sound. If we wait – even just one more year -- it will be too late.

Please write or call your elected official. And call your friends and ask them to do so too.

Published April 2002

Protecting Long Island Sound: let's keep the politics out

By Kiki Kennedy

I am sad that protecting Long Island Sound became a political issue last week. Making sure that Connecticut's largest and most valuable natural resource stays safe and clean should not be reduced to partisan politicking.

But last week it was.

It didn't start out that way. Two weeks ago, the Long Island Sound Moratorium Bill passed overwhelmingly in both the House – 138 to 11-- and in the Senate – 32 to 2.

In supporting the bill, our state representatives and senators recognized that Connecticut needed time to fully study regional energy needs in concert with the environmental costs to Long Island Sound. The Long Island Sound Moratorium Bill would have stopped all cable and pipeline projects for one year so that evaluation could be completed. Finally, our environment would be considered – instead of only the energy industry's interests.

The nearly unanimous bipartisan vote supporting the Long Island Sound Moratorium Bill clearly represented the will of the people of Connecticut to protect Long Island Sound.

However, on Friday, April 19, Governor Rowland vetoed the bill.

Why?

Governor Rowland cited concerns that the bill, in stopping the construction of the Cross Sound Cable, a controversial electric cable from New Haven to Long Island, was unconstitutional. However, the Governor was assured by the Attorney General that the bill was not unconstitutional: the General Assembly has the power to revoke any and all permits that cross State property at any time.

The Governor also cited concerns about a potential $60 million lawsuit from Cross Sound Cable because there is a $60 million boat heading here from Sweden to jet plow in the cable. In fact, the Cross Sound Cable decision is still under appeal in the courts. Instead of literally plowing ahead to install the cable, Cross Sound Cable should be waiting until the full appeal process is complete. Since a final decision has not been rendered, any valid basis for a lawsuit is doubtful.

In the midst of all of this, the Governor also issued an executive order calling for a moratorium on all pipeline and cable approvals -- except for Cross Sound Cable -- until January 1, 2003. However, this order was found to be not only unconstitutional but wholly ineffective: the energy companies would have to agree voluntarily to respect this order – a highly unlikely possibility.

Instead of a veto, Governor Rowland easily could have signed the Long Island Sound Moratorium Bill into law. He could have explained to the energy industry, including Cross Sound Cable, that he was following the will of the people demonstrated by the overwhelming wins in both the House and the Senate.

But he chose to veto. So the bill went back to the General Assembly for a revote.

However, now the bill had become a political line in the sand. Elected officials pretty much
divided up along party lines.

The bill was victoriously overridden in the House by a 2/3 majority of 102 to 43 -- the first successful override of a veto since Governor Rowland took office. However, only a few hours later, in the Senate revote, at 22 to 12, the override was missed by just 2 votes.

Happily, Senator Bill Aniskovich chose to protect Long Island Sound and went against the Governor.

Nevertheless, now the Long Island Sound Moratorium Bill will not become law.

Why? Because Governor Rowland chose to bring politics into the picture.

And now, I have to wonder – am I also bringing politics into this discussion of Governor Rowland's actions?

I hope not. If I am – I apologize. No one should make the protection of Long Island Sound a political issue.

We must restore the crucial bipartisan cooperation and support we have enjoyed over the last several months. The protection of Connecticut's most precious natural resource should never be a political pawn again.

Both the pollution and the politics must stay out of Long Island Sound.

What happens next?

In the statewide picture, I am hopeful that there is still time in this legislative session to draft another bill that will call for a halt and a study. Unfortunately, the Cross Sound Cable will not be affected.

In the local picture, we will continue to try to stop the Islander East Pipeline proposal. The next step in that very complicated process is coming up: the Federal Energy Regulatory Commission (FERC) has announced that they will be holding a public hearing on Wednesday, May 8 at 7 PM at Branford Public High School.

This is our opportunity to speak directly to FERC about the impact that this pipeline will have on our community and our environment.

I hope you will come. Each of you still has a vote and a voice. If we all work together, using our votes and our voices, sooner or later, we will be heard.

Published April, 2002

Congresswoman Rosa DeLauro Unveils Funding for Study Outlined in Moratorium Bill

By Kiki Kennedy

On Earth Day, in North Branford's Town Hall, amidst a roomful of state legislators and community activists, Congresswoman Rosa DeLauro (Conn – 3) called upon the General Assembly to override Governor Rowland's veto of the Long Island Sound Moratorium Bill.

"I have been in contact with the governor on numerous occasions, urging that he take action to oppose the construction in the Sound, that we not press ahead on projects like these, when they have such a devastating impact – we simply must know more," said DeLauro. "I was disappointed that Governor Rowland vetoed the Assembly bill last week, but I am hopeful his veto will be overridden this week so we can begin assessing the impact of the Cross Sound Project as soon as possible."

DeLauro also unveiled her plan to get $250,000 federal dollars the help fund the study that the Long Island Sound Moratorium Bill calls for.

The executive director of the Institute for Sustainable Energy, which would conduct the study, expressed enthusiasm for DeLauro's plan.

DeLauro, the only member of the Connecticut Congressional Delegation to sit on the Appropriations Committee, intends to lobby fellow members for the $250,000 needed to fund the study.

"The fact is, we need to properly assess the impact of each proposal – the State of Connecticut and the northeast Region must have a better understanding of the existing infrastructure and energy flow", said DeLauro. "Additionally, we must create a regional plan so that Connecticut and the Northeast can meet the increasing demands for energy while protecting communities, the environment, and important natural resources. These goals are not mutually exclusive."

The Long Island Sound Moratorium Bill called for a one year halt to all electric cable and natural gas pipeline projects crossing Long Island Sound. During the one year, a comprehensive study was planned in order to determine the incremental environmental impacts of the 11 to 17 proposals in both the application and construction phase. The Islander East Pipeline project would have been one of the proposals frozen.

However, Governor Rowland vetoed the Long Island Sound Moratorium Bill. Although the veto was overridden in the House, it fell short of being overridden in the Senate by only 2 votes.

There is still a possibility that another bill – House Bill 5609 -- may come out of Committee for a vote during this legislative session. This bill would impose a similar moratorium and allow for a study, although it would not apply to projects already under construction. It is not clear whether Congresswoman DeLauro would still lobby the Appropriations Committee for the $250,000 for the study that this bill would require.

Published May, 2002

The FERC Public Hearing: a great success!

By Kiki Kennedy

"We are fighting this pipeline every step of the way. And we are not going to stop."

So said one community speaker when he addressed a crowd of nearly 300 area residents gathered at the Branford High School auditorium to speak directly to the Federal Energy Regulatory Commission (FERC) about concerns raised by the Islander East Pipeline proposal.

"Islander Enron" was the way another speaker referred to Islander East in his remarks about the invidious, and similar, methods both Islander East and Enron have used to artificially create a market need in order to fill it and reap financial gain.

"Islander East does not meet any test of reasonableness," said another.

And so it went with the more than 50 speakers last Wednesday evening, May 8. Applause followed every speaker. The hearing lasted more than 4 hours. Up on the stage, listening and jotting down notes, sat the two representatives – Joanne Wachholder, the FERC emissary, and Scott Truesdale, the envoy from the environmental consulting firm, Tetratech, which has been contracted by FERC to conduct the study. A court reporter sat to the side recording the testimony while a video taped the proceedings for BCTV. The hearing could have gone on past midnight – at least ten names were still on the speaker list -- but the court reporter needed to leave.

The focus of the hearing was to solicit public comment on the recently issued Draft Environmental Impact Study (DEIS) that FERC issued in late March.

The DEIS is a large tome, two inches thick, resembling a phonebook. On the cover is a black and white rendering of a map with the pipeline route drawn from Connecticut, across Long Island Sound, to New York. A few photos are artistically arranged around the map – pastoral scenes of forested woodlands, beautiful stretches of serene beach and classic New England fishing piers. Presumably these photos represent areas the pipeline will impact; yet it seems bizarre and unseemly that they are there – I get the same chill feeling I have when I see the photo of the deceased at the funeral.

Inside the DEIS is a systematic compilation of the environmental impacts that the pipeline will create. There are many flaws and omissions. That's the reason for the public hearing – to identify these errors and ask for further studies.

This is no easy task, since the DEIS is written in technical and scientific language that is intimidating and authoritative. You need either expert knowledge or a good sense for fluff when you read the DEIS in order to catch the inaccuracies. All of our shoreline residents –

from North Branford, Branford, East Haven, Guilford and New Haven – did a superb job at identifying many of the DEIS deficiencies.

Some speakers described the unique qualities of our locale: the global rarity of Stony Creek granite, the precious fishing resource of Brown's reef, the historic value of the Thimble Islands. Others listed threatened and endangered species not addressed in the DEIS like the sand eel, the horseshoe crab and the harbor seal. The 4000 foot wide gash across the Sound over the 22 mile route, the concomitant release of heavy metals and the destruction of shellfish beds were major concerns.

Safety was also a worry: the proximity to a busy railroad that transports tons of traprock, the closeness of the Wightwood School, the misleading data about deaths in the DEIS.

Several speakers requested that FERC respect the recently passed Long Island Sound Moratorium legislation and hold off on any decision for one year so that Connecticut can conduct its own study of Long Island Sound crossings.

Still others implored FERC to consider alternative overland routes – more costly to the company -- or utilization of the existing pipeline corridor in Milford.

Elected officials spoke, too. Branford First Selectman Unc DaRos derided the entire approval process as a "tilted" one that "caters to special interests." Guilford First Selectman Carl Balestracce confirmed "we want to protect our people, land, water and way of life." Attorney General Richard Blumenthal asserted that we cannot fully comprehend the "far-reaching impacts" now; "the depth, magnitude and intensity (of these impacts) is not fully considered in this DEIS which ignores or minimizes" them. He told FERC to "ask Islander East to withdraw its application."

Everyone spoke clearly, with conviction and passion, presenting a different facet of the whole picture. The diversity of thoughts and ideas, as well as the precision of data and facts was quite impressive.

Anyone can still comment on the DEIS -- a copy is available at both Branford Town Hall and Blackstone Library. The deadline for submission is Monday, May 20. FERC recommends the filing of comments electronically, rather than by mail. You can log onto www.ferc.gov and follow the instructions. The docket numbers to include are CP01–384-000 and CP01-387-000. For further information, please call Branford Town Hall at 315-5279.

I am constantly amazed by our tremendous community spirit. After the hearing, I was filled up with incredible pride at the magnitude of our concern and the wealth of our ideas and expertise. We showed FERC that we will do our best to fight this pipeline every step of the way.

Together, we will –someday -- prevail.

Published June 2002

A Beautiful Sound: a one year moratorium would make a big difference

By Kiki Kennedy

As I write this I am jubilant: I have just learned that the State Senate has passed the Long Island Sound Moratorium Bill -- HB 5346 / File No.345 -- by an overwhelming margin of 31 to 2. This echoes the equally strong House vote last week of 135 to 11.

Thank you, Connecticut General Assembly, for championing our cause and doing the right thing! Thank you to our State Senator Bill Aniskovich for his brilliant leadership in the Senate! Thank you to everyone who helped make this bill pass!

The bill would call for a one year moratorium for all electric cables and pipelines proposed to cross Long Island Sound. The moratorium would apply to all current cable and pipeline projects -- except the existing Northeast Utilities leaking cables that need to be replaced – and would include projects in every phase of development from application through construction. Cross Sound Cable would be required to halt the installation of their electric cable in New Haven Harbor. Islander East and all other pipeline proposals would be postponed in their pipeline application process.

The moratorium is not a meaningless delay tactic. The moratorium would be an opportunity to study the cumulative impacts of multiple cable and pipeline proposals on the delicate ecosystem of Long Island Sound. The moratorium would give Connecticut time to assess which – if any – of the proposals is best for Connecticut's economy and environment. It would also demonstrate the likely finding that too many of these cable/pipeline crossings could have deleterious impacts on the vitality of Long Island Sound.

Currently there is no agency charged with the overall planning for Connecticut's energy needs and balancing those needs with protecting the environment. The system is application driven. This means that the energy company that gets their application in first, gets approval first and – until now – gets across the Sound first.

That system does not compare different applications and put Connecticut's interests into the formula – preserving our environment, safeguarding our economy and protecting our future energy needs.

That system does not have a plan for our future. It makes no sense.

As State Representative Pat Widlitz recently said: "the current system is like building a house without a blueprint, one room at a time."

But last week and again today, both the House and the Senate sent a powerful message that we must stop the process of rubberstamping all these pipelines and cables. We must study Long Island Sound and better assess our energy situation in a thoughtful and careful way.

So what happens now?

At the time of this writing we understand that the Governor could try to veto the bill, despite the overwhelming vote count. Although it is questionable whether the Governor could garner enough votes to support his veto, this could happen. And we know that the energy industry has plenty of money and highly paid lobbyists that very much want a veto.

We also understand that the Governor may issue an executive order calling for a six month moratorium and requiring a study due January 1, 2003.

However, this executive order, as currently described, does not contain the necessary language to stop any of the natural gas pipeline projects, including Islander East. The executive order would also not apply to the Cross Sound Cable project and would allow it to go ahead. There is also doubt whether a fair, comprehensive study could be completed by January 1. Thus, this particular executive order would be empty and meaningless – any study would be hurried and at least one cable and two pipeline proposals would still go forward, basically unaffected by the executive order.

We need the language and time frame of the current bill to ensure that all of these projects do not proceed and Long Island Sound gets the time and focus needed for a responsible study.

If the Governor still has not signed this bill by the time you are reading this, I urge you to call his office and ask him to sign the Long Island Sound Moratorium Bill into law. We need to ensure the economy of Connecticut and the welfare of Long Island Sound for now and for our future. Governor Rowland can be reached at 860-566-4840.

If the Governor has already signed this bill – rejoice and celebrate! We have achieved a significant accomplishment for the future of Long Island Sound!

Published June, 2002

DEP letter blasts the pipeline

By Kiki Kennedy

Amidst the volumes of submissions to the Federal Energy Regulatory Commission (FERC) on Islander East's pipeline, the powerful May 17 letter by Connecticut DEP Commissioner Art Rocque stands out.

Why is this letter noteworthy?

In 15 thoughtfully organized pages, Commissioner Rocque politely slams the FERC for the inadequacies and errors in their Draft Environmental Impact Statement (DEIS). "The DEIS appears to minimize the environmental effects of the pipeline as temporary and, therefore, of little importance…" writes Commissioner Rocque, as page after page he requests additional data, studies, and mitigation plans while demonstrating the significance and permanence of many of Islander East's environmental impacts.

In his opening gambit, Rocque makes four important points to FERC.

First, Rocque asks FERC to respect the Long Island Sound Moratorium Bill and Governor Rowland's Executive Order No. 26 -- which establishes a Task Force to study the impacts of all pending cross-Long Island Sound natural gas pipeline and electric transmission proposals -- and presses "FERC to defer final action on Islander East or any other pipeline in Long Island Sound" until the completion of the Task Force's study in the spring of 2003.

Second, Rocque -- stepping outside the realm of environmental issues -- questions Long Island's need for Islander East: "What is the status of the AES Calverton and Brookhaven Energy projects which constitute two of the major customers of this pipeline? Is the economic justification for this project dependent on both, or either one, of them being constructed?" AES Calverton and Brookhaven Energy are both power plant proposals; AES faces staunch opposition and will probably never be built; Brookhaven, still in the permitting process, has stated that their gas requirements can be fully served by an existing pipeline on Long Island.

Third, Rocque asks FERC to more fully evaluate Long Island's energy market before further consideration of Islander East: "the information on market demand on Long Island…[is] not far enough progressed to be able to address these questions in more than a conceptual way. We submit that this evaluation [of market demand on Long Island] is a necessary prerequisite".

Fourth, Rocque urges FERC to compare all cross-Sound pipeline proposals together: "We request that all potentially competing pipeline proposals be considered in a coordinated fashion so that the optimal solution can be selected from among them, based on minimizing environmental and socio-economic impacts and on serving demonstrated market for the approved amount of pipeline capacity."

Rocque sums up these points for FERC: "we respectfully request that no final action be taken by FERC on the subject proposal until a comprehensive look at market demand, environmental constraints and the various proposals to supply gas to Long Island can be performed."

The rest of the letter is focused on the scores of specific deficiencies in the DEIS.

For example, Rocque critiques the lack of development of mitigation plans for many aspects of the project: there is no contingency plan if the Horizontal Directional Drill(HDD) fails; there is no containment plan for the 1230 cubic yards of bentonite, a drilling mud, that might be released from the HDD; although for 3 months there will be enormous sediment mounds -- 65 feet high, perhaps visible above the waterline – encircling the 250 by 350 foot trench at the HDD exit hole, there is still no plan to prevent these mounds from dispersion by storms and currents.

Rocque points out the DEIS' disregard of numerous problems -- lobster habitat effects, wetland impacts, inadequate vernal pool identification – and challenges the width of the 22.6 mile trench across Long Island Sound: "the need to dig a 50 foot wide trench to bury a 24 inch diameter pipeline…is not addressed…the amount of seafloor disruption and sediment moved seems excessive… [and] long-term alterations to habitat are not addressed."

In sum, Rocques' list of environmental impacts is extensive and his message is clear: the DEIS has ignored or minimized many environmental impacts and Islander East has not developed effective plans to address these impacts.

Finally, after months of petitions, letters and hearings -- and in the midst of the ongoing debacle of the Cross Sound Cable – we, the grassroots community opposition to Islander East, are getting a positive sign from a state agency.

Hopefully, this letter from Commissioner Rocque represents a substantive departure from the top-down pressure to approve all cross-Sound projects; it is certainly a shift away from a careless rubber-stamp approval process.

Hopefully, this letter reflects genuine concern for Connecticut's environment and Long Island Sound and the recognition that Islander East will wreak permanent harm to our shoreline and Long Island Sound if it is constructed.

Is this a changing of the tide? Only time will tell.

If you would like Commissioner Rocque to know what you think about Islander East – and encourage him to keep critiquing FERC – please write to the following address: Commissioner Arthur Rocque, Department of Environmental Protection, 79 Elm Street, Hartford, CT 06106

Published June 2002

Islander East's Tacky Tactics: Horne Blows the Horn

By Kiki Kennedy

In mid-May, Islander East sent hundreds of packets to members of the New Haven and Branford Chambers of Commerce.

Enclosed in each packet was a letter that asked the business owner's support for the Islander East Pipeline project. The Regional Director for Duke Energy, John Sheridan, wrote this "solicitation letter" asking the business owner "to add your signature to the letter of support included in this packet and send it along to the FERC [Federal Energy Regulatory Commission] secretary in the envelope provided." Why Duke Energy and not an Islander East rep? Is Duke Energy a more commanding and coercive voice?

Also enclosed was the "letter of support" for the business owner to sign -- offering support for Islander East and misstatements about Connecticut's energy situation. Neatly typed below the signature line were the business owner's name, company and address. All a business owner had to do was sign, seal and send.

Finally, there was also a postcard addressed to Islander East with boxes to check to indicate that the business owner had dutifully sent the letter to FERC. Presumably, this was so that Islander East could put subtle pressure on local business owners for support, by expecting an answer.

So what's wrong with this tactic? Well, for one, the letters to the New Haven Chamber of Commerce quickly followed a mid-April Breakfast with Governor Rowland at the Omni Hotel in New Haven that Islander East helped to sponsor. What a great scheme: give out free coffee and doughnuts -- then ask attendees to do a small favor: sign a letter and "send it along to FERC".

But the transparent lobbying maneuver is not the worst part – it is the calculated misinformation contained in both the "solicitation" and "support" letters.

