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# CONGRESSWOMAN ROSA L. DELAURO

## *FAX TRANSMISSION*

To: James Connaughton Date: 1/9/03

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From: (202) 456-2710

*Comments:*

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UNITED STATES  
HOUSE OF REPRESENTATIVES

ROSA L. DELAURO  
33 DISTRICT, CONNECTICUT

January 9, 2003

ASSISTANT TO THE DEMOCRATIC LEADER

COMMITTEE ON APPROPRIATIONS

SUBCOMMITTEES:  
LABOR, HEALTH AND HUMAN SERVICES,  
AND EDUCATION

AGRICULTURE, RURAL DEVELOPMENT,  
FOOD AND DRUG ADMINISTRATION,  
AND RELATED AGENCIES

Mr. James Connaughton  
Chairman  
Council on Environmental Quality  
722 Jackson Place, N.W.  
Washington, D.C. 20503

Dear Mr. Connaughton:

It has come to my attention that the White House has demonstrated a continued strong interest in the status of the Cross-Sound Cable Project, a high voltage direct current (HVDC) submarine electric transmission and fiber optic cable line buried under the Long Island Sound between New Haven, Connecticut and Shoreham, New York. Accordingly, I am writing to inquire about the reasons for the White House's involvement, as well as to respectfully request copies of all phone logs or records of conversations, written communication, correspondence, memoranda, e-mail and any other document reviewed by or generated in the Executive Office of the President, the Council on Environmental Quality, and the White House Task Force on Energy Project Streamlining concerning the Cross-Sound Cable Project.

The Cross-Sound Cable Company LLC (CSCC) is a joint venture of TransEnergie U.S. Ltd, United Capital Investments and TransEnergie HQ, Inc. As you know, the federal and state permits issued for this project outlined several conditions which the Cross-Sound Cable Project must meet in order to advance the project. Specifically, in both the federal and state permits, CSCC is required to lay the cable at six feet below the seabed or - 48 feet mean lower low water, whichever is deeper, the length of the federal navigation channel. Regardless of the company's effort to come into compliance, the fact remains that they have not met the basic requirements outlined in these permits.

In spite of the information readily available that states otherwise, the CSCC determined that they would be able to meet the terms of the permits issued through the installation methods outlined in the approved construction plans. Obviously, this has not been the case. In addition, the company has yet to compile a suitable plan to complete the installation. The current placement of the cable is not consistent with either the permit issued by the Army Corps of Engineers nor the State of Connecticut's Department of Environmental Protection's (DEP) Office of Long Island Sound Programs and is therefore inconsistent with Connecticut Siting Council's Decision and Order.

In their letter dated November 15, 2002, the CSCC requested the assistance of the White House Task Force on Energy Project Streamlining to expedite a resolution to the permitting delays

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they have experienced. In their letter, they identify the emergency order issued by the US Department of Energy on August 16, 2002. While Secretary Abraham did determine that an emergency situation existed at that time, the order specifically stated that the operation of the cable would be allowed as a last resort and after the Long Island Power Authority had exhausted all other options. I believe it is important to note that the cable was not energized at any time while the order was in effect.

In addition, the CSCC also argues that the operation of the cable in its current position would cause no further environmental impacts to the project area. The DEP's Office of Long Island Sound Programs has clearly indicated their objections to operation of the cable prior to compliance with state requirements as stated in their January 6, 2003 letter to the CSCC (attached). Under the current permit requirements, operation of the cable would be in violation of the permit.

Further, the CSCC, in this same correspondence, proposes to operate the cable on the granite dome six or more feet below the current channel bottom until the channel is expanded, thereby creating at most just one additional environmental event in the channel. While the "effort" of the company to reduce the amount of environmental events in the channel seems commendable, the Army Corps of Engineers, to date, does not have current or future plans to deepen the channel and therefore, the CSCC is proposing to operate the cable in violation of permitting requirements indefinitely.

