House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. LATTA).

DESIGNATION OF SPEAKER PRO TEMPORE
The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC, December 7, 2011.
I hereby appoint the Honorable ROBERT E. Latta to act as Speaker pro tempore on this day.

JOHN A. BOEHNER, Speaker of the House of Representatives.

MORNING-HOUR DEBATE
The SPEAKER pro tempore. Pursuant to the order of the House of January 5, 2011, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning-hour debate.

The Chair will alternate recognition between the parties, with each party limited to 1 hour and each Member other than the majority and minority leaders and the minority whip limited to 5 minutes each, but in no event shall debate continue beyond 11:50 a.m.

FLAWED DRAFT ENVIRONMENTAL ASSESSMENT IN PUERTO RICO
The SPEAKER pro tempore. The Chair recognizes the gentleman from Illinois (Mr. GUTIERREZ) for 5 minutes.

Mr. GUTIERREZ. Today I’m sending a letter to Colonel Alfred A. Pantano, the commander of the U.S. Army Corps of Engineers in Jacksonville, Florida, the district that oversees, among other things, the permitting process for the construction of a massive gas pipeline that will cross the mountains in Puerto Rico. The 92-mile gas pipeline, which does not make any sense environmentally, economically, or ethically, is moving forward in part because Colonel Pantano’s office issued a Draft Environmental Assessment that clearly favors the eventual issuance of the permit.

I would like to read an excerpt from my letter:

“I was intensely angered, but sadly not entirely surprised, when I read the report issued by your office regarding the gasoducto in Puerto Rico. From the start, people in Puerto Rico have been telling me that they suspect all the regulatory oversight is nothing more than show and this process has been assured of passage because of insider cozy relationships between the Army Corps Jacksonville staff and the very industry they are supposed to be overseeing and regulating.

“Further, having sunk millions of dollars in this project already, the ruling party in Puerto Rico’s very creditability is at stake on this massive construction project going forward.

“The Draft Environmental Assessment is so slanted and flawed that it adds more evidence to the growing view that there will be no meaningful oversight for this project and no meaningful input from the residents of Puerto Rico.

“Believe your decision, Colonel Pantano, shows a complete disregard for compelling evidence demonstrating little need for the project. It shows disregard for the opinion of other Federal agencies who have looked at the project. The decision disregards evidence of potential safety hazards to the people of Puerto Rico. This woefully slanted decision also gives credence to the suggestion of impropriety in matters related to this project and the inability of the U.S. Army Corps of Engineers to oversee this project.

“I believe this process should begin again in an open and transparent manner, that the process that has led to the decision should be fully investigated, and further efforts should be supervised by new leadership. I ask for a U.S. Army Office of Inspector General investigation immediately into the relationship between the government of Puerto Rico, the Army Corps of Engineers Jacksonville office, and the power companies and its contractors.

“Lobbyists who used to work for the Army Corps of Engineers should not be allowed to line their pockets at the expense of the people of Puerto Rico. Your boss, President Obama, stated ‘the cozy relationship between the regulators and the industry they regulate must come to an end.’

“I strongly support the President and agree with him completely. However, my misgivings about the pipeline project multiplied substantially when the project was abruptly removed from Army Corps office in Puerto Rico and transferred to the Jacksonville office in Florida.

“There is clearly a cozy relationship between current Jacksonville staff that you supervise and former Jacksonville staff who now supervise and work for the private company consulted by and hired by the government of Puerto Rico to lobby and provide technical assistance for the project.’

“The result: The Army Corps of Engineers appears to have adopted all the power company’s wholesale argument for moving forward. What a surprise. These include ignoring the advice of other Federal agencies that do not seem to have any cozy connections and relationships to the moneyed interests behind the pipeline, including warnings of the Fish and Wildlife Service—Ignored; the Environmental Protection Agency—Ignored.

“Finally, I point out that it is an insult to the people of Puerto Rico to have released the Army Corps’ report in the manner it was released. The report is exclusively in English, whereas the common language in Puerto Rico is...
Spanish. English is a language that hundreds of thousands of Puerto Ricans whose lives will be directly affected by the pipeline do not speak and cannot read. How are they supposed to give advice and consent?

It is also personally insulting that the 10-day period occurred during the holiday season when the residents of Puerto Rico are especially focused on their family, and interestingly enough, Congress will be in recess.