The "solicitation" letter reads, in part, as follows: "The pipeline is essential to the long-term supply and distribution of natural gas throughout the region…when it comes to energy distribution infrastructure necessary to support economic growth in Connecticut, there are no short-term fixes... you are endorsing a prudent energy strategy that will provide a secure supply of this environmentally preferred fuel for Connecticut's economic expansion…"

There is no mention in the letter that Islander East has no customers in Connecticut. There is mention that all of Islander East's capacity is promised to Long Island. There is no mention that in an energy crisis, Connecticut will pay higher rates to buy back energy from Long Island.

Instead, Islander East artfully exploits many business owners' fear: an energy crisis will strike and impede future economic growth through higher prices and shortages. The irony is that Islander East is likely to be part of the future energy problem – by siphoning gas out of Connecticut – rather than part of the solution.

Furthermore, the use of the words "environmentally preferred" is highly misleading. These words suggest that the pipeline is in the interests of the environment, when in fact, the opposite is true: the pipeline will degrade Connecticut shoreline, potentially contaminate drinking water, and devastate thousands of acres of Long Island Sound seafloor.

The "support" letter that the business owner is asked to sign also plays upon fears of a future energy crisis: "the time to expand this important distribution infrastructure is now – before we have an energy crisis – when it can be done thoughtfully and carefully."

Within days of learning about this mailing, Bill Horne, President of the Branford Land Trust, wrote his fellow members of the Branford Chamber of Commerce, to rebut the misinformation.

In his judicious letter, Horne wrote: "I'd like you to consider a few things that Mr. Sheridan did not care to share with you." The following points are directly quoted from his letter:

- According to Southern Connecticut Gas (SCG), the project will be subsidized by Connecticut gas users and threatens the ability of SCG to reliably supply its customers here in Connecticut.
- Last December, Duke Energy and its partner in the Islander East project, KeySpan, abandoned a project already approved by FERC that would have brought gas to Long Island from New Jersey (and potentially to Connecticut, according to Duke) with much less damage to the environment than Islander East.
- Tilcon has stated to FERC that "the pipeline and the railroad cannot safely co-exist on this narrow single purpose piece of property"
- The "temporary" work areas on Branford Land Trust properties will suffer damage that FERC concedes will take as long as 150 years to recover from.
- The dredging of the trench near the Thimble Islands will create mounds of over 50,000 cubic yards of sediment that may be visible at low tide, will be over a mile long, and can be expected to wash away onto Stony Creek's valuable oyster beds if hit by a winter storm.
- The United States Department of the Interior has questioned 'whether sufficient demand exists and whether sufficient capacity is subscribed to justify the project' and states a preference for an alternative project with a shorter route (and less environmental impact to long Island Sound.
- The New York Department of Conservation also favors the shorter, less damaging alternative.

Horne concludes: "Together these points raise serious questions about whether the Islander East pipeline is being done thoughtfully or carefully…the natural resources of Branford and the rest of Connecticut, especially Long Island Sound, should not be unnecessarily sacrificed for such a questionable purpose when lass damaging alternatives are available…I ask you to say that you do not support the Islander East project, and that less environmentally damaging, more responsible alternatives for meeting Long Island's energy needs must be found."

A big thank you to Bill Horne for a fair and accurate letter. Also -- big applause for Horne's determined efforts to get the truth out about Islander East.

If you would like to write to FERC about Islander East, please write to Ms. Magalie R. Salas, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20246 and include Docket Nos. CP01-384-000, CP01-385-000 and CP01-386-000.

Published July 2002

Our Fight Is Far From Over

By Kiki Kennedy

Many people have come up to me this past week asking me "is our fight over?"

My answer: A resounding NO! Absolutely not!

What everyone is reeling from is the shocking news that the Federal Energy Regulatory Commission (FERC) callously decided to ignore the one year Long Island Sound Moratorium.

As you may know, this Spring, our General Assembly passed – basically unanimously – the Long Island Sound Moratorium Bill. This bill called for a one year moratorium so that a comprehensive study -- balancing the economic with the environmental impacts – could be completed. The bill ordered all state agencies to stop issuing any permits related to electric cables and gas pipelines crossing Long Island Sound. The bill also requested -- since a state cannot tell a federal agency what to do -- that all federal agencies, including FERC, honor the one year moratorium.

The Long Island Sound Moratorium Bill passed both the State Senate and the House with nearly unanimous bipartisan support. This unity speaks volumes about the will of the people of Connecticut: stop the helter skelter application process, stop pandering to corporate profiteering, stop irreversibly damaging Long Island Sound – stop, study and figure out the best answer for Connecticut and Long Island Sound.

Besides this resounding call from our state elected officials, there was also a letter to FERC from our federally elected officials. In a June letter written by a bipartisan coalition of our Congressional delegation, Senator Dodd and Representatives DeLauro and Shays strongly urged FERC to respect the one year Long Island Sound moratorium.

Bipartisan state legislators. Bipartisan federal legislators. Even the Governor's Executive Order in April called for a 9 month moratorium. You would think that with this level of unity, power and passion that FERC would pay attention and respect Connecticut's wishes.

However, in a letter dated July 2 and written by FERC's Chairman, Pat Wood, FERC clearly stated that it would continue processing applications and effectively, that FERC would not honor the Long Island Sound moratorium.

What was NOT clear from the letter was FERC's rationale for its decision to ignore the moratorium. "Time involved" was the only vague reason given. FERC also indicated that if a pipeline permit was issued during the moratorium that a more complete explanation would be provided at that time.

Also unclear was the process by which FERC decided to ignore the moratorium. How did FERC decide? Did all four commissioners vote? Or was this a unilateral decision by the Chairman, Pat Wood, a 2001 Bush appointee and former Texas utility regulator who favors deregulation?

FERC likes to say that it listens: according to the July 10 New Haven Register, FERC's spokeswoman, Celeste Miller said "the public input is a vital part of the (approval) process and all of the public's input and comments are all made a part of the record and that's looked at before the commission (FERC) makes a decision." Was public input looked at here? If so, how did FERC justify its decision in the face of so much opposition? Or is FERC only paying lipservice about its interest in state/public input?

These are questions that hopefully, will eventually get answers.

Meanwhile, there is no question that our fight against Islander East is still strong. As of this writing, NO permits have been issued – by any agency, state or federal -- for the Islander East Pipeline project. In fact, FERC has yet to issue the Final Environmental Impact Statement (FEIS) for Islander East; the FEIS is expected by the end of August. Add to that a whopping dose of strong criticism from both state and federal agencies, like the Department of Environmental Protection and the Army Corps of Engineers, and we have a lot to feel hopeful about.

Finally, we may not have time on our side, but we do have the facts. Facts about the potentially irreversible damage that Islander East will do to Long Island Sound water quality, shellfish beds, and finfish habitat. Facts about impacts to wetlands and open space. Facts that question the extent of New York's need for gas.

We have the facts. We have the truth. All we need is the opportunity for the facts and the truth to come out. In an unbiased and fair system, this should not be a problem. In the upcoming months we will see just what kind of system we have.

If you would like to write FERC, please do so at the following address: Ms. Magalie R. Salas, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20246. Please include the Docket Numbers for Islander East: CP01-384-000, CP01-385-000 and CP01-386-000.

Published July 2002

The Army Corps Sounds Off About the Pipeline

By Kiki Kennedy

The Army Corps of Engineers (the Corps) is a federal agency charged with evaluating and, in some instances, constructing projects in and around United States waterways. Although their New England Regional office is located in Massachusetts, their interest and concern for Connecticut seems strong.

On June 17, the Corps wrote comments about the Islander East Pipeline proposal to the Federal Energy Regulatory Commission (FERC), the federal agency that has the power to issue a permit to Islander East. The Corps examined the Draft Environmental Impact Statement (DEIS) for Islander East that the FERC issued this past March .

In their June 17 letter, the Corps, empowered by the Clean Water Act's Section 404 Guidelines, described the "fundamental percept" of these binding regulations: "Discharges of dredged or fill material into the waters of the United States, including wetlands, should not occur if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem…A permit cannot be issued, therefore, in circumstances where a less environmentally damaging practicable alternative exists."

In other words – Islander East cannot be issued a permit if there is an alternative route that is less damaging to the environment.

The Corps came up with the following 3 points:

- The DEIS "does not contain sufficient information to make a reasonable determination".
- The DEIS "fails to adequately compare the environmental impacts of system alternatives to" Islander East.
- The DEIS, "although incomplete, appears to suggest that the Eastern Long Island (ELI) system alternative would be practicable, shorter in length (both onshore and offshore), cross fewer streams, avoid designated shellfish beds, affect fewer residences, and minimize trenching in the nearshore environment. Consequently, the ELI alternative, as presented in the DEIS, appears to meet the stated project purpose and need while discernibly reducing potential adverse impact to the aquatic environment."

You may recall that the ELI alternative is the route that follows the existing Iroquois pipeline right-of-way onshore from Brookfield to Milford. Offshore of Milford, the pipeline would avoid many nearshore shellfish beds by coming off a tap from the existing Iroquois pipeline. In addition, the ELI alternative would impact 17.1 miles of Long Island Sound's seafloor compared to 22.6 miles for Islander East. The ELI alternative would save 5.5 miles, or over 10,000 acres, of Long Island Sound's seafloor. Thus, according to the Corps' review, ELI would be a less environmentally damaging alternative to Islander East. Of course, the best alternative for Connecticut and Long Island Sound would be no pipeline at all.

The Corps stated that they could support either one of two conclusions:
1. The DEIS "fails to comply with the Guidelines based on the fact that there is insufficient information to determine if the proposed activity is the least environmentally damaging practicable alternative."
2. ELI appears to be "a practicable system alternative…that would have less impact on the aquatic ecosystem."

At the end, the Corps reminds FERC that "only the Least Environmentally Damaging Practicable Alternative may receive a federal permit."

Here's the Corps' take-home message: either the DEIS is inadequate to make any determination or the ELI alternative is environmentally better than Islander East.

This is a substantial success for us. Finally, we have a federal agency focusing on environmental issues – instead of the energy industry's corporate interests. Hopefully, the Corps will continue to use its Guidelines to demand that a complete and substantive data set is included in another DEIS or at the very least, a Final EIS. We need to have all the real information included – not concealed, buried or omitted. Then we will have made another step forward in our efforts to oppose the Islander East pipeline and protect Connecticut's wetlands, shellfish industry and, of course, Long Island Sound.

If you would like to give your comments to FERC about Islander East, please write to Ms. Magalie R. Salas, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20246 and include Docket Nos. CP01-384-000, CP01-385-000 and CP01-386-000.

Published August 2002

Siting Council Surprise

By Kiki Kennedy

On Thursday August 1, in a formal conference room in New Britain, I witnessed a remarkable event.

The Connecticut Siting Council (CSC) convened to discuss Docket Number 221 – the Islander East Pipeline. Chairman Mortimer Gelston regally sat at a table on an elevated stage. The other CSC members faced him with their backs to us, the public. I hoped their decision would not turn their backs on us as well.

Three documents, totaling 49 pages, were being considered: The Draft Findings of Fact, Opinion and Decision and Order. Derived solely from "The Record" -- including written submissions, the 5 days of formal hearings in April, and our own fabulous public hearing in Branford, attended by hundreds -- these documents were prepared by the CSC Staff so that the CSC could discuss and sign off on them.

I expected a cursory perusal and then a rubber stamp after 10 minutes. Was I surprised.

Instead, for nearly 2 hours, we went over the documents page by page. The discussion, always polite, repeatedly underscored the CSC's implicit philosophy: *if built, the pipeline would definitely harm Connecticut*.

First, the CSC debated whether or not to even issue anything in light of the Long Island Sound Moratorium. As you may recall, this bill instructed all state agencies NOT to act on any permits

involving Long Island Sound over the upcoming year. By issuing a decision, would the CSC be breaking state law? Would the CSC be scorning the moratorium? Would the CSC be acting like FERC, the Federal Energy Regulatory Commission, which plans to deliberately ignore the moratorium?

The LIS Moratorium statute was closely examined and a specific line uncovered: "If FERC proceeds with consideration, regardless of CSC requests, the CSC… shall review and recommend…an environmental assessment and plan…" The intent of the legislature seemed clear: if FERC intends to ignore the moratorium, which it does, then the CSC is allowed – even directed -- to give FERC recommendations.

"This is our last best best hope for getting these parts in," urged CSC member Pamela Katz, who wanted FERC to get the CSC guidelines. "I don't want to lose the chance to have some influence on what FERC is doing" Chairman Gelston pronounced.

The CSC went on to scrutinize the documents. Scrapping any references that could be misconstrued as supportive of Islander East, their mission seemed clear: Let's not let FERC think we support this and -- if this pipeline ends up getting FERC approval -- let's tell FERC to take every possible measure to minimize the environmental impacts. As council member Katz framed it, "we believe many of the environmental effects can be mitigated – not taken care of…there will be harm done…there will be disruption."

As they wrapped up their careful inspection, the CSC resolved to highlight one particular issue to FERC. To emphasize its importance, the following sentence was put in bold and placed as the CSC opening statement: "We believe that this proposed project should be reviewed by the FERC in conjunction with other competing projects to assess which project can best serve the needs of the region with the least environmental effects." The CSC sees that there are alternatives to the clear environmental harm that Islander East will do; like all of us, the CSC is pushing FERC to fairly and thoroughly compare all these alternatives.

Following that gambit, the CSC chose to exhort FERC, once again, to respect the LIS Moratorium: "Additionally we believe that it would be prudent for the FERC to defer issuing a decision on all energy projects that traverse Long Island Sound until the Task Force, which was established pursuant to An Act Concerning long Island Sound, has issued its report and recommendations to the Connecticut Legislature."

What a surprise. I had never expected the CSC – the agency which, following assumed political pressure, reversed its decision to give approval to the cursed Cross Sound Cable in New Haven harbor – to issue such a powerful message about the dangers of Islander East. Clearly, the CSC heard our voices of concern and listened. Instead of submitting to possible political pressure and rubberstamping Islander East, the CSC chose not to support Islander East and instead, recommended to FERC that alternatives be examined.

If we can make that kind of headway with the CSC, who knows how far we can get with other agencies in this governmental system where political influence and corporate greed have so often

prevailed? Every day, with each small success, I am more and more hopeful that this time, the people and the environment will prevail.

Published September 2002

Summer Surprise: Feds Prefer Different Pipeline Route

By Kiki Kennedy

In late August, while most of us were getting kids back to school or enjoying the last few days of a summer vacation, the Federal Energy Regulatory Commission (FERC) issued the Final Environmental Impact Statement (FEIS) on the Islander East Pipeline Project.

I expected merely an expanded version of the Draft Environmental Impact Statement (DEIS), issued in March, which was striking for its incompleteness. Even another federal agency, the U.S. Army Corps of Engineers, remarked that the DEIS "does not contain sufficient information to make a reasonable determination" and that the DEIS "fails to adequately compare the environmental impacts of system alternatives to" Islander East.

In the DEIS, Islander East's proposed route through Branford was blandly supported and alternative routes briefly described.

So I was astonished when I discovered that the FEIS contradicted the DEIS! This is a rarity. But here it was: "We conclude that there is an environmentally preferable alternative to the Islander East Pipeline Project."

The alternative route is better, according to the FEIS, because the Sound crossing is cut by 5.5 miles -- from 22.6 miles to 17.1 miles -- and less shellfish beds are impacted.

After volumes of letters and hours of public testimony, the feds – finally – have acknowledged that Islander East's route through Branford has environmental problems and surprise! A better route exists.

This confirms three facts we have known all along:

1. Islander East put very little research into the environmental impacts of their proposed route through Branford.

This route was chosen because it would be the cheapest to dig and the most profitable to run. Islander East probably also thought it would be the least problematic – because there are less legal issues of eminent domain with so much of the pipe under the Sound – but clearly, Islander East also underestimated our community's overwhelming outcry.

2. Islander East still has no concern for our environment.

If Islander East really cared about the environment – they write plenty of letters to FERC and newspapers claiming they do – Islander East would have abandoned their proposed route through Branford immediately. Instead, Islander East is still pushing for quick FERC approval of their Branford route.

Why? What else -- Money.

This alternate route, the ELI System Alternative, follows much of an existing pipeline right-of-way through Milford; the sticking point for Islander East is that this right-of-way belongs to another pipeline company, Iroquois, so Islander East would have to share its profits.

According to an August 28 Associated Press story, Islander East has already said they have no plans to cooperate with Iroquois on an alternate pipeline route.

3. FERC, too, is not concerned about our environment.

Yes, the FEIS recognized negative environmental impacts to Branford and supported a different route. But do you honestly believe this other route is the "best" route for the pipeline? I certainly don't.

Do you think that FERC sat down to look at the overall environmental picture and tried to devise a way for New York's energy needs to be met in the least environmentally harmful way? Absolutely not!

FERC practically boasted at a January 2002 conference in New York City that it is not in the business of energy planning. If FERC can't even plan ENERGY needs, the environment never makes it into the equation.

The fact is that the FEIS is flawed and remains incomplete: all possible routes, especially non-cross Sound routes, were not analyzed in the FEIS. There may be other routes, not yet conceived, that do not cross Long Island Sound, that might be less environmentally harmful than the ELI System Alternative. Additionally, the FEIS never compared Islander East to other pipeline proposals to Long Island, like the Blue Atlantic or Cross Bay, which do not cross Long Island Sound. Sadly, we will never know all the possible route options.

However, it is a great victory that the FEIS prefers an alternate route. But we have not won the war.

First, FERC could still approve the Branford route in spite of the FEIS. Yes, that's right. FERC is not mandated to approve the least environmentally damaging route. FERC can use "other factors" in their final decision, which could come as early as September 18.

Second -- and most importantly -- if any cross-Sound pipeline gets built, Long Island Sound and Connecticut will lose. We need more study of regional energy needs in the context of non-cross-Sound solutions before we rush to build any more pipelines across Long Island Sound.

If you would like to give your comments to FERC about Islander East, please write to Ms. Magalie R. Salas, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20246 and include Docket Nos. CP01-384-000, CP01-385-000 and CP01-386-000. Or go to www.ferc.gov to file your comment electronically.

September 2002

Our Pipeline Fight Is Not Over

By Kiki Kennedy

Upset. Infuriated. Disgusted. Although I felt a lot after FERC's ruling, I did not feel defeated.

Last week, the Federal Energy Regulatory Commission (FERC) issued a Final Certificate of Convenience and Necessity to Islander East for their proposed route through Branford.

In doing so, FERC blatantly ignored four important factors.

First, FERC ignored the legislatively mandated one year Long Island Sound Moratorium that began June 3, 2002. This bill was unanimously passed by the entire General Assembly so that a Task Force could study the potential impacts of energy projects on Long Island Sound and make recommendations to the legislature.

In its ruling, FERC's excuse for rudely snubbing Connecticut went like this: FERC "respects Connecticut's decision to undertake an assessment of its future energy needs and to take seriously its environmental responsibilities regarding Long Island Sound." However, FERC explains, "the initial customers of this project are in Long Island and New York, and they have indicated a need for the proposed service in a time frame that could not be accommodated were the Commission [FERC] to defer its consideration of the applications before it for the pendency of Connecticut's moratorium." In other words, the timing wishes of Islander East's four customers carry more power with FERC than the unanimous voice of Connecticut's General Assembly. And just who are those four customers? Why – two power plants (one will probably never be built) and two gas distribution systems that just happen to be subsidiaries of KeySpan Energy, the co-investor (with Duke Energy) of Islander East. How cozy!

Second, FERC ignored the overwhelming opposition to Islander East as demonstrated by legions of letters, 5577 petition signatures and hundreds of people who came to Branford High School Auditorium last May to speak to FERC. Again – corporate interests outweigh public outcry.

Third, FERC ignored the requests of the Connecticut Siting Council, Attorney General Blumenthal and Congresswoman DeLauro, among others, to consolidate all the applications in order to compare all cross-Sound pipelines together and certify the least environmentally harmful route.

