

**UNITED STATES OF AMERICA
BEFORE THE
DEPARTMENT OF COMMERCE**

**Broadwater Energy LLC and Broadwater Pipeline LLC,
Appellants,**

vs.

**New York Secretary of State Lorraine Cortés-Vázquez,
Respondent.**

**RESPONSE OF THE NEW YORK STATE DEPARTMENT OF STATE
IN SUPPORT OF THE MOTION OF CONNECTICUT'S ATTORNEY GENERAL
FOR LEAVE TO FILE AN AMICUS BRIEF**

The New York State Department of State supports the motion of Connecticut's Attorney General to file an amicus brief on this appeal. Connecticut's Attorney General provides a unique perspective on the issues before the US Secretary of Commerce.

Our states share the waters and submerged lands of Long Island Sound. The New York - Connecticut boundary runs the length of the Sound through its approximate center. Yet, the Broadwater project would affect each state's coasts in vastly different ways. The character of our respective coasts and our use of the Sound's waters and submerged lands reflect often divergent development patterns and public needs.

Connecticut's entire coast fronts on Long Island Sound and its rivers are considered the lifeblood of its economy. Contrary to Broadwater's assertions, Connecticut will be directly and adversely impacted by the project in ways different from New York. Although the Floating Storage Regasification Unit (FSRU) would be moored in New York waters, it will lie less than two miles from Connecticut's boundary in Long Island Sound.

As noted in the Consistency Determination,¹ commercial vessels transiting Long Island Sound are frequently destined for ports in Connecticut. (US Coast Guard Water Suitability Report (WSR) p. 21). The majority of industrial uses and port activity in Long Island Sound itself are sited in Connecticut. Shipping routes to shore are also concentrated in Connecticut coastal waters. Coast Guard data on port arrivals demonstrate that a large majority of the commercial vessel traffic into Long Island Sound arrives in Connecticut ports, including New Haven, Groton, and Bridgeport. (FEIS p. 3-190.)

¹ P. 13

By contrast, New York's northern coast bordering Long Island Sound is characterized by residences, scenic open spaces and habitats including tidal wetlands and flats, beaches, dunes, bluffs, rocky intertidal areas and the water itself. Long Islanders, with the support of New York State, have enacted an array of preservation initiatives to ensure that, as land use changes, the rural character of the Long Island Sound setting and of the communities along the North Shore is preserved. Unlike Connecticut, industrial uses in the coastal area in both western and eastern Suffolk County account for extremely small area percentages.

Broadwater admits that the exclusion zones around the FSRU will intrude into and occupy Connecticut waters and submerged lands. (Response of Broadwater Energy, p. 5) Equally important, the LNG supertankers will traverse The Race, a constrained navigation passage shared by our two states, and impede or interfere with commercial vessel navigation and regionally significant fishing activity. Traditionally, the majority of these commercial vessels are bound for Connecticut ports. In contrast to Connecticut, which depends entirely on its Long Island Sound shoreline for waterborne commerce, New York's Coastal Area boasts a diversity of marine and freshwater ports.

However, our states' interests are not entirely different. For more than 30 years, the federal government, the states of New York and Connecticut, regional groups, and local governments have invested significant effort and funds in a variety of studies, plans, programs and projects to improve water quality, preserve and maintain habitat and open space, enhance public access, balance competing uses, and responsibly manage the resources of Long Island Sound.

Although New York has interstate consistency review, no state can fully represent another's interests. Connecticut has long had an approved state Coastal Management Program. It's purported failure to amend its interstate consistency list does not obviate Connecticut's interest in protecting its coastal zone from the adverse affects of the Broadwater project. The CZMA was enacted with the recognition that states are the key to coastal zone management and the recognition that each state's interests are unique. For Broadwater to suggest that New York can represent Connecticut's interests tears at the fundamental underpinnings of the CZMA. Only Connecticut can speak of the impacts to its coastal impacts.

Susan L. Watson
General Counsel