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July 11, 2012

The Honorable John M. McHugh
Secretary of the Army
101 Army Pentagon
Washington, D.C. 20310

Dear Secretary McHugh:

I am writing to you regarding SAJ 2010-028811P-EWG, the so-called Via Verde Joint Permit application.

As you know, the Government of Puerto Rico and the government-owned Puerto Rico Electric Power Authority (PREPA) are, at least publicly, no longer insisting on the permit to proceed with this project and have all but abandoned plans to build the massive pipeline. This is despite the flawed November 30, 2011 Draft Environmental Assessment issued by the Jacksonville District of the United States Army Corps of Engineers (USACE) proposing that the permit be granted.

The Government of Puerto Rico and PREPA have begrudgingly accepted the facts about this project. One key factor is the, insufficient capacity to supply gas to the proposed pipeline from the EcoEléctrica re-gasification facility. Overall, experts have agreed that the risks to life, property and the environment are too great.

In that context, I am alarmed by a published report about the role your Department may be playing. According to a June 29, 2012 article published in the *La Perla del Sur* weekly newspaper, Puerto Rico Governor Luis Fortuño claimed Army Assistant Secretary Jo-Ellen Darcy told him not to withdraw the Via Verde joint permit application at their June 20, 2012 meeting in Washington, DC.

The purpose of this meeting was supposed to be for the Governor to inform Assistant Secretary Darcy of the findings and recommendations of yet another commission the Governor had designated to study alternatives to the existing energy system in Puerto Rico. This Governor's own commission did not include - the Via Verde project among its recommendations. Of the three proposals submitted by the Governor's commission, one proposes to retain a fragment of the original Via Verde project, which would build a west-east pipeline along the north coast of Puerto Rico.

Secretary McHugh
July 11, 2012
Page 2

The *La Perla del Sur* article reads in part: "Although it seems highly unusual, [Governor] Luis Fortuño Burset asserted this week that it was the Army Corps of Engineers, and not him, who asked him not to withdraw the permit application for the polemic North gas Pipeline [Via Verde] (translation my own).

As he told *La Perla del Sur*, it was Assistant Secretary Darcy, not his Administration, who recommended keeping the permit application pending before the federal agency until the government of Puerto Rico and the Corps of Engineers decide on the next step.

To be clear, the Governor's commission and every entity inside and outside the Government of Puerto Rico have abandoned the Via Verde pipeline project.

You may find the complete article (in Spanish) here:
http://www.periodicolaperla.com/index.php?option=com_content&view=article&id=4070:atomi-lla-via-verde-al-cuerpo-de-ingenieros&catid=135:actualidad-del-sur&Itemid=423

When I first read the article, I was shocked. After years of the people of Puerto Rico fighting against this unwanted and unneeded project being forced on them by the current government of Puerto Rico and its powerful allies, the government finally listened to reason and to the people. I fail to understand why the U.S. Army Corps of Engineers would intervene to keep this project alive.

My question to you, Mr. Secretary, is whether the statements reported in *La Perla del Sur* are accurate?

If they are, Mr. Secretary, I again respectfully ask why the USACE is not letting sleeping dogs lie, or in this case, dead dogs die?

There has always only been one acceptable option for USACE regarding the Via Verde joint permit application: to deny it. The people of Puerto Rico have rejected the project. The costs and dangers are too high, the potential supply of gas is too low, and now even the stakeholders driving this project in the Government of Puerto Rico have walked away.

I ask the U.S. Army to do the same.

I also reiterate my request for all documents and communications related to the Via Verde project, including but not limited to meetings, conversations, phone calls, and e-mails between the USACE and the applicant, the PREPA, and/or any entity acting as its representative. I have not received any documents or information regarding this permit application from USACE Jacksonville since December 8, 2011. I expect to receive any and all information I have requested plus any communication involving your office or Assistant Secretary Darcy's office.

Secretary McHugh
July 11, 2012
Page 3

I also request an update regarding the investigation by the Office of the Inspector General, or any other agency within the U.S. Army you may deem appropriate, that I have previously requested about the relationship between current Jacksonville staff and former Jacksonville staff who now supervise or work for BCPeabody, the Florida-based consulting company hired by the Puerto Rico Electrical Power Authority (PREPA) to lobby, or 'provide technical assistance,' for the project."

Thank you in advance for your attention to my concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Luis V. Gutierrez". The signature is stylized with a large initial "L" and a long horizontal flourish at the end.

Luis V. Gutierrez
Member of Congress

Cc:

Army Assistant Secretary Jo-Ellen Darcy