Fourth – and perhaps most surprising – FERC ignored the findings of its own Final Environmental Impact Statement (FEIS). Late this August, FERC issued the FEIS – prepared by FERC's own staff -- that found an alternative route, the ELI Systems Alternative, was environmentally preferable to Islander East's proposed route through Branford. Nonetheless, FERC chose to certify the environmentally more destructive route. Why? FERC explains it is required only to "consider the environment" and not mandated to choose the least environmentally harmful route. Basically FERC goes through the motions of acknowledging harm to the environment but -- when it comes to final decisions – cavalierly disregards the environment.

So now we have it confirmed: the pipeline approval system is seriously flawed and patently unfair. The playing field is not level. Far too much weight is given to the energy industry's interests with scant consideration of environmental impacts, public opposition and state moratoriums.

Is FERC accountable to anyone? Looks like only the customers it serves: the energy industry. Just look at where FERC folks go when they leave their government posts: the energy industry – with hefty corporate perks and pay.

The only bright spot in the ruling is FERC's admission that "the state of Connecticut still has a significant role to play prior to the ultimate completion of this project."

What will Connecticut's role be?

Well, Islander East still needs permits from the CT Department of Environmental Protection (DEP) before it can start building. And according to the New Haven Register, the DEP will not consider any permits "until at least next summer because of the state's year-long moratorium on new utility lines." At least our own DEP will respect the moratorium. Other state and federal agencies, like the U.S.Army Corps of Engineers, must weigh in as well.

And what about Governor Rowland? According to the New Haven Register, the Governor was "extremely upset and disappointed." At worst, these sentiments are insincere, and at best, too little, too late. Where was the Governor this past year? Did he ask FERC to respect the moratorium? Did he ask FERC to compare all the pipelines together? Did he do anything to stop this pipeline? No. We must call on Governor Rowland to do more than express disappointment. In this gubernatorial election year, please call on Governor Rowland to take a strong stand against this pipeline. Call him today at 860-566-4840.

Thank goodness we have staunch allies like Connecticut Attorney General Richard Blumenthal and Congresswoman Rosa DeLauro who have been fighting side by side with us from the very beginning. They will be with us as we take this ruling to the courts.

The decision by FERC is definitely a disappointment. However, although we have lost a battle, we have not lost the war.

We are in the right – and somehow right will (eventually) win over wrong.

Published October 2002

Rocque Rocks: DEP teams up with Attorney General -- but where's the Gov?

By Kiki Kennedy

Rocque rocks! Isn't that the "cool" way to give a compliment today? Well, Connecticut Department of Environmental Protection (DEP) Commissioner Arthur Rocque certainly deserves our praise for his efforts to vanquish Islander East.

After years of strained relations, the idea that Commissioner Rocque would ever team up with Attorney General Blumenthal seems ludicrous, impossible. Their history has been characterized by lawsuits and bitter disagreements. Furthermore, Blumenthal is an elected Democrat while Rocque is the appointee of a Republican Governor.

But never say never – especially when it comes to trying to stop Islander East.

Because on October 3, that is precisely what happened.

At a nicely orchestrated joint press conference in Hartford, Attorney General Blumenthal and Commissioner Rocque appeared together -- smiling and pleasant – to deliver their unified message: we will do whatever it takes to stop Islander East.

Rocque was no-nonsense when he summed up the Islander East approval process with just one word: "nuts." Angered that the Federal Energy Regulatory Commission (FERC) had ignored the Long Island Sound Moratorium -- by issuing its September 18 approval certificate to Islander East – Rocque was also upset that FERC had cavalierly overlooked an environmentally less harmful route.

Rocque underscored that Islander East would very likely be denied -- based on the state's coastal management plan -- the four DEP permits they need to construct the pipeline.

Blumenthal, outraged from the very beginning by Islander East -- which he called an "environmental nightmare" -- vowed a long legal fight. "The failings and flaws, legally and factually, are so obvious that we think this project is doomed" he asserted.

Although Rocque has not been fighting Islander East from the outset – like the Attorney General – he has been skeptical.

Last May, Rocque wrote a powerful letter to FERC criticizing Islander East, emphasizing the pipeline's longterm adverse environmental impacts and requesting more rigorous scientific studies. Rocque also asked that FERC respect the Long Island Sound Moratorium, perform a more updated analysis of New York's energy needs and compare all cross-Sound pipeline proposals together.

Rocque's requests were ignored by FERC.

So today we have the DEP Commissioner saying he wants to stop Islander East, but what about Governor Rowland? Why wasn't he at the press conference? When will Governor Rowland come out against Islander East?

In fact, Governor Rowland has not taken a stand against Islander East even though his opposition could make a substantial difference: we need him to write letters to the feds, like FERC and the Army Corps of Engineers and further support state agencies, like DEP and the Bureau of Agriculture.

How do we know he has not taken a stand?

Call his office, like Branford resident, Christine Chiocchio, did last week. After Chiocchio explained her opposition, the woman answering the phone said "Governor Rowland has nothing to do with it. It really is not his decision. Besides, there are pipelines in other places that people have to live with." When Chiocchio protested about the horrific environmental impacts this pipeline would create, the woman retorted "Well, hon, others would call it progress. I will pass your message along."

Or call his campaign office. Kathryn Basile, a registered Republican, did just that on the same day that the joint press conference was held. She spoke to an issues staffer, J.R., who told her that "the reason the Governor has not come out for or against the pipeline is because it is still in the preliminary stages and has not yet gone before the state for approval."

Preliminary stages? FERC just approved Islander East.

Not gone before the state? What about the Connecticut Siting Council's April hearings and September report?

Was the staffer naïve or is Governor Rowland evading the issue?

There is a gubernatorial election going on. We need Governor Rowland to know that we care about this issue. We need to pressure him to stand up against Islander East.

This is not a partisan issue – the press conference is a testament to that. So are all the Democrats, Republicans and Independents all working together, in grassroots efforts and within the legislature, to stop Islander East. Long Island Sound is too precious to be politicized. But if Governor Rowland wins re-election and remains silent, our fight will be that much harder.

Silence, in this case, is support.

Call Governor Rowland at 860-566-4840 or better still, write him at 210 Capitol Avenue, Hartford, CT 06106. Tell him to come out publicly and oppose Islander East.

If you're wondering where Bill Curry stands, call his campaign office at 860-236-2002. Workers will tell you that Curry staunchly opposes Islander East.

Finally, please thank Commissioner Rocque for opposing Islander East – and encourage him to keep fighting – by writing him at the following address: Commissioner Arthur Rocque, Department of Environmental Protection, 79 Elm Street, Hartford 06106.

October 2002

A Sound Rebuke: the EPA criticizes FERC

By Kiki Kennedy

In a polite but powerful September 30 letter, the Environmental Protection Agency (EPA) admonished FERC, the Federal Energy Regulatory Commission, for FERC's mishandling of the Islander East Pipeline proposal.

Here is one federal agency chastising another – and in the process, echoing all of our concerns about Islander East. What delightful reading!

In the eight-page critique sent to FERC – and carbon copied to Senators Dodd and Lieberman, Representatives Delauro, Shays and Simmons, and Governor Rowland – the EPA Regional Administrator, Robert W. Varney, listed flaws with FERC's decision-making process.

First, the EPA upbraided FERC for ignoring the Long Island Sound Moratorium. The EPA reminded FERC that the purpose of the Moratorium was so the Task Force could "more fully inform regulators and legislators about the need for and location of additional transmission capacity" and thereby protect "the numerous marine resources of Long Island Sound." The EPA pointed out that "numerous commentators, including the EPA" had also asked FERC to compare all competing cross-Sound pipeline projects together; the EPA appeared frustrated that FERC had refused to look at all projects simultaneously.

Second, the EPA called into question FERC's rationale for disregarding the ELI alternative route -- the route through Milford that the FEIS (Final Environmental Impact Statement) found to be "environmentally preferable" to the Islander East route. The EPA appeared unable to fathom why FERC ignored this data: "It is not clear, however, why this alternative did not become the preferred alternative as it appears to satisfy the project need with less impact of the environment."

Third, the EPA suggested that FERC jumped the gun with the rapid approval of Islander East less than 30 days after the issuance of the FEIS. "The approval comes almost two weeks in advance of the end of the typical thirty day wait period on the FEIS. As a result, the comments that EPA and other parties are making on the FEIS regrettably were not considered as part of the FERC decision on September 18, 2002."

Fourth, the EPA intimated that FERC dropped the ball: "Unfortunately, because FERC's decision has already been made, the issues that remain unresolved, such as the analysis of alternatives, will

need to be addressed by the Clean Water Act Section 404 process administered by the Army Corps of Engineers. That process will determine whether the ELI alternative, the Islander East alternative, or others are permittable under the Clean Water Act." In other words, there are too many missing data points that FERC should have addressed. Now the Army Corps of Engineers must step in and do the analysis that was FERC's responsibility. Therefore, the Army Corps – not FERC – will be the agency that determines which route gets built.

The final part of the letter, including a four page addendum, detailed the EPA's prodigious "environmental concerns about this project [Islander East]."

The EPA substantially critiqued the FEIS: "the FEIS lacks the detailed information necessary to understand the direct, indirect and secondary impacts to wetlands and waters of the United States associated with the proposed project." Basically – the FEIS is wholly inadequate to assess the extent of the environmental impacts. Furthermore, the EPA reminded FERC that the EPA had called "for this assessment in our comments on the DEIS." FERC -- which prepared both the DEIS (Draft Environmental Impact Statement) and the FEIS -- had blatantly ignored the EPA's requests.

Then – highlighted in boldface – came the strongest rebuke: "The EPA cannot agree with…the FEIS which concludes that the construction and operation of the Islander East Pipeline Project would result in limited adverse environmental impacts." The EPA intimated that these impacts were a far cry from merely "limited adverse" – indeed, the impacts from Islander East would be long-lasting and substantial.

The EPA listed the impacted areas -- 3100 acres of Long Island Sound, 125.5 acres of forested habitat, 83.1 acres of open lands and 3.1 miles of wetland crossings – and followed with four pages of significant questions, overlooked by the FEIS, that still required rigorous analysis. The EPA seemed appalled by these oversights.

The EPA concluded: "even though in this case a decision has been made to approve the Islander East project, EPA anticipates working closely with our state and federal colleagues, and others, to support a comprehensive consideration of alternatives and analysis of the impacts they may cause to Connecticut, New York and Long Island Sound."

Will the EPA will pick up the ball that FERC dropped?

Hopefully, the EPA will keep its promise -- to ensure that a thorough analysis of all the impacts and all the alternatives finally gets done.

And thank goodness – we need an agency that will put our environment ahead of the profiteering motives of the corporate energy industry. Finally – an agency that lives up to its name.

Published October 30, 2002

Islander East Hits a Rocque: pipeline stopped -- for now

By Kiki Kennedy

The Islander East Pipeline has been stopped! At least for now.

Elation, relief, hope that we are making real progress – all these feelings welled up when I heard the news. However, excitement was tempered with skepticism: there have been so many twists and turns to this pipeline saga – this could be the storyline for a miniseries – and I doubt our Islander East epic has ended. So don't uncork your fancy champagne bottles just now – although a celebratory beer is absolutely justified.

What happened?

On October 15, 2002, the Commissioner of the CT Department of Environmental Protection (DEP), Arthur Rocque, issued a potent knock-out punch to Islander East: Rocque denied a critically needed "federal consistency" determination. Without this determination, a crucial permit from the U.S. Army Corps of Engineers is procedurally denied Islander East. In addition, the permit issued to Islander East in September by the Federal Energy Regulatory Commission (FERC) is invalidated.

Rocque stated that the CT DEP "has determined that the activities, as proposed, are inconsistent with Connecticut's federally-approved CZMP [Coastal Zone Management Program]" and that "the proposed work would cause significant adverse environmental impacts on coastal resources."

Finally, the CT DEP has put some teeth – Connecticut's CZMP – behind the evidence that the pipeline will have longterm adverse environmental impacts.

Rocque listed the impacted coastal resources:

- Water quality will be degraded in Long Island Sound.
- Tidal wetlands will be adversely impacted.
- The pipeline will "degrade, irrevocably alter and permanently destroy essential shellfish habitat …which cannot be mitigated."
- "By placing the pipeline through commercially important shellfish habitat and irrevocably altering that habitat, a water-dependent use will be permanently replaced with a non-water dependent use."

Rocque concluded: "The proposed pipeline has not been properly planned and controlled and if installed, will adversely affect the quality of the environment in derogation of CGS [Connecticut General Statutes] section 16-50g." Rocque also invited Islander East to meet with DEP staff "to discuss other less environmentally damaging alternatives" and attached a list of twenty-two state policies –hurdles Islander East must clear with any alternative pipeline proposal.

Now the ball is in Islander East's court. They have three options:

- Withdraw their proposal
- Work with the CT DEP to identify alternatives

- Appeal the CT DEP's denial to the federal Secretary of Commerce, Donald Evans. The request must be done within 30 days; then the process takes months. According to Rocque, in order for the Department of Commerce to override the CT DEP, Secretary Evans must find that the pipeline "is consistent with the objectives or purposes of the Coastal Zone Management Act, or is necessary in the interest of national security" – both tough cases for the Secretary to make.

Our sources suggest that Islander East has still not decided what to do – although withdrawal is unlikely. Islander East has asked the U.S. Army Corps of Engineers to put their permit application on hold – probably to save face from an automatic denial.

Perhaps Islander East will decide to work with the DEP. However, in an October 22 New Haven Register story, the Director of DEP's Office of Long Island Sound says he "hasn't heard from Islander East since his agency's decision" and that Islander East "would have to propose major changes in burial techniques or to the route of the pipeline to change DEP's mind." Only time will tell if Islander East finally admits the truth: this ill-conceived pipeline scheme irrevocably harms the environment -- they must go back to the drawing board.

Will Islander East appeal to the Secretary of Commerce? Secretary Evans was appointed by President Bush and – surprise! -- Evans was a Yale University classmate with the President. Will Islander East – and Duke Energy – decide to use their political chits to get this route? Is it worth that much to them? Again -- time will tell.

Meanwhile – despite our broad bipartisan grassroots coalition -- this whole pipeline approval process could be politicized. Despite our scientific evidence, powerful letters from the CT DEP and regulations like the CZMP – this is October, election time. I fear that, depending on the outcome from Election Day, our pipeline picture could change.

In this column, I try to be nonpartisan but I cannot ignore the facts:

- Whoever gets elected Governor will appoint the next Commissioner of the CT DEP.
- We do not know if Commissioner Rocque is acting with Governor Rowland's blessing.
- Despite calls and letters, Governor Rowland has still not taken a stand to stop Islander East.
- Bill Curry says he will protect Long Island Sound from the energy industry.

So please vote on November 5 –every vote does count – but know that your vote sends a message about what you want for Connecticut and Long Island Sound.

Meanwhile, let's celebrate while we can – and hope this victory is long-lasting – because, for now, the Islander East Pipeline has been stopped!

Published November 20, 2002

Islander East: pays big bucks to push their pipeline

By Kiki Kennedy

Despite the knock-out punch delivered by the Connecticut Department of Environmental Protection (DEP), Islander East has staggered to its feet: Islander East continues to promote their pipeline and plan for construction beginning in the Spring of 2003.

Wait! That's only a few months – and one very-soon-to-arrive holiday shopping season – away!

How can Islander East think construction even has a chance of starting this Spring?

First, Islander East doesn't have the necessary permits from the CT DEP and the U.S. Army Corps of Engineers. Second, Connecticut still has a moratorium on all Long Island Sound energy projects through June 2003. Third, the Federal Energy Regulatory Commission (FERC) has agreed to a rehearing of its Final Order, which gave Islander East its permit in September 2002, and there is a chance, albeit slight, that FERC could rescind its permit.

Is Islander East crazy, brain-damaged, delirious from DEP's direct hit? Or – more worrisome -- do they know something we don't know?

Was there a handshake, wink-wink, say-no-more in some secret boardroom or government office?

What we do know is that Islander East is spending plenty of time and money trying to promote their public image.

For example, at the New Haven Business Expo two weeks ago, Islander East bought a booth, set it up with splashy brochures and logo coffee mugs and tried to convince people walking by that Islander East is good for the environment.

Another example – considerably deceptive and divisive – occurred in the Hartford Courant's Sunday paper on November 10: Islander East took out a half-page advertisement on the back of the Courant's commentary section.

Curious to know the cost, I called the Hartford Courant's advertising department. Obviously, I could not find out what Islander East actually paid; however I did find out the base cost for a one-time, half-page ad in a Sunday paper. I almost dropped the phone

when the representative told me: $20, 565. Yup – twenty-thousand five hundred and sixty-five dollars.

Whew. That extravagant sum told me a lot: Clearly Islander East thinks that taking out an ad is worth the cash. And something else – despite the DEP ruling, Islander East still has money to burn.

And what about the ad itself?

First, the placement adjacent to the commentary section is notable – and probably added to the cost. Then there is the remarkable omission of any disclaimers -- such as "this is a paid advertisement." Both contributed to the highly misleading impression that the advertisement is not an advertisement and instead, an op-ed or comment piece.

Second, the title of the ad is "The High Road Under Long Island Sound." That, together with the calculatingly nice tone of the advertisement -- there are a lot of "we believe" and "we are proud" phrases as well as plenty of uplifting words like "wonderfully", "intelligent", "responsible" – give the false impression that Islander East and its managing partner, Duke Energy (a billion dollar Fortune 10 corporation) are our friendly, cozy neighborhood Mom and Pop gas company.

Third, the ad devotes considerable space – and hubris -- describing Duke Energy, the "managing partner" for Islander East: "At Duke Energy, following mandated project-related procedures is what we do for a living…And we do it very well…we operate pipelines nationwide and we are proud to say we have earned many awards…" Of course, the ad omits the fact that Duke has now been charged with fraud in the California Energy crisis of 2000 and must pay fines of $9 billion.

Forth, despite lauding full disclosure, the ad is rife with many other omissions. For example, early on the ad states "it is vital all interested parties are provided enough verifiable information to make educated and intelligent decisions." Nevertheless, later on in the ad, after describing FERC's "exhaustive review" process in issuing the certificate in September, guess what? No mention is ever made that Islander East's route through Branford is MORE environmentally harmful than an alternative route described by FERC itself.

Instead, Duke/Islander East – they represent themselves together, also omitting the inportant fact that Islander East is an LLC -- finishes the ad with "we are working toward the best, most environmentally responsible way to meet the certified market need." Then what about mentioning alternative routes to meeting Long Island's energy needs that do NOT cross Long Island Sound, degrade open space, pollute wetlands and destroy shellfish beds?

What about disclosing that 75% of that gas is for New York City – not Long Island?

What about disclosing that the CT DEP denied a crucial permit last month?

The list of omissions is lengthy – you, dear reader, know by now what has been carefully left out. But last Sunday's Hartford Courant readers probably don't.

We may not have thousands of dollars to spend on misleading advertisements, but we do have a thousands of strong voices that can continue to speak the truth – to our friends, to our General Assembly, to our government agencies. Keep telling those folks to continue to fight Islander East with what we do have: the whole truth – not parts of the truth carefully wrought to create a false picture.

Published December 2002

A Sound Plan to Restore Long Island Sound

By Kiki Kennedy

I got my holiday wish already.

No, not the camera I desperately need since my other one fell on the sidewalk and "mysteriously" stopped working. No, not the pair of gold earrings I also "desperately" need.

My gift came December 4 when the Long Island Sound 2003 Agreement was signed and the U.S. Environmental Protection Agency (EPA) pledged $4 million to make this plan a reality.

My gift – a cooperative agreement between Connecticut, New York and the federal government to restore Long Island Sound.

