



STATE OF NEW YORK
DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001

GEORGE E. PATAKI
GOVERNOR

CHRISTOPHER L. JACOBS
SECRETARY OF STATE

December 20th, 2006

NYS Office of General Services
Bureau of Land Management
26th Floor, Corning Tower
Empire State Plaza
Albany, NY 12242

Re: F- 2006-0345
Federal Energy Regulatory Commission (CP06-54,
CP06-55) and U.S. Army Corps of **Engineers/New**
York District (**2006-00265**), U.S. Coast Guard-Sector
Long Island, NYS Department of Environmental
Conservation, and NYS Office of General Services
(LUW 001038); Long Island Sound: Towns of
Smithtown, Brookhaven, Riverhead and Southold;
Suffolk County; Broadwater Energy, LLC, Broadwater
Pipeline LLC

Dear Mr. Bauder,

In response to your Notice of Availability of Review of the Broadwater application dated December 5, 2006, the NYS Department of State, Division of Coastal Resources (DOS) submits the following **comments**.

Broadwater has submitted its certification to DOS for consistency with the New York State Coastal Management Program and the relevant policies as developed under the Long Island Sound Regional Coastal Management Program (LISCMP). DOS commenced review of this project on November 17, 2006 upon the receipt of the Draft Environmental Impact Statement from the Federal Energy Regulatory Commission. DOS has six months to complete the review from the start date.

The application to OGS involves an easement of public trust submerged lands and waters. Policies 1, 9, and 10 of the LISCMP are relevant to OGS in its review of the proposed easement. These policies, their subpolicies, and a summary of issues are listed below:

Policy 1 : Foster a pattern of development in the Long Island Sound (LIS) coastal area that enhances community character, preserves open space, makes efficient use of infrastructure, makes beneficial use of a coastal location, and minimizes adverse effects of development

- *Subpolicy 1.1: Concentrate development and redevelopment in or adjacent to traditional communities*
- *Subpolicy 1.2: Ensure that development or uses take appropriate advantage of their coastal location*
- *Subpolicy 1.3: Protect stable residential areas*
- *Subpolicy 1.4: Maintain and enhance natural areas, recreation, open space, and*

- *agricultural lands.*
- *Subpolicy 1.5: Minimize adverse impacts of new development and redevelopment.*

7. There is concern that a semi-permanent industrial facility in the middle of the LIS could impair the character of the Sound and of its traditional coastal communities that Policy 1 seeks to advance.

Policy 9: Provide for public access to, and recreational use of, coastal waters, public lands, and public resources of the LIS coastal area.

- *Subpolicy 9.1: Promote appropriate and adequate physical public access and recreation throughout the coastal area.*
- *Subpolicy 9.2: Provide public visual access from public lands to coastal lands and waters or open space at all sites where physically practical.*
- *Subpolicy 9.3: Preserve the public interest in and use of lands and waters held in public trust by the state, New York City, and towns in Nassau and Suffolk counties.*
- *Subpolicy 9.4: Assure public access to public trust lands and navigable waters.*

There is concern that the proposed project will limit public access to a portion of the LIS area currently held in public trust. Policy 9 provides guidance in considering the conditions for minimum standards of public access.

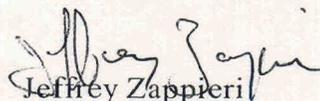
Policy 10: Protect the LIS's water-dependent uses and promote siting of new water-dependent uses in suitable locations.

- *Subpolicy 10.1: Protect existing water-dependent uses.*
- *Subpolicy 10.2: Promote maritime centers as the most suitable locations for water-dependent uses.*
- *Subpolicy 10.3: Allow for development of new water-dependent uses outside of maritime centers.*
- *Subpolicy 10.4: Improve the economic viability of water-dependent uses by allowing for non-water-dependent accessory and multiple uses, particularly water-enhanced and maritime support services.*
- *Subpolicy 10.5: Minimize adverse impacts of new and expanding water-dependent uses, provide for their safe operation, and maintain regionally important uses.*
- *Subpolicy 10.6: Provide sufficient infrastructure for water-dependent uses.*
- *Subpolicy 10.7: Promote efficient harbor operation.*

There is concern that the proposed project, involving both water-dependent and non-water dependent uses, could potentially displace, adversely impact or interfere with water-dependent commercial and recreational fisheries, navigation, and general recreational uses that Policy 10 seeks to support.

DOS' policy analysis in our final decision letter will contain additional information and will be available to OGS for consultation on this matter.

Sincerely,



Jeffrey Zappieri
Supervisor of Consistency Review
Division of Coastal Resources

cc: William Little, NYSDEC
Pam Otis, NYS OPRHP
James Martin, FERC ✓