The people of Puerto Rico, including those who live humbly in the mountains and those who have derived their livelihoods from the land, deserve a government that protects their interests. They deserve to know when their safety and way of life are threatened, the government will protect them. This case reveals the opposite. It reveals a government agency that ignores the warnings of other government agencies and a wealth of facts regarding safety concerns of the environmental impact. It reveals a government agency that responds more to well-connected lobbyists than advocates for the people of Puerto Rico. It reveals a government agency that is doing nothing—not doing the job that it was mandated to do.

Mr. Speaker, I would like to include in the record this petition, on behalf of many individuals and environmental groups from the Legal Assistance Clinic at the Law School at the University of Puerto Rico, the Puerto Rican Environmental Assessment translated into Spanish.

Re: Petition to Translate into Spanish the Draft Environmental Assessment, Statement of Findings, Public Notice, and Notice for Public Participation for the Via Verde Natural Gas Pipeline Project, Permit Application No. SAJ 2010-02381 (IP-EWG).

Colom, Alfredo A., Pantoja,
District Commander, U.S. Army Corps of Engineers, Jacksonville District, San Marco Boulevard, Jacksonville, FL.

Dear Colom, Pantoja: The United States Army Corps of Engineers (USACE) has recently published a Draft Environmental Assessment and Statement of Findings (collectively, Draft EA) as part of its environmental review process under the National Environmental Policy Act (NEPA) for the Via Verde Natural Gas Pipeline project proposed by Puerto Rico Electric Power Authority (PREPA) under permit application SAJ 2010-02381 (IP-EWG). This project involves the construction of a 92-mile natural gas pipeline to transport gas from the mainland to Puerto Rico, starting at the municipality of Peñuelas in the south coast, to Arecibo in north coast and then east to San Juan. According to the Draft EA, the purpose of the pipeline is to supply natural gas to three power plants located in the north coast. The project will have temporary and permanent impacts, including 28 river and stream crossings; 1,500 acres of land; 369 acres of wetlands (including various types of important aquatic resources); the biodiversity-rich and water-abundant El Yunque Rain Forest, a karst zone; private and public forested lands; natural reserves; archaeological sites; areas of critical habitat for endangered and/or threatened species; rural areas; densely populated urban areas; and coastal areas. In all, the project may affect over 40 endangered or threatened species, permanently risk the lives of over 200,000 residents. The majority of the people of Puerto Rico are against this project, as shown by various public comments, including commitments made by USACE has received so far, and the public demonstrations against the project involving tens of thousands of Puerto Rican citizens.

At a recent meeting of the Puerto Rican government, representatives from various environmental groups discussed the importance of restoring the environment and the productive capacity of the land. The government and surrounding communities they serve through education and capacity building of its residents concerning the adverse impacts of human activities on the environment and potential solutions to safeguard the health and the survival of the communities and interested individuals through- the island of Puerto Rico with translators available. There are ample statutory and regulatory provisions as well as executive orders and judicial precepts which support our requests, as discussed further below. Furthermore, compliance with these requests is necessary if USACE intends to provide affected communities and interested individuals throughout the island of Puerto Rico with an adequate opportunity to comment on the project, considering that less than 19% of island residents consider themselves to be bilingual. English-speaking citizens often have valuable information about places and resources that they value and the potential environmental, social, and economic effects that the proposed project may have on those places and resources. NEPA and other federal statutes, regulations, and executive orders require USACE to provide concerned citizens and organizations with access to enough information to allow them to provide meaningful comments, and these laws require USACE to take their comments into account. If the key documents to be evaluated remain available only in a foreign language, however, it will be too difficult for the affected and concerned citizens and groups alike to meaningfully and adequately comment on the project. In fact, the Draft EA and other key documents include so much technical and difficult to grasp information that even an English-speaking layperson would have difficulty reading, analyzing, and commenting in just 30 days.