So what's the plan?

Some background first: In 1985, the U.S. EPA, together with Connecticut and New York, began the Long Island Sound Study. This research helped Long Island Sound receive its federal designation in 1987 as an "Estuary of National Significance." This brought greater funding and study: in 1988, a Management Conference composed of all levels of government agencies -- federal, state, and local -- as well as environmental organizations, universities, industry and the public assembled. After years of hard work – including independent research and public comment – the "Comprehensive Conservation and Management Plan (CCMP) for Long Island Sound" was finally completed and adopted in 1994 by Connecticut and New York.

The CCMP prioritized the six problems compromising the health of Long Island Sound: (1) hypoxia (2) toxic contamination, (3) pathogen contamination, (4) floatable debris, (5) the overall health of living organisms and (6) land use/development resulting in habitat loss and water quality degradation.

According to the EPA's website, www.epa.gov/region01/eco/lis, the CCMP "identifies specific commitments and recommendations for action [and] calls for a sustained and cooperative effort among the states of Connecticut and New York, the EPA and other federal agencies, local governments, and the private sector."

The CCMP underscored that we, the people, do make a difference: "the fate of the Sound depends on more than just the commitments of government agencies and regulated entities; it depends on the will and desire of the people of the region."

Although reaffirmed in 1996, the CCMP has not had a renewal of commitment – or money – until now.

On December 4, at the Maritime Aquarium in Norwalk, the top government environmental leaders in Connecticut and New York convened to renew their efforts to clean up Long Island Sound.

Commissioner of the CT Department of Environmental Protection (DEP), Arthur Rocque – who stopped the Islander East Pipeline, for now – was there with his New York counterpart, Erin Crotty, head of York State's Department of Environmental Conservation (DEC). Both the U.S. EPA's lead regional administrators were present: New England's Robert Varney – who wrote a powerful letter in September blasting Islander East – and Jane Kenny, New York's EPA chief.

All four leaders signed the agreement while a host of environmentalists and elected officials – including Branford's First Selectman, Unc DaRos -- looked on.

The Long Island Sound 2003 Agreement declared "our vision is of a Long Island Sound restored to health by 2014, the 400th Anniversary of Block's Exploration of Long Island Sound."

"By this Agreement, we recommit ourselves and challenge others to work to attain the goals of the CCMP and to make Long Island Sound's waters cleaner and healthier, its living sources more abundant and diverse, and its economic and recreational worth to the region even more valuable."

The Agreement set 30 specific goals, including efforts to improve water quality by reducing hypoxia, bacteria and toxins, restoration of vital fish habitat and valuable watershed lands, and the promotion of public awareness of the Sound. The Agreement acknowledged that meeting these goals by 2014 "will be a challenge requiring the engagement of everyone – federal, state, interstate, and local businesses, schools and universities, and citizens – around the Sound."

Again, the call is for all of us – government agencies, industry, environmentalists and private citizens – to work together to realize these goals. And they have been backed by the U.S. EPA, which, at the signing, awarded $2 million each to the CT DEP and the NYSDEC.

Powerful words. Substantive funds. How gratifying to see so much effort to restore Long Island Sound.

Since we are working so hard to make Long Island Sound healthy again, does it make sense to put a pipeline through it? Isn't that like sending a kid with bronchitis out to play without a coat?

I hope we will all work together to recreate a vibrant, healthy Long Island Sound – without more pipelines, toxins and debris -- in the years to come. Please continue to do your part to let our government officials know that you care about the Sound and help our community's wish –to make Long Island Sound healthy for generations to come -- come true.

My best wishes to you this holiday season.

Published January 2003

Cross-Sound Cable Cripples Clams: When will they ever learn?

By Kiki Kennedy

Remember that beautiful ballad, so popularized by "Peter, Paul and Mary" and written by Pete Seeger, "Where have all the flowers gone?" The melody is sweet but the message is sobering: the refrain repeats, over and over, "When will they ever learn? When will they ever learn?"

Well, today I'd update that folksong to reflect the environmental impact of the Cross-Sound Cable on New Haven Harbor. "When will they ever learn?" pretty much sums up my response to the CT Department of Agriculture's January 2003 report on the impact of the Cross-Sound Cable on shellfish.

Cross-Sound Cable is an electric transmission cable – 330 megawatt HVDC -- that was installed last Spring between New Haven, CT and Brookhaven, NY amidst great public outcry and opposition.

You may recall the brouhaha. Cross-Sound Cable has been as ignominious and infamous as Islander East – helping to spotlight the politics and corporate profiteering underlying both energy projects.

In March 2001, the CT Siting Council voted down – nearly unanimously -- the Cross-Sound Cable proposal. However, only 9 months later, in January 2002, the company came back with a slightly different route: in order to lessen the impact to shellfish beds, the new proposal went directly underneath the ship's channel in New Haven harbor. Presto! Chango! The CT Siting Council approved the new route.

Nevertheless, environmentalists remained concerned that the sediment kicked up from digging the trench to lay the cable would suffocate nearby shellfish beds and that the cable's heat and electromagnetic effects would harm finfish and lobsters. Now, ship's pilots were worried about inadvertently snagging the cable with an anchor – like what happened this fall with a Northeast Utilities cable and a barge -- with potentially deadly consequences.

Moreover, the CT Siting Council, ignoring evidence that the clam's sensitive spawning season was in May, certified installation through May 31. Attorney General Richard Blumenthal valiantly sought an injunction to halt the cable's installation; the court denied him. The cable was installed.

But the installation was incomplete. Today -- despite shenanigans by Cross-Sound Cable both last summer and this fall (the company tried first to get the Department of Energy, next the White House Energy Task Force to put pressure on state and federal agencies to allow the cable's electrification) – the cable lies quiet at the bottom of the harbor.

Why? The company could not bury it deep enough to meet its permit requirements. So no go: the CT Department of Environmental Protection has refused to reevaluate the permits until the Long Island Sound moratorium ends in June 2003.

So what did the cable do to those New Haven Harbor clams?

In her report, Dr. Inke Sunila, a state shellfish pathologist, observed that clams "had penetration of sediment inside their tissues" and noted that this "would be consistent with the clams being exposed to sediment with such an explosive force that they had not time to close. The force had to be strong enough to drive the particles inside the tissues." She found the clams she examined had "significant and unusual differences between pre and post cable installation due to exposure to sediment." She also noted that the "cable installation occurred during a critical period for the spawning of clams."

According to a January 26 *New Haven Register* article – Bravo! for the front page placement – Cross-Sound Cable said they needed to review the findings "before commenting."

Meanwhile, we have earlier lessons learned but forgotten: the Iroquois Pipeline, installed in 1991 from Milford to Northport, wreaked untold damages to the seafloor of Long Island Sound. There, acres of shellfish beds suffocated from excessive sediment as a result of the pipeline's installation. As Larry Williams, a local shellfisherman, will tell you: those shellfish beds have never come back.

In fact, Iroquois Pipeline paid $22 million -- the second highest environmental fine in U.S. history after the Exxon Valdez disaster -- and pleaded guilty to intentional violations of the Clean Water Act.

So what are the lessons of Iroquois and Cross-Sound Cable?

Our shellfish beds are valuable, vulnerable and don't recover easily. Laying cables and pipelines harms them, even with the "best" methods. They must be protected.

In sum, Long Island Sound must always get priority over cross-Sound energy projects.

We must ensure that our leaders – the Governor, our elected officials, our state and federal regulators -- remember these lessons so that all cross-Sound energy projects – especially Islander East – stay stopped.

Otherwise, I might be crooning this tune – with apologies to Pete Seeger – to my kids:

Where have all the shellfish gone?
Long time passing
Where have all the shellfish gone?
Long time ago
Where have all the shellfish gone?
Gone to cables and pipelines every one
When will they ever learn?
When will they ever learn?

Published January 2003

An Appeal to Deny An Appeal: our congressional legislators unite against the pipeline

By Kiki Kennedy

Bravo! Last week, all seven of Connecticut's elected members of Congress – both Senators Dodd and Lieberman and all our House Representatives, including Rosa DeLauro, Christopher Shays, Nancy Johnson, John Larson and Rob Simmons – demonstrated remarkable solidarity by uniting together to protect Connecticut and Long Island Sound. Their goal? Keep the Islander East Pipeline stopped.

Despite differences in regional representation and party affiliation – three are Republicans and four are Democrats – all seven put their signatures to a January 9 letter sent to the federal Secretary of Commerce, the Honorable Donald L. Evans.

What does the Secretary of Commerce have to do with Islander East?

You may recall that on October 15, 2002, the Connecticut Department of Environmental Protection (CT DEP) denied Islander East a critically needed "federal consistency" determination. According to the CT DEP, "the proposed work would cause significant adverse environmental impacts on coastal resources" which are "inconsistent with Connecticut's federally-approved CZMP [Coastal Zone Management Program]." Without this "federal consistency" determination, Islander East cannot get requisite permits from

the U.S. Army Corps of Engineers and CT DEP. Despite approval in September 2002 from the Federal Energy Regulatory Commission (FERC), Islander East was stopped – for now.

With the denial, Islander East had three choices: withdraw their proposal, work with the CT DEP to identify alternatives or appeal the CT DEP's decision through the federal Secretary of Commerce. Surprise! Islander East appealed at 5 PM on November 14, the last day for the appeal process. (What strategic benefit did Islander East achieve by waiting until the last minute?)

In their appeal, Islander East alleged that the CT DEP made erroneous environmental assessments and, more importantly, that the "national interest" accorded Islander East "outweighs the putative limited environmental impacts identified." Islander East even asked the Secretary of Commerce to "find that the Islander East Pipeline project is necessary in the interests of national security."

National security? Isn't that going too far? How can another pipeline across Long Island Sound – easy to locate, difficult to protect – help our national security? But typical of how much Islander East is willing to distort the facts to make their argument.

Only 5 days after the appeal, three members of Connecticut's congressional delegation -- Representative DeLauro and Senators Dodd and Lieberman -- wrote a powerful letter to Secretary Evans that blasted Islander East's assertions: "We strongly oppose the construction and installation of the Islander East pipeline and accordingly, urge you to deny Islander East's appeal to overturn the DEP's determination of inconsistency with Connecticut's CZMP." They explained that "the Connecticut CZMP was designed to balance national energy interests with the protection of Connecticut's environment. The Islander East proposal simply does not meet the basic standards which have been set to facilitate this balance."

They also unconditionally supported the CT DEP: "The CT DEP is best positioned to judge the environmental impact of this project. Their determination… is well reasoned and based on sound environmental considerations."

That letter – from both of Connecticut's Senators and the Representative whose district Islander East would cross – was clear, strong and extraordinarily helpful. We expected nothing further.

So what a wonderful surprise when ALL seven members of Congress wrote to Commerce!

This January 2003 letter was just as forceful in its opposition to Islander East: "The Islander East proposal is simply not the best proposal when considering the environmental risks…We strongly urge you to uphold the October 15, 2002 decision by the Connecticut Department of Environmental Protection."

The legislators overwhelmingly supported the CT DEP's assessment of the potential environmental harm from the proposed pipeline and cited the environmental devastation from the 1991 Iroquois Pipeline as an example of "the severe and irreversible damage that can be caused by such a project." They also pointed to the U.S. Environmental Protection Agency and the U.S. Fish and Wildlife Service as agencies, in addition to the CT DEP, "that have expressed numerous concerns" with Islander East.

The letter concluded with the assertion: "While we fully understand that there are energy needs which must be met in the Long Island region, we do not believe that Connecticut or the Long Island Sound should shoulder the tremendous environmental burden this project would create to resolve Long Island's power demands."

Exactly right.

We owe a debt of gratitude to all seven legislators. Each one overlooked political differences and risked backlash from the corporate energy industry in order to do what is best for Connecticut.

Please take the time to thank each of them by phone or by letter. You can call the Capitol Operator at 202-224-3121 and ask to be connected to each office. Or check the blue pages of the phonebook for addresses and local phone numbers.

By working together, we can prevail.

Published February 2003

Hear Ye! Hear Ye! The Commerce Department is coming!

By Kiki Kennedy

We don't have a date. We don't have a venue. But we do know – thanks in large part to Congresswoman Rosa DeLauro's diligent efforts – that the federal Commerce Department is coming to Connecticut to hold a public hearing on the Islander East Pipeline project.

Why the Commerce Department? You may recall that this past October, the CT Department of Environmental Protection (DEP) – in a forceful letter from Commissioner Arthur Rocque which cited substantial impacts to water quality, tidal wetlands and shellfish beds -- denied Islander East a critically necessary "federal consistency determination" under the Coastal Zone Management Plan (CZMP).

This denial by the DEP stopped Islander East. Without this "federal consistency determination" -- even though Islander East had received the go-ahead from the Federal Energy Regulatory Commission (FERC) in September 2002 -- Islander East was denied other requisite permits from the DEP and the U.S. Army Corps of Engineers.

In November 2002, Islander East appealed to the federal Commerce Department to overturn the judgment of our state DEP. Usually this process takes a year or more. But we hear that Commerce is being politically pressured to speed things up.

Last week, Commerce established a period for public comment that ends on May 8, 2003. Anyone can submit -- via e-mail or letter – their concerns about Islander East to Commerce.

In addition to written comments, we now have the opportunity for a public hearing.

Commerce was not required to grant us a hearing. They might have preferred to receive all public comment in written form – drier, more dispassionate – then deal with our community face to face.

But now we have the chance to speak – directly, powerfully and passionately -- to Commerce. Now it will be harder for Commerce to ignore our concerns -- about public safety, open space, property values, wetlands, Long Island Sound – when we put faces and voices to our views.

This hearing is critically important. We need to keep Islander East stopped. I hope each one of you will come – and please bring all your friends and neighbors. If you feel uncomfortable about public speaking, that's OK, you don't have to. Your presence in the audience will speak volumes.

I know, I know. Another night with time taken away. Time from a schedule already busy with work, chores, paying bills. Precious time away from family, friends, and plain old relaxation.

But this is important. This public hearing will be the key to stopping Islander East from blasting a pipeline through our community, through Connecticut, through Long Island Sound. This hearing will also help kibosh future energy projects from identifying this route as an energy corridor from Connecticut to Long Island. This hearing will help protect our shoreline for the next generation.

We've had two public hearings already. The first, in April 2002 before the Connecticut Siting Council, was quickly followed by the May 2002 hearing before the Federal Energy Regulatory Commission (FERC).

Both hearings were overwhelming successes. Both hearings lasted several hours – far longer than either agency ever expected. Both hearings had fervent, articulate speakers who made our community outcry loud and clear. We had terrific media coverage from local TV, radio and newspapers. We made a tremendous impression on both state and federal legislators.

Those hearings sent a loud message that helped the Long Island Sound Moratorium Bill pass and helped garner support from our entire Congressional delegation. Now Senators

Dodd and Lieberman and all five House Representatives – three Republicans and two Democrats – oppose Islander East.

Those hearings also helped FERC staff to certify, in their Final Environmental Impact Statement, that an alternative route – an offshore tap from Iroquois, the only existing pipeline from Connecticut to Long Island – was environmentally preferable to the route through Branford. Even though the FERC Commissioners ignored this fact when they issued their September approval, that fact is now written in stone: an environmentally preferable alternative to Islander East exists. Our fight is helped considerably.

Now, when Commerce comes to town this Spring, we need an equally successful public hearing. We've done it before; let's do it again!

Please start spreading the word: Come one! Come all! Please speak if you did before. Please consider speaking if you didn't. But please – just come. We expect Commerce to announce the date and location soon.

Please also submit your comments to Commerce in writing by May 8. You can write at length or simply tell Commerce: "Please support the ruling by our CT DEP." Either e-mail your comments to IslanderEast.comments@noaa.gov or send a letter to: the Office for the General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1305 East-West Highway, Silver Spring, MD 20910.

Let's all work together to keep Islander East stopped.

Published February 2003

A Pipeline Plan is Scrapped: but do we know the real reasons why?

By Kiki Kennedy

When you change your mind about something, you usually have your reasons.

Like dropping a friendship: you learn your confidante had gossiped about you. Or leaving a job: you feel under-the-gun, underappreciated and underpaid.

Usually, you have your reasons.

So what were the real reasons behind the Iroquois Gas Transmission System's decision to scrap the Eastern Long Island "ELI" cross-Sound gas pipeline? Last month, Iroquois withdrew ELI's application from review by the Federal Energy Regulatory Commission (FERC).

ELI would have started offshore Milford, from an underwater tap off the only existing cross-Sound gas pipeline, built in 1991, owned by Iroquois. ELI would have made land on Long Island at nearly the same spot as Islander East.

Now don't get me wrong -- I am delighted that ELI is out. We definitely don't need any more cross-Sound gas pipelines to fight.

However, I do find the scenario puzzling. I wonder why Iroquois – after investing a whopping 2.2 million dollars – decided to pull the plug on ELI.

After all, ELI was on nearly the same track as Islander East – only six months behind. ELI had received its Preliminary Determination (PD) from FERC on September 19, 2002 -- at the very same meeting that FERC awarded Islander East its Final Certificate. Intentional – or a curious coincidence?

In any case, FERC confirmed the economic justifications for ELI. Eventually, ELI would have probably landed a Final Certificate.

So why didn't ELI stay in the game like Islander East? Additionally, Islander East has been stopped by our state Department of Environmental Protection (DEP); Iroquois could have made up that six months lag time easily – to compete directly against Islander East.

Why did Iroquois cancel ELI? According to the news articles, Iroquois claimed both a "soft economy" and "lack of demand."

I can understand a soft economy – even on Long Island. But "lack of demand"? That's quite surprising. Remember, ELI would serve Eastern Long Island – just like Islander East. Only now ELI claims "business is bust" while Islander East says "business is booming!"

What's the real answer? Is Islander East telling the truth about Long Island's energy situation – or is Iroquois?

Before further speculation, let's consider three more pieces to this puzzle.

First, throughout this pipeline process, Connecticut – our local legislators, our Attorney General, our federal Congressional delegation – have repeatedly requested that FERC consider all cross-Sound energy proposals together. Connecticut wanted the incremental additive impacts of cross-Sound pipelines analyzed as well as each pipeline proposal individually compared so, if necessary, the least environmentally harmful route could be selected. Islander East protested. FERC refused.

In part, FERC's refusal motivated our General Assembly to establish the Long Island Sound Moratorium Bill and create Connecticut's own Task Force to evaluate cross-Sound pipeline impacts.

Second, ELI's route – not ELI itself – was certified in the August 2002 Final Environmental Impact Statement (FEIS), prepared by FERC, as environmentally LESS damaging than Islander East: there would be fewer shellfish beds impacted, no wetlands crossed and, since ELI was shorter, 25% less impact to the Sound's seafloor.

Nevertheless, in September 2002, FERC -- ignoring both ELI and its own environmental analysis -- cavalierly permitted Islander East for the more environmentally damaging route.

Third – and quite curiously – both Islander East and Iroquois share the same investor: KeySpan Energy. KeySpan proclaims itself as the largest distributor of natural gas in the Northeast and the fourth largest gas-distribution corporation in the United States. KeySpan is literally an energy powerhouse.

Now KeySpan owns 50% of Islander East – but only 20% of Iroquois. You don't have to be a brilliant economist to read the numbers: KeySpan will make more money on Islander East than on Iroquois/ELI.

Getting back to our question: Who is telling the truth?

Let's say Iroquois is right: no need. Then why is FERC giving Islander East a Final Certificate – which gives Islander East the legal right to condemn private and public lands using eminent domain powers? If Iroquois is right, there are serious flaws in our federal approval process

Let's say Islander East is right: need. Then why won't Iroquois stay in and compete?