From all indications and by their own words in the aforementioned letter to the White House Task Force on Energy Project Streamlining, Cross Sound Cable Company, LLC is more concerned with the costs of not operating the cable than they are with complying with the basic requirements set forth in both the federal and state permits issued for the project. In both the ninth and eleventh paragraphs of their correspondence, the CSCC makes reference to the substantial costs they are incurring due to their inability to operate the cable. Allowing the company to benefit financially through the operation of the cable prior to meeting the commitments to which they agreed is unacceptable and would severely undermine the credibility of our state and federal regulatory process.

The CSCC has made it abundantly clear that additional time will be needed to complete the installation of the line to meet the requirements of the federal and state permits. However, under no circumstances should the CSCC be permitted to operate cable without coming into full compliance with the necessary permits.

While energy interests are of national concern, I am seriously concerned by the Administration's interest in a project that has such serious implications at the local level. As you may know, the Administration identified this project in its 2001 National Energy Plan as an argument for exercising federal eminent domain power, but since that time the Administration has never provided documentation as to how this project would impact national energy needs. This is

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a matter that concerns the residents of Connecticut and New York as well as the continued health and vitality of the Long Island Sound. The decision must be made by those who understand our region's unique energy, environmental, and economic needs. The residents of Connecticut deserve to know the extent of and the reasoning behind the Administration's involvement in this project.

I appreciate your consideration of this matter and look forward to your response.

Sincerely,



ROSA L. DeLAURO  
Member of Congress

cc: Governor John G. Rowland, State of Connecticut,  
The Honorable Richard Blumenthal, Attorney General, State of Connecticut,  
Colonel Thomas L. Koning, U.S. Army Corps of Engineers,  
Ms. Virginia Stephens, Director, White House Task Force on Energy Project Streamlining

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# STATE OF CONNECTICUT DEPARTMENT OF ENVIRONMENTAL PROTECTION



January 6, 2003

Mr. James P. Nash, Project Director  
Cross-Sound Cable Company, LLC  
110 Turnpike Road, Suite 300  
Westborough, MA 01581

Dear Mr. Nash:

We are in receipt of a copy of your statement to the press dated January 3, 2003 entitled "Cross-Sound Cable Company, LLC, Revised Statement Regarding Filing For Clarification with the Connecticut Siting Council". Please be advised that your statement mischaracterizes DEP's position concerning the operation of your cable in its current condition under the terms and conditions of our permit #200102720-MG. Let me be clear - until the cable is at its authorized depth it would be a violation of the permit to operate the cable.

The specious argument presented in your statement is misleading. While our letter of 12/23/02 states that we "are in agreement with your conclusion that EMF and temperature variations associated with the operation of the cable at these coverage depths at locations within the confines of the Federal Navigation Channel would not be expected to impact fisheries resources" we go on to state clearly in the following sentence that "this conclusion, however does not negate the permit condition that requires burial in the federal navigation channel to 6' below the seabed or -48' MLLW whichever is deeper".

There's a subtle but important distinction to be made here. While we may not have any environmental concerns with the operation of the cable in its current condition, we do have significant procedural concerns. The permit authorization is very specific with respect to the depth requirements that must be achieved under the permit. The cable as it currently exists does not meet those requirements. Until your cable fully complies with those requirements, or unless those conditions are modified (which cannot be done as long as the moratorium is in effect) operation of the cable would be inconsistent with the permit and would constitute a permit violation. In her letter to you dated 7/22/02, Deputy Commissioner Jane Stahl clearly articulates the DEP position that "operation of the cable before the project is complete or compliant would not be consistent with the existing authorization".

In our opinion your options are limited at this point. Either get the cable to the authorized depths with methods that are consistent with DEP's existing permit authorization, or wait until the moratorium expires when you can seek a modification of the permitted methodology or channel depth requirements and operate the cable after any modified conditions are met.

Sincerely,

Charles H. Evans  
Director  
Office of Long Island Sound Programs

CHE/iv  
cc: Connecticut Siting Council