Fundamental principles of environmental justice warrant that the Draft EA for a project of such magnitude must be translated in the Spanish language and that the public comment period extended to 60 days once the Spanish version of the EA is available to the public. The USACE is bound to these principles by the NEPA Council on Qual- ity Guidelines (CEQ guidelines), the Executive Order on Federal Actions to Address Environmental Justice, the Department of Defense Strategy on Environmental Justice, and the U.S. Constitution, and other legal authorities and precedents. These issues also warrant a translation. The pipeline is a safety risk to various thousands of people who will live, work or commute daily near the pipeline's ROW. The Draft EA recognizes that "the addition of the pipeline in the community decreases public safety." Likewise, the value of property might be affected depending on its proximity to the ROW of the pipeline. Basic fundamental principles of justice require that people put in harm's way or whose property, may be affected be able to read and understand. The petition contains the basic findings of the USACE regarding the risks of the proposed action to their lives and property.

NEPA AND CRYPTO-CIRCULATIONS

The Draft EA for the proposed Via Verde Pipeline project was prepared by the USACE pursuant to an environmental review process
of the CEQ guidelines state that ‘‘[e]nvironmental impact statements shall be written in plain language and may use appropriate graphics so that decisionmakers and the public can readily understand them’’ (emphasis added). Courts have interpreted this ‘‘plain language’’ provision as to require Federal agencies to provide the public with comprehensive environmental consequences of a proposed action and to do so in a readily understandable manner. See Klamath-Siskiyou Wildlands Center v. Bureau of Land Management, 397 F.3d 989 (2004), ‘‘While the conclusions of agency expert are entitled to deference, National Environmental Policy Act (NEPA) documents cannot contain only narratives of expert opinions, and the documents are unacceptable if they are indecipherable to the public’’; Earth Island Institute v. U.S. Forest Service, C.A.9 (Cal.), 442 F.3d 1147 (2006), certiorari denied 127 S.Ct. 1829, 549 U.S. 1278, 167 L.Ed.2d 318 (emphasis added). ‘‘A final environmental impact statement (EIS) must be organized and written so as to be readily understandable by governmental decisionmakers and by interested non-professional laypersons likely to be affected by actions taken under the environmental impact statement’’ [. . . ] ‘‘Upon review of environmental impact statement, parties may introduce evidence regarding level of affected public and expert testimony concerning indicia of inherent readability. National Environmental Policy Act, 42 U.S.C.A. § 4332 (5 U.S.C.A. § 7001et seq.); Environmental Impact Statement, 40 C.F.R. (emphasis added). See also National Resources Defense Council, Inc. v. United States Nuclear Regulatory Comm’n, 686 F.2d 459, 467 n. 149 (D.C.Cir.1982); Baltimore Gas & Elec. Co. v. NNRDC, 462 U.S. 87 (1983); and Warm Springs Dam Task Force v. Gribble, 78 F.Supp. 240, 252 (N.D.Cal.1974), aff’d 611 F.2d 1017 (9th Cir.1980). These requirements for EIS’s apply equally to EAs, as indicated in the CEQ regulations’ use of the term ‘environmental documents’ rather than EIS. In the case of Puerto Rico, a Draft EA that is highly technical and written in the English language is ‘‘undecipherable’’ and not ‘‘readily understandable’’ in order to be properly assessed and commented by lay persons whom in their wide majority are not fluent in the English language.

ATTORNEY GENERAL ERIC HOLDER MUST RESIGN

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. GEORGE MILLER) for 5 minutes.

Mr. GEORGE MILLER of California. Mr. Speaker, Members of the House, later today, the House will consider the REINS Act, which is legislation designed to make sure that in a Republican-controlled Congress, no new regulations would be put into effect, whether they deal with clean drinking water, clean air, child safety, the safety of children when they play with their toys, the drugs that so many citizens need to take to maintain their health, or occupational safety at the workplace. All of that would be destroyed under the REINS Act.

You might ask yourself what would society look like? Well, we had a preview of what that society looks like yesterday when the Mine Safety and Health Administration released its report on the Upper Big Branch. What that society looked like to these miners and to their families was 29 dead coal miners, because the Massey Corporation was basically allowed by its board of directors to evade the basic regulations that were in place to protect the miners.

Although the miners don’t have whistleblower protections, we saw that Massey was able to intimidate the workers every day not to report safety violations, not to write up safety violations, not to report things that needed to be repaired, because the chairman of the board told them the priority was the production of coal, not the safety of the workers.

| 1010 |

Produce the coal or get out is what he told them. So they were not able to participate in their own safety when they saw a violation or they saw a problem that caused danger in the mine.

They also were able to circumvent the right of the mine safety inspections