Perhaps Iroquois was pressured to withdraw. Is there a powerful investor around that would make more profit on Islander East than Iroquois/ELI -- especially now that ELI has been certified as less harmful environmentally and is finally in an increasingly better position to "catch up" time-wise? Could this powerful investor have "encouraged" Iroquois to withdraw its ELI proposal?

This scenario is worrisome – it smacks of potential monopolistic powers which only spell trouble for our consumer rates and free market.

We may never know the truth. And we may never know the real reasons behind Iroquois' decision to shelve ELI. But we can watch, wonder and worry.

Published March 2003

The Long Island Sound Moratorium: what's going on with the Task Force?

By Jerry Shaw and Kiki Kennedy

Remember the one year Long Island Sound Moratorium? Beginning in June 2002 -- after Connecticut was besieged with the panoply of cross-Sound energy proposals, like Islander East and Cross-Sound Cable – the Moratorium was imposed to halt state approvals for all cross-Sound energy projects.

Governor Rowland's Executive Order 26, issued in April 2002 and Public Act 02-95 – aka the Long Island Sound Moratorium Bill – passed by the General Assembly in May 2002, created a combined Working Group/Long Island Sound Task Force.

Joel Reinbold, Director of the Institute for Sustainable Energy – newly established in November 2001 at Eastern Connecticut State University -- was installed as the chairman of the Working Group/Task Force. The twenty-plus members represent government regulatory agencies, the energy industry and environmental groups, including Connecticut Fund for the Environment (CFE) and Save the Sound. Ad hoc subcommittees are formed to address various issues. Consultants on both energy and environmental issues have been hired. The process has involved weekly all-day meetings, open to the public, at Hartford's Legislative Office Building.

In addition to its environmental evaluations, the Working Group/Task Force was asked to establish new ground rules for Connecticut – to balance energy needs with environmental impacts. These are critical issues for Connecticut: today we must cope with both regional energy requirements and newly deregulated energy markets.

Still, the Working Group and Task Force are distinct: the Working Group focused on Northeast Utilities' (NU) proposed Bethel-to-Norwalk 345 KV electric transmission lines and submitted their report in January 2003; the Task Force is addressing cross-Sound energy projects, with a report deadline of June 2003.

Why were the Bethel-to-Norwalk transmission lines thrown together with cross-Sound energy projects?

The issues are similar: each has a vigorous grassroots movements fighting an environmentally harmful energy project in the context of Connecticut's problematic regulatory/permitting system – worse since energy deregulation and an increasingly powerful corporate energy industry.

Together with other environmental groups, CT Stop the Pipeline joined forces with the Woodlands Coalition – fighting the 345 KV lines – and worked to pass the Long Island Sound Moratorium Bill. In fact, both organizations – CT Stop the Pipeline and the Woodlands Coalition – were honored by Connecticut Fund for the Environment's Annual Environmental Leadership Awards last fall for this work.

The Woodlands Coalition is fighting Northeast Utilities three phase 345KV transmission line. This transmission line, a substantial overkill, would feed power not only to southwestern Connecticut, but – surprise! – to Long Island's lucrative energy market through -- yet another -- cross-Sound cable.

The first phase of NU's proposal is 20 miles of 345,000-volt overhead power lines from Bethel to Norwalk. Phase II, not yet filed, would run the same 345 KV lines from Middletown to Norwalk, creating a 65 mile scar through 18 communities. Phase III would run cross-Sound transmission lines from Norwalk to Hempstead Bay, Long Island; however, NU has withdrawn its plans for Phase III – for now.

These transmission lines will require an extensive permanent right-of-way and will transect protected open space and residential communities. Add the loss of wooded habitat and the impact on area wells and aquifers from herbicides and there is considerable environmental harm. Moreover, NU has refused to voluntarily bury these lines underground – to mitigate the environmental impact -- because that would add to the overall project cost.

This Spring, the Connecticut Siting Council will rule on the fate of these transmission lines; we will inform you of their decision in a future article.

On January 1, 2003, the Working Group completed their report, available at http://www.sustainenergy.org/.

Although the report leaves the issue of the 345 KV lines to the Connecticut Siting Council, the report does propose substantial positive improvements to Connecticut's regulatory system. Some of these recommendations have already been translated into proposed legislation that will, hopefully, pass the General Assembly this year.

For example, one excellent idea is the establishment of a "A Connecticut Energy Coordinating Authority (CECA)" which would encourage energy proposals that are environmentally-sensitive, "coordinate the state's various planning functions and represent the state's interests…in regional energy planning efforts." Proposed House Bill 5057, still in Committee, would establish this agency.

Over the next 3 months of its tenure, the Task Force will be addressing several issues: mapping Long Island Sound's environmental resources, investigating alternatives to cross-Sound energy projects and creating a better regional energy planning authority. These efforts require extensive work to mesh the agendas of the regulatory, energy and environmental members. Nevertheless, this is a golden opportunity to think "outside the box" to consider innovative solutions to address the needs of both Long Island and Connecticut.

Next week, we will look more closely at the specifics of the Task Force's Draft Report.

Jerry Shaw is the volunteer representative from Connecticut Fund for the Environment to the Long Island Sound Task Force and a resident of Branford.

Published March 2003

The Task Force Report: will there be "Sound" science?

By Kiki Kennedy

This week we said we'd talk about the Final Report of the Task Force, due at the General Assembly on June 3, 2003, only 10 short weeks away.

You recall that the Long Island Sound Moratorium Bill, passed in June 2002, instituted a one year Moratorium for all cross-Long Island Sound energy proposals so that a Task Force could identify the cumulative environmental impacts, weigh these against regional energy needs and submit a report to the General Assembly.

This is a daunting and difficult task. The Task Force is comprised of members from energy corporations, environmental organizations and regulatory agency officials. How will they work together to write a Final Report – that they agree on?

Every step in the process -- from gathering data to the final recommendations -- is fraught with potential pitfalls of bias. Nevertheless, balancing conflicting energy and environmental viewpoints is crucial if the Final Report is to be credible.

For example, let's say a well-credentialed "environmental expert" testifies to the Task Force regarding Long Island Sound data; does the fact that this "expert" has received tens of thousands of dollars by three different energy corporations over the past 10 years make any difference? Is his evidence bias-free? How about if he does not disclose to the Task Force that he was paid big bucks by the energy industry? Should that make a difference?

It should and it does. That scenario really happened last fall when Dr. Frank Bohlen testified to the Task Force. Fortunately, his financial ties to the energy industry were exposed; now his findings are in question. More disturbingly however, was what a front page story in the New Haven Register revealed: Dr. Bohlen denied concern about not disclosing his prior energy dealings. So did Joel Rinebold, the Task Force Chairman.

The legal profession knows only too well that paid testimonies from experts are never as credible as evidence from unpaid sources.

Concerned, three environmental Task Force members, Connecticut Fund for the Environment, Save the Sound, and the CT Seafood wrote Chairman Rinebold in October 2002.

Their letter identified 5 requirements the Task Force must fulfill in order to meet the legislative mandate of the Long Island Sound Moratorium Bill:

- Need for independent expertise to complete an environmental assessment
- Need to evaluate regional energy needs thoroughly

- Need to evaluate alternatives that do not involve crossing the Sound
- Need to ensure confidence in scientific validity of presentations scheduled for the Task Force
- Need to utilize full year provided in the Bill

The letter underscored the need for full disclosure: "When scientific experts present information that Task Force members consider in forming opinions, there should be discussion by the expert on the scientific validity and peer review of their methodologies and results…this should be an integral part of the presentation and not the responsibility of the Task Force to request such information…Because each Task Force member should be aware of the qualifications of the presenters in order to more accurately determine levels of expertise and credibility…we strongly request that each presenter be required to notify the Task Force upon commencing his or her presentation, of any past, current, or potential conflicts of interest that could interfere with, or create the perception of possible interference with, the expert's presentation of unbiased information to the Task Force."

In January, 2003, the entire environmental coalition – by now, the Soundkeeper had joined on – sent a second letter to Chairman Rinebold.

First the coalition pointed out that, seven months into the one-year moratorium, the energy consultant, Levitan and Associates, had yet to provide a critical "regional energy needs assessment": "We hereby request that Levitan and Associates be commissioned with the task of conducting an assessment of regional energy needs and the concomitant impact on Connecticut's ability to provide reliable energy for its citizens."

Second, the coalition observed that whereas "avoidance, minimization and mitigation, hopefully in that order of emphasis" are the best ways to protect Long Island Sound, "it has been our observation that, in some instances, industry continues to rely on mitigation as their primary tool in dealing with environmental impacts." They requested that Levitan and Associates and Normandeau Associates, the environmental consultant, "be commissioned with the tasks…for avoiding environmental impacts" to create an "environmental impact avoidance study." A comprehensive mapping of the resources of Long Island Sound would also need to be done.

Finally, the coalition called for a thorough re-evaluation of Connecticut's regulatory process for permitting energy proposals: given the unfair advantage the energy industry has in the present system, specific changes are recommended to level the playing field for affected towns and landowners.

We look forward to see how well the energy and environmental consultants have done their job – and the implications this has for the Task Force's Final Report.

Published March 2003

The Name Game: white lies within a White House Task Force?

By Kiki Kennedy

Streamlining. Such a nice word. Modern. Clean. Slimmed down -- a better, trimmer, you.

Perhaps these positive connotations were why "streamlining" was used to entitle "The White House Task Force on Energy Project Streamlining." Doesn't this sound like a better, more modern approach to energy projects? Read on.

The White House Task Force on Energy Project Streamlining (WHTFEPS) was created in May 2001 by Presidential Executive Order 13212.

Attorney James Connaughton was appointed by President Bush to serve as the chairman. Besides working as a lobbyist for mining companies and the Chemical Manufacturers Association, Connaughton represented ASARCO – which lobbied for no change in drinking water arsenic levels -- and GE in Superfund fights with the EPA. According to a government watchdog report, Connaughton "testified during his confirmation hearing that he favors voluntary industry compliance with environmental safeguards." Connaughton is definitely not an environmentalist.

About energy and the environment, Connaughton says: "We understand perfectly well that America wants clean power - environmentally sensible power - but at the same time, we can't forget - American wants power, and America needs power... We need to do more to meet the needs of an energy-dependent economy."

According to the government's website, www.etf.energy.gov, WHTFEPS is composed of staff from the Council on Environmental Quality -- another misleading misnomer – along with representatives from the Departments of Agriculture, Energy, Interior, and the Environmental Protection Agency; its primary mission is to "work with and monitor Federal Agencies' efforts to expedite their review of permits or take other actions as necessary to accelerate the completion of energy-related permits, while maintaining safety, public health, and environmental protections."

Expedite. Accelerate. Complete permits. Is WHTFEPS a neutral government task force – or a force for the energy industry's agenda?

Although the recommendation for WHTFEPS grew out of Vice President Cheney's National Energy Policy Development Group, in fact, the original idea to streamline energy permits came directly from – get this: it is almost unbelievable -- an April 17, 2001 memo from former Enron Chairman Kenneth Lay to Vice President Cheney.

According to the San Francisco Chronicle, Lay gave Vice President Cheney an Enron memo with several energy policy recommendations, including this: "federal agencies

should streamline the regulatory processes to enable expedited construction of energy infrastructure."

Now, here we have an anti-environmental attorney leading a group the energy industry asked the White House to create. Any problems?

So what has WHTFEPS done so far?

According to their December 2002 Report, WHTFEPS is proud to report "actions taken on the Millenium Pipeline," which – like Islander East – faces enormous community opposition because of serious environmental concerns.

The report states: "In November 2001, the Task Force [WHTFEPS] learned that EPA was planning to file strong objections…the Task Force was successful at coordinating meetings and exchange of data and information between the project proponents and the EPA that led EPA to withdraw its objections and instead file a positive letter on the docket."

Wait. EPA had strong objections, but did a complete turnaround after WHTFEPS intervened. Was there White House pressure? And where were the community opponents at that meeting? Only the "project proponents" were invited. Any problems?

Another, even closer, example: the Cross-Sound Cable -- still not electrified because it has yet to be properly buried according to permit specifications.

However, in December 2002, WHTFEPS arranged a December 2002 meeting between the U.S. Army Corps of Engineers and Cross-Sound Cable – but no one else. Shortly after the meeting, the Corps relaxed their permit demands and agreed to the cable's electrification. Any problems?

"U.S. Rep. Rosa DeLauro, D-3, and Connecticut Attorney General Richard Blumenthal called for immediate investigations into possible White House pressure on the federal regulatory process governing the Cross-Sound cable," a January 10, 2003, New Haven Register article reported.

Blumenthal accused WHTFEPS of "improperly interfering at the behest of an energy company that is manipulating and misleading federal officials" and reproached WHTEPS for "misusing the name and authority of the presidency. It is steam rolling, not streamlining, the federal process."

Luckily, the cable remains un-electrified: our state DEP has refused to slacken its permit requirements. So -- Cross-Sound Cable is suing our DEP!

To make matters worse, in October 2002, ten federal agencies signed an agreement to "improve coordination and cooperation on the permitting of natural gas transmission

pipelines…to initiate discussions earlier in the permitting process and to perform simultaneous rather than concurrent reviews."

Improved "cooperation". Earlier discussions. Expedited permit applications.

I worry – not just for us but for other communities: will there be enough time for concerned citizens to organize, get the facts and voice concerns? Or will the already unbalanced pipeline permitting system use time to silence future opposition efforts?

And what do you think is the real agenda of WHTFEPS? Streamlining – or steamrolling?

Published April 2003

A Sound Decision: Cross-Sound Cable loses court contest

By Kiki Kennedy

Reading Superior Court Judge Munro's decision was heavenly.

Well, put that into perspective: I am not a lawyer and I read a lot of "The Cat in the Hat" these days.

Judge Munro used laws and legal principles to construct the 43 page decision that denied Cross-Sound Cable its demands. The clear, well-referenced argument was inspiring: the law at the heart of the decision was the Long Island Sound Moratorium Bill.

Last Spring we worked long and hard to pass that bill. In May, 2002, the Connecticut General Assembly finally passed it, nearly unanimously.

Now here I am, April 2003, only one year later, reading a judicial decision that focuses on the Long Island Sound Moratorium Bill -- carefully examines the language, considers the legislature's intent and even reviews Senator's comments during hearings – to deny Cross-Sound Cable. How affirming to see public outcry make a difference. How exhilarating to see efforts translate into effects.

I feel re-invigorated for our continued work to protect Long Island Sound from natural gas pipelines like Islander East and electric cables like the Cross-Sound Cable.

What happened in court last week was a wonderful win for the Department of Environmental Protection and for Long Island Sound.

You may recall that Cross-Sound Cable, a subsidiary of energy giant Hydro-Quebec and United Illuminating, is a high voltage electric transmission cable that runs longitudinally under the Federal Navigation Channel in New Haven Harbor -- the only electric cable in the United States to do so – to supply power to Long Island. Cross-Sound Cable was exempted from the Long Island Sound Moratorium Bill –the bill puts new applications

for permits on hold and Cross-Sound Cable had already obtained their permits – and so Cross-Sound Cable was allowed to be installed in May 2002.

However, those very permits that Cross-Sound cable had obtained from the Connecticut Department of Environmental Protection (DEP) had important provisos to protect the welfare of maritime workers – ship's pilots, sailors, fishermen – who had safety concerns about a live electric cable running directly underneath the ship's channel: in bad weather, a ship might have to drop anchor to avoid crashing ashore; if the anchor cut the cable, the consequences could be deadly.

So the CT DEP specified that the cable had to be buried a minimum of 48 feet below the mean water line, or 6 feet below the seabed. Cross-Sound Cable was fine with that.

But when Cross-Sound Cable went to install the cable – surprise! -- they hit ledge in 7 places: the cable could not be buried.

Didn't Cross-Sound Cable do their homework? Were their surveys so incomplete that the bedrock was not identified? Or did they know about the ledge, but figure that a permit to blast near fragile seed oyster beds and a ship's channel would be denied?

Whatever. The cable was not buried according to the permit specifications and could not be electrified.

So, Cross-Sound Cable asked the CT DEP for a permit to blast. The CT DEP closed the application, explaining that consideration of new permits was disallowed by the Long Island Sound Moratorium Bill. Then, Cross-Sound Cable took the CT DEP to court, requesting a "writ of mandamus," alleging that the CT DEP had failed in their duty and must be compelled by the court to consider their application.

Cross-Sound Cable used many arguments, including these: the Long Island Sound Moratorium Bill was unconstitutional, their application was not really an application, they had been denied due process, they had protected property rights, the CT DEP had acted wrongfully, and so on.

Point by point, Attorney Richard Blumenthal presented the case of the CT DEP, refuting Cross-Sound Cable's many arguments.

Judge Munro took both sides under careful consideration. Her final judgment supported the DEP: Cross-Sound Cable was denied the writ of mandamus.

In her decision, Judge Munro stated "the state has a legitimate interest in controlling development in and around the fisheries, seabed and shoreline, to provide healthy food products, clean water along its shoreline, and a reliable, environmentally safe source of energy for its constituents." She solidly supported the constitutionality of the Long Island Sound Moratorium Bill.

This bill stood up to scrutiny by the court and did what it was written to do -- protect Long Island Sound. Bravo!

Now, Cross-Sound Cable will have to wait until the end of the Long Island Sound Moratorium to apply for a new permit. We will have to wait to see if the DEP approves it – or not.

Meanwhile, maybe next time, big energy corporations will stop assuming everything is a done-deal and that, with enough cash and influence, they can push their projects through even when they are half-done -- or half-baked.

So if the cable lies quiet, are there no more cable lies? Wait and see.

Published April 2003

Will Islander East Stay Stopped? Answer: unclear

By Kiki Kennedy

"Islander East is still stopped, right?" asks a mother at Foote Park as we both uneasily watch our 5 year olds clamber up a tall wooden tower.

Uneasily, I answer, "yes, for now."

Unease is easy these days in our world of SARS and war.

And although I feel uneasy about Islander East, I still feel hopeful. Hopeful, but not complacent. There have been too many twists and turns to think the rest of this road will be clear.

Right now, not even the roadmap, never mind the road, is clear.

You may recall that last October 2002, the CT Department of Environmental Protection's (DEP) Commissioner Arthur Rocque, using Connecticut's Coastal Management Program (CMP), denied Islander East their "federal consistency determination"– critically needed for requisite state and federal permits. Citing unacceptable impacts to shellfish beds, water quality and wetlands, Commissioner Rocque used the CT CMP to stop Islander East.

However, in November 2002, Islander East appealed this denial to the federal Secretary of Commerce – the administrative authority over the CT DEP's use of the CT CMP.

Commerce began its review and, thanks to pressure from Congresswoman Rosa DeLauro, agreed to schedule a public hearing.

However, on March 15, 2003, both Islander East and the CT DEP asked Commerce to stay the appeal. Why? Apparently, Islander East – in a belated effort to "further reduce

environmental impacts" – had submitted a construction technique modification to their original application.

Now, don't get too excited. The route remains unchanged: through Branford and alongside the Thimble Islands. And the modification is a modest one.

Originally, Islander East had planned to "sidecast" the material -- drilling fluids, clays and rock cuttings -- coming out of the subsurface exit hole created by the Horizontal Directional Drill (HDD). "Sidecasting" means that thousands of cubic yards of this material would sit on the seafloor of Long Island Sound for at least three weeks, subject to easy dispersion by tidal currents and windy weather. Since the HDD exit hole would be within a thousand feet or so of Roger's Island in the Thimbles, the material would likely spread into Stony Creek waters, lower water quality and suffocate area shellfish beds.

Islander East's principle modification places this material on barges for the duration instead of letting it dissipate over Stony Creek's seafloor.

This modification is a good thing. But why now? Why did Islander East wait until now to propose a technique that could mitigate environmental impacts? Surprise! Money. Unless there is external pressure, like the risk of a permit denial, Islander East seems to never – voluntarily -- spend money to mitigate environmental impacts. Are there still more modifications that have been overlooked because they cost extra cash? Ultimately, that's what this is all about: Islander East cutting their expenses at the expense of our environment.

However, this modification would involve only a mile or so of the 22.6 mile trench dug across Long Island Sound; overall water quality would still be impacted, wetlands damaged and shellfish beds destroyed. Although the technique helps a bit, the overall environmental destruction remains long-term and severe.

In any event, Commerce quickly granted the stay on March 17, 2003 so that the DEP could review Islander East's amended application.

But much remains unclear.

When the DEP will complete its review is unclear.

How the DEP will rule is unclear.

When the stay will be lifted is unclear.

When we will have our public hearing is unclear.

Why Commerce decided to review – this Spring, coincident with Islander East's appeal – the administration of the CT CMP by our CT DEP is unclear.

Whether this review was triggered by the appeal is unclear.

Whether the time period for public comment – the last date to file is still set for May 8, 2003 – will be extended, in light of the stay and Islander East's amended application, is unclear.

However, this much is clear: the Islander East Pipeline project is potentially hazardous to our community and our coastline. We need each of you to help out: please submit your comments to Commerce by May 8. We cannot expect an extension and lose our chance.

Please write or e-mail Commerce and let them know about what you think about Islander East. Even if you only write this sentence -- "Please support the denial of federal consistency by our CT DEP" -- that will let Commerce know that you are concerned about this pipeline.

You can e-mail your comments to IslanderEast.comments@noaa.gov or send a letter to: the Office for the General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1305 East-West Highway, Silver Spring, MD 20910. Please send for receipt by May 8.

Finally, this, too, is clear: when we all work together, we can keep Islander East stopped.

Published May 2003

The Moratorium: More misleading maneuvers by Islander East

By Kiki Kennedy

Hopefully, by now, Bill 1158, "An Act Concerning the Moratorium on Projects in Long Island Sound" will have sailed through both the Senate and the House.

Hopefully, now we will just be waiting for Governor Rowland's signature.

Bill 1158 is an excellent solution to our current dilemma. The original Long Island Sound Moratorium Bill called for a one year moratorium so that a special Task Force could study the situation and make recommendations to the Connecticut General Assembly (CGA).

The Task Force was given a report deadline of June 3, 2003.

The problem is that the CGA will end the 2003 legislative session only one day later, on June 4, 2003.

This will mean no time for the CGA to consider the Task Force's recommendations and translate them into legislative mandates.

But Bill 1158 solves the problem: the moratorium for state permitting of all cross-Sound energy projects is extended from one to two years. Now, the CGA will have the time to act on the Task Force's recommendations. The spirit of the original veto-proof bill – to balance Long Island Sound's needs with energy projects – will be preserved.

If Bill 1158 does not pass, then, on June 4, the moratorium will lift and we will return to the terrible scenario of a profit-driven helter-skelter spaghetti of multiple cross-Sound energy projects.

Bill 1158 is expected to pass. An earlier version unanimously passed the Senate last week, 32 to 0. The House rewrote that version to exclude marinas, since the target of the bill is corporate utilities, not local marinas. The House should pass the bill. Then, because of the revision, it returns to the Senate for a vote. Hopefully, Bill 1158 will ultimately become law.

As expected, Islander East is fighting hard to thwart Bill 1158.

Islander East is lobbying our elected officials. On May 5, Islander East sent a letter to "the Members of Connecticut's General Assembly" stating their opposition to the extension of the moratorium because it will "have a negative impact on the State's commercial and residential interests and now is no time to put a hold on activities that will bolster our regional economy and that will help keep energy costs down."

Besides being grammatically suspect, Islander East's reasoning is, at best, misleading and at worst, factually inaccurate. The moratorium may have a negative impact on specific commercial concerns – corporate energy enterprises like Islander East and Cross-Sound Cable – but the moratorium will not harm Connecticut's economy. And as for costs, well, whenever new infrastructure like pipelines and cables are installed, energy costs increase, not decrease. With Islander East and Cross-Sound Cable, those costs will be passed primarily to Long Island ratepayers, although ultimately, Connecticut's energy rates could increase.

The letter goes on to say that "the moratorium will postpone a project that meets an immediate need in the region" and names Islander East.

Look at the wording in the next sentence: "The Federal Energy Regulatory Commission has approved the Islander East natural gas pipeline project because, after exhaustive study, it determined that the project serves the public's need and convenience and because its environmental impact will be temporary and minimal."

That "exhaustive" study – the Final Environmental Impact Statement – has been harshly criticized by the federal Environmental Protection Agency (EPA) as anything but exhaustive: "the FEIS lacks the detailed information necessary to understand the direct, indirect and secondary impacts to wetlands and waters of the United States associated with the proposed project."

Additionally, Islander East does not mention that the FEIS certified a less environmentally harmful cross-Sound route that does not traverse Branford. Finally, according to the FEIS, the impact in certain areas -- like the Sound's seafloor -- is indeed long-term and adverse, not "temporary" or "minimal".

The rest of the letter accurately extols gas as more clean-burning than oil and lauds these environmental benefits. Doesn't Islander East just love to pick and choose its environmental issues? They ignore harmful routes while promoting cleaner air.

You can imagine – given the misleading and incomplete data used in their letter to the legislators -- what Islander East wrote in their ¾ page ad in the Monday, May 12 Hartford Courant. Monday -- rather than Sunday -- was probably chosen so that legislators would notice the ad bright and early that morning, only days away from the moratorium vote.

Then there were the slew of letters that Islander East sent out to New Haven and Branford Chamber of Commerce members, asking them to call their elected officials and oppose the moratorium.

I don't think our legislators will be fooled by the wolf-in-sheep's clothing antics of Islander East.

We can't stop their ads. But we can stop Islander East. So let's hope the moratorium extension passes so the CGA gets the time to do what's best for Connecticut and Long Island Sound.

Published May 2003

The Defense Department Defends Us: Big blow for Islander East

By Kiki Kennedy

When I checked out the Commerce website last week, I felt anxious. There, finally posted after several weeks delay, was the filing from the Defense Department.

But after I read the one page statement, I felt jubilant. It was exactly the response I had hoped for.

So what does the Defense Department have to do with Islander East?

The Commerce Appeal.

You will recall that last October, the Connecticut Department of Environmental Protection (CT DEP) denied coastal consistency to Islander East under the federal Coastal Zone Management Act (CZMA). This denial prevented Islander East from

obtaining critically needed permits from various government agencies. Islander East was stopped.

So, Islander East appealed the CT DEP's decision to the agency overseeing the CZMA: the federal Commerce Department. The National Oceanographic and Atmospheric Administration (NOAA) is the bureau within Commerce charged with evaluating Islander East's appeal.

Islander East can win if it can prove either of two arguments: One, that the CT DEP misjudged and Islander East is, in fact, consistent with the CZMA. Or two, the Islander East pipeline is in the interests of national security.

The first is a very tough argument for Islander East: Islander East destroys 3.1 miles of coastal wetlands, degrades water quality and harms shellfish beds. Furthermore, Islander East would substitute a non-water-dependent use of the Sound for a water-dependent use.

The second issue has been more worrisome: national security. Islander East had lobbied hard in their appeal that "the national defense and other national security interests will be significantly impaired if the Islander East pipeline project is not permitted to proceed."

How could a pipeline ever be in the interests of U.S. national security given the current level of terrorism threats combined with the public safety hazards of a high-pressure sub-Sound pipeline?

Thankfully, the Defense Department has foiled Islander East's efforts.

From the Office of the Under Secretary of Defense, the Principal Assistant Deputy Under Secretary of Defense, Phillip W. Grone submitted a filing with Commerce on April 21, 2003.

The aptly-named Grone no doubt made Islander East groan: "On January 31, 2003, you requested the comments of the Department of Defense on an administrative appeal brought by Islander East Pipeline Company pursuant to the Coastal Zone Management Act (CZMA)…Islander East requests that the Department of Commerce override the Connecticut Department of Environmental Protection's objection…on the grounds that the proposed project is necessary in the interest of national security."

Then he made his findings short but, for me, very sweet: "We have reviewed the appeal and cannot conclude that a national defense or other national security interest would be significantly impaired if the project were not permitted to go forward as proposed."

Hooray! The Department of Defense shot down Islander East's argument: the pipeline is not in the interests of U.S. national security. This is a substantial victory for us towards protecting our coastline and our community.

To add to the denial of national security concerns was another letter, filed April 29, 2003, from the U.S. Coast Guard, under the U.S. Department of Homeland Security. This memorandum succinctly reads: "We have reviewed the materials and related documents contained in the appeal record. Upon review of these materials, our agency at this time has no comments on the appeal."

Although not as strongly worded as the Defense Department's filing, this "no comment" suggests that the argument – that a pipeline is in the interests of national security -- is pretty weak.

Hopefully, Islander East's case of "national security" will now end. Hopefully, we will eventually see Commerce support our CT DEP's decision.

But for now, the appeal continues. The status remains unclear. According to the Commerce website, Islander East has asked for a continuance of the stay that began in March. Unfortunately, the website has no further information and explains that "Associated Documents will become available in early June 2003." So we still don't have a date for a public hearing. And we still aren't clear if the public comment period has ended.

If you want to check out the website yourself, you can go directly to the page that lists the filings received on the Islander East appeal by going to
www.ogc.doc.gov/czma.nsf/islander?openpage

What we do know is that Islander East has requested the stay in order to present new construction techniques to the CT DEP. Apparently, Islander East is hoping that the CT DEP will reverse their coastal consistency determination with this new data. Let's hope that our CT DEP does not capitulate to pressure from Islander East.

But for now, one issue is fairly certain: national security is no longer an argument for Islander East. With that resolved, we move one step closer to closing the door, hopefully forever, on Islander East.

Published June 2003

Siting Council Scolding: More missteps by Islander East

By Kiki Kennedy

Caught. Islander East was caught – again -- trying to mislead.

This time, Islander East was caught by the Connecticut Siting Council(CSC). On May 29, in two quick paragraphs, Pamela Katz, the new chairman of the CSC, wasted no space admonishing Islander East for misrepresenting the opinions of the CSC to the Department of Commerce.

Remember the CSC? They held both public and evidentiary hearings on Islander East in the Spring of 2002. On August 1, 2002, they issued a list of recommendations to the Federal Energy Regulatory Commission (FERC) relating to "construction procedures, and environmental mitigation measures that will minimize and mitigate, to the fullest extent possible, adverse effects on the environment, and protect the citizens of the State of Connecticut."

In her May 29 reproach, Chairman Katz took great pains to underscore that the August 1, 2002 Order had not been a grant of approval for Islander East: "The Council exercised great care through its deliberations in this matter to choose language that did not state that this application was either "approved" or disapproved" by the Council."

Chairman Katz explained that, in the view of the CSC, approval for a natural gas pipeline rests solely with the FERC. "The role of the Council is to aid in the approval and siting process by providing meaningful input and recommendations on behalf of the citizens of Connecticut."

That August, with the FERC decision thought to be imminent, the CSC hurried to get their mitigation measures approved and sent to FERC for, hopefully, full consideration.

Those public CSC deliberations took at least an hour that hot August day. Islander East was there; they heard the whole discussion.

You know what happened next. Although FERC approved Islander East in September 2002, actual pipeline construction still required additional permits from state and federal agencies.

In October 2002, the CT Department of Environmental Protection (DEP) denied Islander East its "federal consistency determination" which procedurally denied Islander East those necessary permits. In November 2002, Islander East appealed the determination to the federal Department of Commerce.

Within the Department of Commerce, The National Oceanic and Atmospheric Administration (NOAA) is the agency charged with administering Islander East's appeal.

It was to this agency, NOAA, that Islander East misrepresented the CSC.

Chairman Katz wrote: "we feel compelled to advise you that your client's reference to the Council having issued an approval on page 25 of Islander East Initial Memorandum of Law as presented to the National Oceanic and Atmospheric Administration is factually incorrect and potentially misleading."

Factually incorrect and potentially misleading.

Its true. In their legal brief to NOAA describing their basis for appeal, Islander East made "Connecticut Siting Council Approval of the Islander East Project" both a bold-faced heading and a bald-faced lie.

If Islander East can't be trusted to report the truth in a legal brief to a federal agency – where documents are public and easily available – how can Islander East ever be trusted in the murkier areas of construction techniques and mitigation measures?

I wonder if Islander East learned their lesson: the CSC scolding had few consequences. The CSC did not require that Islander East retract their statement from the NOAA brief. All Chairman Katz requested was this: "We respectfully ask that the appropriate persons make note of this and exercise care in future correspondence to more correctly reflect our actions in this proceeding."

So far, the NOAA website, which is www.ogc.doc.gov/czma.nsf/islander?openpage , does not show entries from Islander East voluntarily retracting their error. And to my knowledge, no letters of apology have been sent to the CSC from Islander East.

Is that how they like to operate? Misstatements. No apologies. No retractions.

The situation reminds me of a recent encounter at Sea World in Florida. My eight year old daughter and two other children were genuinely entranced – to my surprise! – by a video on the molting habits of penguins. The video was almost over when suddenly, an older boy walked over, glared and pressed the restart button for the video. The children stood speechless, clearly upset that they couldn't see the end of the video unless they waited while it played through. I stammered a "that was not nice" but he ignored us all and just walked off. No apology. No parents in sight; I wonder what his parents would have done.

Islander East is like that rude boy. Islander East comes along, shows little respect for others and doesn't apologize.

And what about Islander East's corporate parents, Duke Energy and KeySpan Energy? What do their corporate moguls think? Do they endorse this behavior?

For all of Islander East's early refrains of "we want to work with you", I would expect at least a voluntary retraction. Or do they have to be forced to do anything they don't want to do?

Published July 2003

Massachusetts' Million-Dollar Migraine: How Duke Energy deals with delay

By Kiki Kennedy

We aren't the only ones handling pipeline pain: if Connecticut's gas pipeline headache is Islander East, Massachusetts' migraine is the HubLine.

Both Islander East and Hubline are owned, at least in part, by Duke Energy, a billion-dollar corporation.

Both Islander East and HubLine traverse sensitive water bodies, dig up the seafloor and require some Horizontal Directional Drilling (HDD) to mitigate environmental damage.

Both Islander East and HubLine are part of Duke Energy's grand scheme to deliver dwindling supplies of Nova Scotia's gas to New England – and beyond.

The difference? HubLine is under construction. Islander East is stopped.

These seemingly similar pipelines have very different stories. Islander East has been halted by a vigilant state environmental protection agency and strong grassroots opposition. HubLine was snuck in quietly – is this Duke Energy's standard practice? -- never mustering enough public outrage to gain state officials' attention. (Did Duke Energy expect that complacency in Connecticut? If so, they must be shocked by our response.)

HubLine was approved by the Federal Energy Regulatory Commission (FERC) in 2001, just a year before Islander East's 2002 FERC approval. After obtaining its requisite state and federal permits, HubLine began construction in the Fall of 2002.

Shorter than Islander East, HubLine's 29 miles are mostly underwater across Massachusetts' Bay, starting at Beverly, north of Boston, crossing Boston Harbor and terminating south of Boston at Weymouth. Whereas Islander East has only one Horizontal Directional Drilling (HDD) operation, HubLine has a whopping four.

What's happened with construction?

First, area residents – finally -- became concerned. According to a January 2003 article in Quincy's *The Patriot Ledger*, "The giant boats and barges loom off the coast like an invading army, their unfamiliar presence prompting residents to pull out their binoculars and assess the threat to local harbors and fishing waters…the sight of Duke Energy and its massive construction equipment has brought disquieting thoughts of long-term damage to local wildlife… For residents and local environmentalists, it is a nerve-wracking process, especially as they watch work crews conduct blasting and horizontal drilling operations along the river bottom."

Second, -- surprise! – because of winter storms and HDD drilling difficulties, HubLine fell way behind schedule: HubLine's planned completion was April, with a drop-dead date of May 1, 2003. This construction schedule planned a "no in water work" period after May 1 to avoid harm to area fisheries, especially spawning and juvenile shellfish and lobsters.

But then, as May 1 neared, work in the water -- basically the entire HubLine -- would have ceased in order to not violate permit conditions.

At this point, HubLine still had trenches up and down the entire route, with huge mounds of sediment on either side; two of the four HDD operations were far from finished.

Do you think that Massachusetts held fast and denied Duke Energy's request to alter their permit?

Nope. The deadline was extended as scientists became concerned about the fragile lobster population, already in decline. They worried that lobsters might migrate into the open trenches, make homes and be destroyed in the fall when operations resumed, that the trenches might physically hinder lobsters from making their usual inshore migration and even that lobsters might leave the area forever.

According to a May 29, 2003 story in the *Boston Globe*, "'It's tough on the lobstermen; we're hitting prime lobster season,' said Bill Adler, executive director of the Massachusetts Lobstermen's Association, who said several hundred lobstermen work in the area near the pipeline construction. 'We understand about the delay, but the sooner the lobsters can get through the better.'"

So in mid-May, according to *The Boston Globe* story, Duke Energy "agreed to pay the state $5 million, in part to figure out how marine life was harmed by the pipeline delay and then fix the problem. But lobstermen say the damage to their livelihoods may already be done."

So HubLine construction goes on, even today. Although most of the trenches have been filled, two HDD operations still continue – without any completion date in sight.

The full environmental costs for Massachusetts remain unclear. *The Boston Globe* states: "The big unknown for state fishery biologists, however, is what the longterm effect will be from the pipeline obstruction, perhaps unsettling the area in some way that might not be visible now…Part of the $5 million will go to help to understand this, in hopes of using the information to make decisions about similar projects in the future."

Hopefully we will learn from Massachusetts' troubles more about the full environmental costs to our water and fisheries.

But what did Duke Energy learn? With enough cash, they can violate their permit requirements, wreak potentially devastating long-term effects to our environment and deal economic ruin to fishermen -- and still get their pipeline in.

Can Connecticut teach them a different lesson?

Published July 2003

August 5 Public Hearing: Save the date to save our Sound

By Kiki Kennedy

Yes, it's true: another public hearing on Islander East is scheduled. This time it's before the U.S. Army Corps of Engineers on Tuesday, August 5 at Branford High School. Sign-ups will start at 6 pm, the hearing will begin at 7 pm and continue – who knows? Perhaps all night!

I can almost hear your questions: *Wasn't Islander East stopped? Why hold a public hearing now?*

Yes, Islander East was stopped last October by our CT Department of Environmental Protection (DEP), which denied Islander East its "federal consistency determination" under the Coastal Zone Management Act.

However, Islander East appealed that determination to the federal Commerce Department in November 2002; then this spring, Islander East proposed some additional construction techniques. So the Commerce Department asked the CT DEP to review these techniques and submit a second determination by July 31, 2003. We understand that while these techniques may decrease damage, substantial harm to the Sound remains likely.

When Islander East was denied federal consistency, the Army Corps closed their file because their permit, issued under Section 404 of the Clean Water Act, requires federal consistency.

But when the CT DEP was asked to re-determine consistency, the Army Corps reopened Islander East's file.

What if the CT DEP again denies federal consistency on July 31? Will the hearing still occur?

Most likely -- yes. Why? We understand that the White House Task Force on Energy Project Streamlining – which tried to facilitate Cross-Sound Cable last year – is putting political pressure on the Army Corps. So even if federal consistency is denied again, the Army Corps will likely continue with the hearing and their permitting process.

We've already demonstrated our community opposition to Islander East at other public hearings. Can't the agencies share notes?

Besides Branford's Blue Ribbon Commission's five night bonanza in October 2001, we presented before the CT Siting Council – and its curmudgeony gavel-wielding chairman, Mortimer Gelsten – in April 2002. Then, only one month later, the Federal Energy Regulatory Commission (FERC) came in May 2002.

Nonetheless, each agency relies on data collected from its own public hearing. So although this may feel tiresome, we need to reiterate our objections.

But does my voice really make a difference? Why should I come out on a hot summer night?

This time, your voice – and certainly your presence in the audience – could make a critical difference. This hearing is important for several reasons -- and could stop Islander East for good.

First, we have not gathered in more than a year. We must remind government regulators and legislators that we STILL don't want Islander East.

Second, in correspondence and filings, the Army Corps has expressed many of our concerns about Islander East. We need to give the Army Corps the show of public support they need to withstand possible White House political pressure.

Third, the Army Corps is interested in all aspects of Islander East's potential impact. Whereas FERC overlooked safety issues and Islander East's spurious energy needs analysis, and the CT Siting Council refused to consider alternative routes, the Army Corps wants to hear it all.

According to their notice, available at http://www.nae.usace.army.mil/reg/islanderhearinpn.pdf, "all factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are: conservation, economics, aesthetics, general environmental concerns, wetlands, cultural value, fish and wildlife values, flood hazards, flood plain value, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people."

Finally – an agency that is genuinely interested in all of our concerns!

Of course, the most important concern of all is Islander East's cursory approach to alternative routes. The Army Corps takes the alternative routes issue extremely seriously: "an analysis of practicable alternatives is the primary screening purpose used to determine the appropriateness of permitting." In sum, only the least environmentally harmful route is allowed to be permitted – as long as it can get gas from point A to point B. How different the Army Corps is from FERC, which found an alternate route less environmentally harmful, yet certified Islander East's more damaging preferred route!

The Army Corps has already put Islander East on notice: In a May 21, 2003 letter, the Army Corps found Islander East's evaluation of alternative routes seriously deficient and requested extensive documentation and better analysis.

So please plan to come on Tuesday, August 5. Together we have come so far. If we continue together, we just may be able to stop Islander East -- forever.

You may also send written comments to: The U.S. Army Corps of Engineers, New England District, ATTN: Ms. Cori Rose, 696 Virginia Road, Concord, Massachusetts, 01742-2751. Please include File Number 200103091. Statements must be received by August 15, 2003.

Published July 2003

Islander East/Duke Energy's Half-truths and Mistruths

By Kiki Kennedy

Oh, it must have been a beautiful winter evening overlooking Boston Harbor this past January as Rick Priory, the Chairman and CEO of Duke Energy – which owns half of Islander East – intoned his ideas about corporate integrity:

"First, last and foremost: integrity is the foundation of business success… Values and ethical standards can be printed, embossed or tattooed. But to be truly effective, they have to be wired deeply into an organization, defining a company's culture and guiding its decisions and actions. They have to be owned, not by the PR department and certainly not just by the CEO, but they must be owned by every employee at every level and every location."

Memo to Rick Priory: you have not been paying attention to Islander East.

Well, perhaps Priory has been busy dealing with other annoyances – like the June 2003 lawsuit brought by Montana Attorney General Mike McGrath against Duke Energy Trading and Marketing LLC and 14 other energy companies.

Montana's suit states: "Defendants committed massive fraud on the entire western electric and natural gas market in 2000 and 2001 in order to artificially and illegally inflate electricity and natural gas prices. Defendants acted with the intent and result of depriving millions of persons of electricity and natural gas, including commercial and residential ratepayers throughout the West, costing such persons money and detrimentally affecting state economies throughout the West."

In a local Montana paper, McGrath stated "These guys 'gamed' the market in California, fixed prices, withheld supply, and by doing so affected all the prices on the western power grid."

Will Duke Energy "game" our energy market with Islander East?

According to ISO New England's Steady-State Analysis Report, our current gas supply situation in New England is "tight as a drum:" no excess supply.

Today, energy prices on Long Island usually run 20% higher than Connecticut prices. If Islander East gets built, demand increases and we have a gas shortage, where do you think Duke Energy/Islander East will choose to sell their gas? Here in Connecticut, at bargain basement rates or on Long Island, at premium prices?

The likely scenario is that Connecticut ratepayers will pay higher prices to keep gas here in Connecticut instead of siphoning it to Long Island.

But let's get back to Priory and integrity.

Priory emphasized that "every employee at every level and every location" should have a healthy dose of integrity.

If so, then how do Islander East/Duke Energy's personnel -- public relations people, vice presidents, project managers -- get away with all their dodging and distorting of facts?

Perhaps this is Islander East's modus operandi: Give half the truth. Slip in a mistruth if you can downplay it later as an innocent error. If the full truth is requested, dodge with an evasive answer like "that study is not complete" or "we are working with them." Pay off people when you can.

I know this seems harsh. Consider the evidence: documents filed with government agencies; half-page ads and letters to the Editor in area newspapers; solicitation letters to Connecticut and Long Island businesses. Filled with half-truths and hence, misleading. Isn't omission considered as great a sin as commission?

Islander East's spin on truth usually goes like this: Trumpet the environmental benefits of natural gas. Truth -- but only half. The half that is ignored, omitted or denied is the substantial environmental damage to Long Island Sound and to Connecticut's uplands, wetlands, and shellfish beds. Often, the mistruth slipped in is that Islander East will "generate substantial economic benefits to Connecticut." Benefits are nearly nil; to describe them as "substantial" is untrue. Besides, any benefits are outweighed by the damage to our environment, the increase in our gas prices and the greater public safety risk incurred by a high pressure gas pipeline.

Then there is Islander East's rejection of all alternative routes. Even though the Federal Energy Regulatory Commission, in their Final Environmental Impact Statement, judged an alternative route as less environmentally harmful, Islander East has summarily dismissed it, presumably because they would have to share profits with another corporation. For Islander East, this is not about making sure Long Island has gas; it's about making money at Connecticut's expense.

Islander East has now launched a major PR campaign – rife with half truths -- to try to sway public opinion before the August public hearing by the U.S. Army Corps of Engineers is held.

Please help. Tell your friends the whole truth about Islander East. Bring those friends to the hearing to speak truth to Islander East's half-truths. And call Rick Priory at 704-594-6200; tell him the truth about Islander East's integrity.

The Army Corps Public Hearing will be held on Tuesday, August 5 at 7 PM at Branford High School. Please come. Help stop Islander East.

Published July 2003

Last Chance to Blast Islander East: August 5 Public Hearing

By Kiki Kennedy

Wake up, shoreline! I know you've been lulled to sleep by these brilliant summer days after our long gray spring. But wake up – at least for one evening! We need you to come to the U.S. Army Corps of Engineers (ACOE) Public Hearing on Tuesday, August 5 at 7 PM at Branford High School.

The pipeline is NOT stopped. I know – it's confusing. We've been telling you for months that Islander East was stopped. Now, it's not.

Islander East was stopped in October 2002, when the CT Department of Environmental Protection (DEP) Commissioner Arthur Rocque denied Islander East its "federal consistency determination" under the Coastal Zone Management Act (CZMA).

The U.S. ACOE, a federal agency, requires this "federal consistency" for its permits issued under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. When Islander East lost federal consistency, the U.S. ACOE closed its file.

However, after appealing the determination to the federal Department of Commerce, Islander East modified some construction techniques. Commerce then ordered the CT DEP to re-evaluate their determination using the modified techniques. The CT DEP will issue a re-determination by July 31.

Normally, we are told, the U.S. ACOE would await the decision of the CT DEP before deciding whether or not to re-open the file.

However, thanks to behind the scenes stratagems by the White House Task Force on Energy Project Streamlining, the U.S. ACOE was "encouraged" to re-open their permitting process.

Congresswoman Rosa DeLauro has expressed outrage about this level of political pressure.

Nevertheless, the U.S. ACOE will hold their Public Hearing on August 5 – even if the CT DEP denies federal consistency a second time. Written comments will be accepted until August 15; a decision is expected by September 30, 2003.

However, even if the U.S. ACOE issues their permit, Islander East still needs another permit from the CT DEP.

Enter the Long Island Sound Moratorium Extension Bill: passed, nearly unanimously, this spring, it bars the CT DEP from issuing permits for any cross-Sound utility project until June 2004. The moratorium has already stopped New Haven's Cross-Sound Cable.

However, Islander East is rumbling about starting pipeline construction this fall -- without CT DEP permits! Would Islander East really have the hubris to do that? How's that for cramming a pipeline into Connecticut?

That's why we need to do our best with the U.S. ACOE, a federal agency. (Would Islander East dare to start construction without this – federal -- permit?)

This will be our last public hearing on Islander East. (I think. But – who knows?) This will be our last chance to blast Islander East before they try to blast a pipeline through Connecticut.

Please come to the Public Hearing. Speak about every one of your concerns. Unlike other agencies, the U.S. ACOE wants to hear them all.

Speak about how Islander East will create a new industrial corridor through Connecticut. How land donated to the Branford Land Trust will be despoiled. How the marsh walk from Stony Creek to Pine Orchard will be sliced through. How delicate inland and tidal wetlands will be degraded, precious bird habitat lost.

Speak about how Islander East will destroy thousands of acres of Long Island Sound seafloor. How recovery will take at least a decade, if ever. How water quality will be compromised. How toxins and heavy metals now buried in the seafloor will be released into Long Island Sound to re-enter the food chain.

Speak about the how Islander East will decimate shellfish beds, kill off lobsters, already compromised by disease, and damage the finfish population near Brown's Reef, the popular fishing ground off the Thimble Islands.

Speak about how Islander East will cause Connecticut's gas rates to increase: Islander East will effectively siphon gas out of Connecticut to Long Island, where gas prices are about 20% higher. Then, when there is a gas shortage, Connecticut will have to pay higher rates to keep gas here in Connecticut. (Islander East terms this "stabilizing" energy prices: it really means our rates go up and stay up!)

Speak about how Islander East refuses to consider alternative routes that are less environmentally harmful: they would have to share an existing pipeline with another company and their profits would decrease.

Speak about how Islander East would compromise public safety, both as a potential terrorist target and as a risk from explosion.

Or, if you prefer, don't speak. But do come. We need EVERYONE to come and support our community.

We can still stop Islander East if we all work together.

You can send written comments for receipt by August 15, 2003 to: The U.S. Army Corps of Engineers, New England District, ATTN: Ms. Cori Rose, 696 Virginia Road, Concord, Massachusetts, 01742-2751. Please include File Number 200103091.

Published August 2003

Bravo Branford: A Spectacular Public Hearing!

By Kiki Kennedy

What a night! What a hearing! We could not have asked for more.

The phenomenal turnout of several hundred people -- one news report placed the count at 700 – coupled with scores of incisive testimonies provided a powerful portrait of community unity against the Islander East Pipeline.

I had been so worried that summer vacations and confusion about whether or not the pipeline was stopped would cut down attendance. When the rain started, I really became concerned.

Thankfully, my worry was for naught: more people came to that public hearing than ever before! And the strength and depth of the speakers was breathtaking: we have learned so much since Islander East's proposal over two years ago.

Best of all, the U.S. Army Corps of Engineers (USACE) appeared extremely interested in our comments -- a profound sea change from previous public hearings before other agencies.

At Branford High School that August 5, Chief of Public Affairs for the USACE New England District, Larry Rosenberg, directed the proceedings from a podium on the stage. An enormous traffic light stood directly in front: a refreshing and respectful way to remind speakers of their two minute time limit: green for "go", yellow for "hurry up" and red for "time!"

At a table on the stage, attired in formal military regalia and flanked by two staff members, sat Colonel Thomas Koning; for the entire four hour hearing he remained compassionately and intently focused on every speaker.

And the speakers were incredible. All – except for a handful – unequivocally opposed the Islander East pipeline.

After Islander East's opening presentation, Congresswoman Rosa DeLauro commanded the auditorium via video on a colossal screen. Her booming voice and imposing size set the tone for the night: our opposition to Islander East is gigantic!

DeLauro was followed by elected officials or their representatives from all over Connecticut: Senators Dodd and Lieberman, Congressman Christopher Shays, Attorney General Richard Blumenthal, State Senators "Doc" Gunther and Richard Roy. Our own State Senator Bill Aniskovich provided especially eloquent oratory; State Reps Pat Widlitz and Peter Panaroni were stirring and strong; First Selectman DaRos and Third Selectman Denhardt were great.

Perhaps most impressive was the presence of CT Department of Environmental Protection (DEP) Commissioner Arthur Rocque. In his nearly 20 years as Commissioner, Rocque has rarely attended a public hearing. But he came to this one, accompanied by his dedicated staff, including Charles Evans, Chief of the Office of Long Island Sound Programs and two CT DEP environmental analysts, Sue Jacobsen and Peter Francis.

Rocque presumably journeyed to Branford to demonstrate his resolute opposition to Islander East: standing tall and strong before the USACE, Rocque confirmed his unyielding stance behind the DEP's recent denial to Islander East – for the second time – of a critically needed coastal consistency determination.

The speakers that followed were each impressive in their own ways. Scientists from Yale and Wesleyan offered concrete data about contaminated sediments and seismic risks. Environmental groups like Save the Sound, CT Audobon and CT Fund for the Environment spoke forcefully. The Branford Land Trust and the CT Seafood Council stood firm. Individuals spoke about environmental, safety and economic concerns. In general, the evening's tone steered more toward substantive facts and less toward raw emotions.

One highlight of the night was shellfisherman Jonathon Waters' presentation. As Waters quoted from an August 1, 2003 article from Meridan's Record-Journal, he held aloft a huge oyster, caught earlier that day near the pipeline's proposed path. The article described an interview with John Sheridan, a Duke Energy Vice President and frequent spokesman for Islander East: "Sheridan also took exception to the DEP's assertion that the plan would harm oysters in the sound. There are no oysters in the sound, Sheridan said. Islander East has scanned the seabed with a robot and has found no oysters."

Around 11 PM, the hearing wrapped up. A surprise was in store; seemingly on a whim, although probably not, Colonel Koning announced that because of the volume of presentations, he would extend the deadline for public comment from August 15 to September 5. This is great news: we now have more time to expand on our concerns and amplify our message.

I want to express my deepest and most heartfelt thanks to everyone who made that hearing so spectacular. We have worked hard. We have worked long. We have worked together. And that has made this fight work. Thank you so much for your support, your efforts and your tremendous spirit.

I truly believe that by working together, we just may stop this pipeline!

Please send your written comments for receipt by September 5, 2003 to: The U.S. Army Corps of Engineers, New England District, ATTN: Ms. Cori Rose, 696 Virginia Road, Concord, Massachusetts, 01742-2751. Please include File Number 200103091.

Published September 2003

Blackout 2003: Outrage and Opportunism

By Kiki Kennedy

The award for The Most Outrageous Remark By An Energy Executive Following the Blackout of 2003 goes to….Richard Kessel, chairman of the Long Island Power Authority (LIPA).

Upon learning that the Cross-Sound Cable would be electrified under an emergency order by Energy Secretary Spencer Abraham the day after the Blackout, Kessel joyfully exclaimed: "Screw Connecticut!"

Kessel really said that – no joke. However, I recall those old jokes: how many (fill in the blank) does it take to screw in a light-bulb? So -- how many cables does it take to screw Connecticut? Just one…

Kessel finished up with this condescending comment: "I think we killed two oysters. And I'm going to eat them tonight in a nice marinara sauce."

Now, I have images of the cannibalistic Hannibal Lector, with his fetish for liver and "a nice Chianti."

Did Kessel intend to cannibalize Connecticut to nourish Long Island? Whatever his intent, according to news reports, Long Island was back online BEFORE Connecticut. So there we were, with thousands of Connecticut's residents still offline, shipping our power via the Cross-Sound Cable to an already illuminated Long Island.

Cannibalistic or not, the activation of the Cross-Sound Cable was a prime example of exploitative opportunism by Kessel: he used the Blackout as an excuse to electrify the Cross-Sound Cable.

His repugnant remarks indicate little regard for the concerns surrounding the Cross-Sound Cable. Installed last year, the 330-megawatt electric transmission cable runs directly through New Haven Harbor to Brookhaven, Long Island. However, because of obstructions at seven locations, the cable could not be buried deep enough and therefore, did not comply with permit requirements and could not be electrified. Blasting, with potentially significant environmental risks, was necessary, but not presently permitted.

The question was this: Were Cross-Sound Cable officials aware of the obstructions and need to blast -- or not? If aware, then this data was intentionally omitted from the original permit application, possibly out of fear that the entire permit would be denied if blasting were involved. If so, this suggests a calculated deception of state and federal permitting agencies.

However, if unaware, this suggests that Cross-Sound Cable's scientific analysis of the cable's route was seriously flawed. What other environmental, economic or safety impacts were also overlooked?

Which scenario is worse, deception or ignorance? Did Cross-Sound Cable fake their homework or just not do it?

In any event, this spring, the Connecticut General Assembly passed, nearly unanimously, the one year extension for the Long Island Sound Moratorium Bill which precluded Cross-Sound Cable's consideration for a blasting permit until June 2004.

Moreover, at the time of the Blackout, there existed seven fully permitted and compliant electric cables, operated jointly by LIPA/CL&P, running from Norwalk to Northport, Long Island. These were "prepared for use but inactive" during the Blackout. Instead of first utilizing these existing, compliant cables to supply Long Island with electricity, LIPA got the Department of Energy to authorize the noncompliant Cross-Sound Cable. According to Leah Lopez, staff attorney for Save the Sound, "Allowing, indeed mandating, the use of a non-complying cable like Cross-Sound should be a method of last resort."

Kessel's cheers of "Screw Connecticut" were genuine glee about his domination over Connecticut via the powers of the federal government. Kessel showed scant regard for the welfare of Connecticut and the potential environmental, economic and safety problems created by the cable's emergency electrification. The Blackout was simply a convenient opportunity for LIPA to literally get power over – and from -- Connecticut.

Thankfully, Attorney General Richard Blumenthal was on the frontlines and successfully battled to get the cable turned off after the Blackout was resolved.

Now I wonder: Will Islander East use the Blackout as a convenient opportunity to push their pipeline through Branford?

By now, we all understand that the Blackout was due to our antiquated grid system; it was not about inadequate transmission capacity or generation. We sorely need technological upgrades to prevent the cascading effect of tripping circuit breakers taking generators offline. All the generation in the world would not have prevented the Blackout. In fact, the grid is in such poor shape because the deregulated energy industry prefers to invest in the lucrative expansion of infrastructure instead of applying upgrades to existing circuitry.

Despite the facts, will Islander East use the Blackout to argue that we need more cross-Sound pipelines?

The fact is this: the installation of Islander East would not have prevented the Blackout of 2003.

Even if Long Island truly needs more gas, there are other routes besides Long Island Sound.

So to Kessel's unsavory remark, I say: please unscrew your ego from short-sighted, ill-conceived profiteering energy projects; let's work together to solve our energy needs in ways that preserve Long Island Sound. That way, everyone will be able to enjoy oysters in marinara sauce for generations to come.

Published September 2003

Mass. Gas Alarm: Rates blow sky high

By Kiki Kennedy

Although the HubLine, the underwater natural gas pipeline crossing Massachusetts Bay, is still under construction, the local Massachusetts gas distribution company has already announced astonishing gas rate hikes this winter: Massachusetts' homeowner's gas bills could increase by a whopping 40%!

While upsetting to ratepayers, this seems innocent enough: all fuel prices are rising. After all, the HubLine is owned by one corporation, Duke Energy and the gas distribution company is owned by a different corporation, KeySpan Energy. No cause for alarm.

Or is there? Don't those names sound familiar?

They are! Duke Energy and KeySpan Energy are the two co-investors in Islander East Pipeline Company, LLC.

Both alarming and interesting. How interesting that these two corporations are connected in Connecticut and also meshed in Massachusetts: in Massachusetts, the HubLine will bring gas into the Boston area while KeySpan Energy's system will distribute it.

According to the Duke Energy website, the 29.4 mile HubLine "will transport significant volumes of natural gas to electric generating facilities, industrial customers and gas distribution markets in the northeastern United States, where demand continues to increase." The website asserts that the "HubLine provides big benefits for a relatively small pipeline project."

However, completion of the HubLine has met with extensive delays from construction difficulties (the Duke Energy website still sets a completion date of July 2003, now obviously passed; no new date has been identified.) Difficulties with Horizontal Directional Drilling (HDD) – also part of the Islander East proposal -- have contributed to the delay that has wreaked additional environmental damage to Massachusetts Bay. Although the extent of the damage will not be fully understood for years, Duke Energy has agreed to pay Massachusetts $5 million to study these additional environmental impacts.

Meanwhile, KeySpan Energy's Boston Gas announced their anticipated fall price hikes for natural gas.

According to a recent article in *The Boston Globe*, Massachusetts Attorney General Thomas Reilly is hopping mad about the proposed rate hikes.

Over 570,000 residential and business customers could see a 40% increase in their monthly bill. *The Boston Globe* cites the example of an average homeowner's bill: in November 2002, a homeowner would have paid $155.73; in November 2003 this same homeowner would owe $218.51.

Most of the increase would be due to the "soaring global prices for natural gas", since "utilities can automatically pass on to consumers increases in wholesale gas prices as long as the companies reap no extra profit."

However, Attorney General Reilly is concerned that KeySpan Energy "is also proposing a host of 'manipulative' moves to raise base rates by $61 million" and that this part of the rate increase is "improper and excessive."

After an exhaustive four month evaluation of KeySpan's filing, Reilly's office asserts that "'the company appears to have delayed plant improvements during' the late 1990s 'and then accelerated capital improvements before the end of the test year to maximize [its] rate base.'"

Concerned that "spending was inflated", Reilly is working hard to figure out by exactly how much. Meanwhile, he has urged Massachusetts regulators to reject many of the KeySpan Energy rate increase requests.

Reilly cites four "unacceptable" factors behind the rate increases that ratepayers should not be expected to pay for. These include $23.6 million to update KeySpan's billing system following its merger with Boston Gas (ratepayers shouldn't pay for system glitches after corporate mergers); $11.5 million for "free furnaces and hot-water heaters that KeySpan gave new customers" to convert them to gas (those giveaways aren't quite so free, right?); operating costs of $8.7 million for two other KeySpan subsidiaries in Massachusetts (creative – and questionable -- corporate accounting) and finally, increased KeySpan's pension costs of $7.2 million "linked to stock-market declines" (why should ratepayers bail out KeySpan's pension funds because of poor stock-market investments?)

Obviously, we can expect to see increases in all fuel prices. But according to another *Boston Globe* article, "Heating oil customers are likely to enjoy a significant price advantage over consumers heating with natural gas this winter." The average price of heating oil this winter should run between $1.15 and $1.43 per gallon, with an average of $1.24, with variability based on factors like fixed-price contracts and price caps.

However, gas prices will run substantially higher: Reilly gauges that the average Keyspan customer would pay the heating oil equivalent of $2.04 a gallon this winter; KeySpan lowers that estimate to $1.73 – still significantly more expensive than heating oil.

This is an alarming situation; Duke Energy and KeySpan Energy have teamed up in Massachusetts with ominous results: the construction of an environmentally harmful underwater pipeline, questionable corporate accounting, skyrocketing gas prices, and an attorney general crying foul-play.

Let's hope this scenario never plays out in Connecticut.

This is just one more example of why we need to ensure that Islander East stays stopped.

Published September 2003

Islander East: of intrusions, infractions and intimidation

By Kiki Kennedy

Earlier this month, Edward Harney, the Right-Of-Way Manager for Islander East, filed a lawsuit in New Haven's U.S. District Court and charged the Town of Branford, First Selectman DaRos and a Branford police officer with "malicious prosecution" and "false arrest."

Is this Islander East's new PR campaign -- "we'll sue if you try to stop us"?

To be accurate, it is an Islander East employee, not the corporation, bringing the lawsuit.

The lawsuit stemmed from a series of events nearly two years ago, in October 2001, when Islander East was attempting to drill test borings and collect core samples from the seafloor of Long Island Sound for scientific evaluation. Mr. Harney was the Right-Of-Way Manager charged with obtaining the requisite permits and permissions.

When Mr. Harney checked with the CT Department of Environmental Protection (DEP), he was told that no permit was required for testing. After Mr. Harney checked with the Town of Branford, he received permission to drill on Town shellfish beds. But when Mr. Harney checked with Edward Lang, who privately holds shellfish bed grants, Mr. Harney was denied permission.

Mr. Lang detailed his concerns in an October 23, 2001 letter sent to Islander East and several state agencies: "At that meeting, and again in a phone conversation on October 23, 2001, Mr. Harney was informed that permission was not granted to Islander East or any of its agents to enter my privately owned shellfish grounds, nor were there to be any test bores on my property."

Mr. Lang's letter continues: "Mr. Harney offered me $1000.00 per test bore, which I refused. On October 23rd Mr. Harney informed me that he did not need a permit to test bore and that Islander East will proceed without my consent."

The letter concludes: "At this time I believe that my Civil Rights are about to be violated."

Two days later, after learning that Islander East's drilling representatives were in the area of his oyster grounds, Mr. Lang immediately registered a complaint with Branford's First Selectman, "Unc" DaRos.

The First Selectman directed the Branford police to evaluate the situation; the police officer found Islander East's representatives on Mr. Lang's oyster grounds, suspended further drilling and issued Mr. Harney an infraction ticket of "Trespass on Designated Grounds" in violation of General Statutes 26-253.

General Statutes 26-253 is defined as "any person who willfully commits any trespass or injury with eel spears or other implements on any designated oyster ground on which oysters are being cultivated shall have committed an infraction."

This law was passed by Connecticut's General Assembly in the mid-1800's in order to encourage Connecticut's burgeoning oyster industry. Like a farmer's crops, oyster bed cultivation requires considerable time and effort. Laboring oystermen needed protections for their beds to safeguard their oysters from poachers. This statute was successfully used to litigate the 1894 case of *The State of Connecticut v. George Bassett*.

A citizen's complaint. A tested state law. Both the First Selectman and the police officer did their jobs – to resolve a complaint and keep the peace -- and acted in good faith.

When the misdemeanor was litigated, the judge learned that Mr. Harney believed that the CT DEP's approval to test without a permit also meant that Mr. Lang's permission was not necessary. (Whether "no permit needed" equaled "no permission needed" is a separate issue.) The judge determined that the threshold for a crime was not met: the case was dismissed.

The judge's decision is reasonable. But what is not reasonable is for Mr. Harney to turn around and slap Branford and town officials with a lawsuit requesting monetary damages.

We deserve to know Mr. Harney's real motives behind this lawsuit. Is this "vindication" or vindictiveness? Is it for the money? Is this frustration with Branford's opposition to the pipeline? Is Mr. Harney trying to teach Branford a lesson? Is this intimidation so that Branford landowners will be afraid to say no the next time Islander East requests access to a private property?

How does Islander East view this lawsuit? Does Islander East want litigious community relations? Is this a calculated effort by Islander East to wear down Branford and squelch community opposition? Is Islander East or another corporate entity helping to pay the legal costs of Mr. Harney's lawsuit?

Why has Islander East never returned to drill on Mr. Lang's shellfish beds? Does Islander East believe that Mr. Lang has bonafide property rights to his oyster beds? If so, why didn't Islander East's legal counsel advise Mr. Harney differently two years ago? Should Mr. Harney redirect his blame?

While many questions exist, two facts are unquestionably clear: first, we are sorry for Mr. Harney's suffering, but our opposition is not directed at him personally; second, this lawsuit should not scare us from maintaining our stand against the Islander East pipeline.

Published October 2003

Wednesday, November 5: A different public hearing

By Kiki Kennedy

On Wednesday, November 5, a different kind of public hearing on the Islander East Pipeline project will be held.

Over the past two years, we have had several public hearings on Islander East – before the Connecticut Siting Council, the Federal Energy Regulatory Commission (FERC), and, just this summer, the U.S. Army Corps of Engineers (U.S. ACOE).

How will this public hearing be different?

Other public hearings have been about whether to award a particular permit to Islander East.

This public hearing is about the permit that was NOT awarded to Islander East -- the permit denial that finally stopped Islander East in their tracks. This is about Islander East's appeal to the federal government to step in, overrule the state of Connecticut and get a permit already denied -- twice.

On two occasions – in October 2002 and again in July 2003 -- our Connecticut Department of Environmental Protection (DEP) denied Islander East their "coastal consistency determination" under the federally-approved Coastal Zone Management Program (CZMP.)

CT DEP Commissioner Arthur Rocque, heroically defending our wetlands, coastal resources and Long Island Sound water quality, stated: "the proposed pipeline has not been properly planned and controlled and if installed, will adversely affect the quality of the environment."

Not surprisingly, Islander East quickly appealed the CT DEP's denial to the National Oceanographic and Atmospheric Administration (NOAA) within the Department of Commerce.

At the urging of Congresswoman Rosa DeLauro, NOAA will convene a public hearing as part of the appeals process. "It is my hope that with the evidence provided through this public hearing, NOAA will uphold the State's decision" stated DeLauro.

This is key: our CT DEP has been granted authority by the federal government to enforce our federal coastal zone management program, the CZMP. By denying "coastal consistency," our CT DEP has rendered their federally-authorized expert opinion that Islander East will environmentally harm Connecticut wetlands, shellfish beds and water quality.

To override our CT DEP and grant Islander East "coastal consistency," NOAA would have to determine that our CT DEP was wrong.

Now we need to tell NOAA at the public hearing that we support our CT DEP and believe that our CT DEP is right.

But letting NOAA hear this is now more difficult because of another difference -- the venue; the different hearing schedule will also make a difference.

This public hearing will NOT be held in Branford; instead it will be held in New Haven at the Omni Hotel, on 155 Temple Street. It will NOT begin in the evening; instead, it will start at 9:30 AM with additional afternoon and evening sessions planned.

Our last three public hearings were held at Branford High School -- a familiar locale, easy to find, quick to get to with ample, free parking.

NOAA's decision to hold this hearing in New Haven will make a big difference by creating new barriers for attendance by many shoreline residents.

First, just crossing the "Q" Bridge is hard for some shoreline residents; now, with unpredictable traffic jams and delays caused by on-going I-95 construction, many people avoid driving into New Haven at all.

Second, many residents are unfamiliar with the exact location of the Omni Hotel; navigating New Haven's complicated system of one-way streets can be tricky. Safety concerns may add to an unwillingness to go to New Haven, especially in the evening.

Finally, locating and paying for parking will be an obstacle for many shoreline residents.

We have requested NOAA in writing that the venue be changed and that free parking be provided; we await a response.

As for the early morning start, there are pros and cons. An all-day hearing will ensure that everyone will get a chance to speak with shorter wait times; an all-day hearing will provide opportunities for speakers who cannot attend in the evening.

However, with an all-day hearing, we will lose that uplifting sense of community spirit we all felt when we gathered hundreds strong at Branford High at an appointed evening hour. Coming together and feeling united as a community has been a wonderful and unexpected byproduct of our pipeline fight.

Please mark your calendars for Wednesday, November 5, the day following Electoin Day. We know that traveling to New Haven is a challenge, but we need to ensure that NOAA witnesses the strength of our community spirit.

If you cannot attend, please submit your written comments to NOAA. You may e-mail them to IslanderEast.comments@noaa.gov or mail them for receipt by November 20 to: the Office of the General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1305 East-West Highway, Silver Spring, MD 20910. For more information, please check NOAA's appeals website at http://www.ogc.doc.gov/czma.htm.

This is our final push to keep Islander East stopped. Each of you can make a difference at this different public hearing.

Published October 2003

Make sure NOAA Knows All

By Kiki Kennedy

Do you procrastinate? Ashamed as I am, I admit that I do. Whether it is waiting until the very last day to file my taxes or racing around for a last minute birthday gift, I procrastinate. Don't follow my example! Well, do as you will – except when it comes to sending in your comments on Islander East: please don't delay!

We have come this far – Islander East is stopped – because of our strong broad-based opposition. We need to speak out again. We need to make sure that the National Oceanic and Atmospheric Administration (NOAA), the agency within the Department of Commerce responsible for handling Islander East's appeal, knows all our concerns.

I know this seems redundant. We have already signed petitions, attended public hearings and sent in reams of comments to government agencies. When is enough enough?

Enough is when Islander East is stopped for good.

Enough is when – hopefully -- NOAA denies Islander East this appeal.

That's why we need to build a strong record at NOAA -- now. This is our last push. The public hearing is scheduled for November 5 at the Omni Hotel in New Haven. The public comment period closes soon after, on November 20. If at all possible, please come to the public hearing. If you can't attend, please write right NOAA as soon as you can (even if it feels intimidating to write to a government agency, please try!)

So – what to write?

First, recall why NOAA is involved now: our CT Department of Environmental Protection (DEP), after a thorough review of Islander East's construction techniques, mitigation plans and environmental impacts, determined that Islander East was not consistent with Connecticut's federally-approved Coastal Zone Management Program (CZMP).

On two separate occasions, first on October 15, 2002 and most recently on July 29, 2003, our CT DEP denied Islander East their "coastal consistency determination" because, in their expert opinion and reasoned analysis, our CT DEP found that the negative impacts to Connecticut's coastal resources – Long Island Sound's water quality, shellfish beds and tidal wetlands – could not be justified.

Since Islander East needs this "coastal consistency determination" to get other requisite permits, Islander East has appealed this decision to NOAA and requested that NOAA overrule our CT DEP.

Therefore, in your comments, you could be short and sweet: “Please support our CT DEP and deny Islander East’s appeal.”

Or you could elaborate: “The health of Long Island Sound, as an economic and recreational resource, is important to Connecticut. Any benefits of this pipeline are far outweighed by the environmental harm done to water quality, shellfish beds and coastal wetlands. Please uphold the decision by the CT DEP to deny Islander East Pipeline Company a “coastal consistency determination” under the Coastal Zone Management Act.”

“Balance” is important to NOAA. According to undersecretary of commerce and NOAA administrator, retired Navy Vice Admiral Conrad C. Lautenbacher, Ph.D., the goal of the CZMP is “to ensure a balance between ecological protection and the economic development of our coastal resources. NOAA is committed to our mission of achieving this important balance.”

When you write, you may want to underscore how the economic “benefits” of Islander East are not balanced by the long-term environmental degradation to Connecticut’s wetlands, shellfish beds and coastal waters. (In fact, Islander East would destroy the “economic development” of many commercial shellfish beds.)

Are there any benefits? Aside from the profits Islander East’s parent companies, Duke Energy and KeySpan Energy will realize, other benefits are few. Although Islander East will bring additional gas to Long Island, other less environmentally damaging routes exist that could also meet Long Island’s energy needs. However, Islander East continues to ignore these alternative routes; Islander East wants this specific route because this route will yield the most profit to its corporate parents.

Moreover, enhancing Islander East’s corporate parents may not be in the long-term best interests of Long Island. Islander East will contribute to KeySpan’s near-monopoly of Long Island’s gas distribution system, while increasing gas rates for Long Island consumers who will ultimately bear the cost of this questionably necessary pipeline. And Islander East probably won’t help Long Island cope with a future blackout situation either since it is unclear how much -- if any -- of Islander East’s gas will be used for electric generation.

Whenever you write, please submit your comments for receipt by November 20. You can e-mail your comments to IslanderEast.comments@noaa.gov. Or you may mail them to: the Office of the General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1305 East-West Highway, Silver Spring, MD 20910.

Come to the hearing. Send in your comments. Give a strong show of support for our CT DEP. Let NOAA know that Islander East is an unbalanced solution to our region’s energy needs and environmental concerns.

Published October 2003

How Islander East Does Business: Ads mislead and misinform

By Kiki Kennedy

$10,360. That's a lotta cash.

That's about what Islander East spent on its full page advertisements in this fall's *CT Business Magazine*, a bimonthly subscription publication that also is sent free to select Connecticut business addresses and government officials.

Full page color ads cost $5180. Islander East bought two in the same issue, an apparent effort to double their readership chances.

Each advertisement is rife with stunning omissions, conflated facts, misleading statements and occasional mudslinging. Welcome to the wonderful world of advertising!

Let me share some of the ads' highlights.

Stunning omissions. Never once, in either ad, is any mention made of the harmful environmental impacts or regulatory blockades that have stopped Islander East: after extensive study, our CT Department of Environmental Protection (DEP) denied Islander East "coastal consistency" under the Coastal Zone Management Plan, citing Islander East's degradation of coastal wetlands, impacts to water quality and destruction of valuable shellfish grounds.

One ad lauds the "comprehensive review" by the Federal Energy Regulatory Commission (FERC), but omits the significant fact that an alternative pipeline route was certified – by FERC itself -- as less environmentally damaging; not surprisingly, the whole topic of alternative routes is never addressed.

Another ad, entitled "We'll be sure to keep the light on," describes the "brighter future in Connecticut" that Islander East will create. However, the ad fails to mention the glaring fact that Islander East has absolutely no contracts to provide gas anywhere in Connecticut.

Conflated facts. Both ads juxtapose fear-mongering topics (like keeping Connecticut businesses strong, energy prices down and preventing blackouts) with Islander East as the inferred – albeit erroneous – solution.

For example, one ad states "If nothing soon is done to expand Connecticut's energy infrastructure, there could be dire future consequences for the state's business and industrial base." To the uninformed – and now alarmed -- reader, this sounds like Islander East is the answer to Connecticut's infrastructure problems; in reality, Connecticut's infrastructure issues are mostly about inadequate electrical transmission to Fairfield

County. Islander East won't help with this or indeed, with any of Connecticut's energy needs (remember: Islander East has no contracts in Connecticut.)

Misleading statements. Both ads repeatedly suggest that Islander East will lower energy rates for Connecticut businesses; in fact, between rising natural gas prices and higher Long Island energy rates, Islander East will most likely increase Connecticut gas prices.

Islander East's ad also states that it will bring gas from "a new reservoir of natural gas, a boundless supply off nearby Nova Scotia." While true that geologists estimate modest, not boundless, gas reserves in Nova Scotia, these reserves may not be accessible with our current engineering technologies until at least 2010.

Mudslinging: One ad opens with this: "Opponents [of the Islander East pipeline] either are not familiar with the facts of the proposed project's environmental impact or are not motivated to become better informed."

A bizarre statement. Which set of the many "opponents" is the ad referring to? Putting aside discussion of our local grassroots' efforts, the ad suggests that our CT DEP (which used federal regulations to stop Islander East) and/or our CT General Assembly (which used legislation -- the Long Island Sound moratorium bill – to stop Islander East) are poorly informed about or unmotivated to learn the environmental impacts of Islander East.

The CT DEP denied Islander East twice. The CT General Assembly passed the LIS Moratorium Bill two years in a row. Both the state agency and the state legislature spent countless hours on fact-finding, analysis and discussion about Islander East – twice. Uninformed? Unmotivated? Twice? Unlikely.

$10,360. Why is Islander East bankrolling this expensive advertising pitch to the business community and our state legislators? Clearly, Islander East thinks this kind of support is important, that public opinion does count.

That's why we need to continue our steadfast efforts to let our state and federal officials know we continue to support their efforts and we continue to oppose Islander East.

The public hearing before NOAA and the Department of Commerce was held this week. We understand if it was difficult for you to attend; however, it is not too late to still make a difference!

There is still time to submit your comments in writing. NOAA needs to receive them by November 20. Please either e-mail your comments to IslanderEast.comments@noaa.gov or mail them to: the Office of the General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1305 East-West Highway, Silver Spring, MD 20910.

Let's do all that we can to keep Islander East stopped.