

**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.

BROADWATER’S SECOND MOTION TO SUPPLEMENT THE DECISION RECORD

Pursuant to 15 C.F.R. §§ 930.127(i)(4) 930.130(a)(2), Broadwater Energy LLC and Broadwater Pipeline LLC (collectively, “Broadwater”) request that the Secretary of Commerce supplement the decision record in this matter with twelve additional documents, identified below. These documents, which are collectively referred to as “Supplemental Documents,” should be included in the decision record because they serve as “clarifying information submitted by a party to the proceeding related to information in the consolidated record compiled by the lead Federal permitting agency,” and thus qualify as “supplemental information” under 15 C.F.R. § 930.127(i)(4). 15 C.F.R. § 930.130(a)(2)(ii)(B). With the exception of Supplemental Document IX (which is a map showing locations of various points discussed in this matter), all of the Supplemental Documents are publicly-available materials prepared either by governmental entities or uninterested third-parties. These Supplemental Documents are attached hereto and Bates numbered SD177 through SD576.¹

¹ Also attached to this motion is Broadwater Supplemental Document V (Bates numbered SD172-176), which the Secretary previously accepted as a supplement to the decision record on August 5, 2008 (but was not Bates numbered at that time).

Supplemental Document VI: U.S. Coast Guard and U.S. Maritime Administration, Final Environmental Impact Statement for the Gulf Landing LLC Deepwater Port License Application, Appendix G: Ichthyoplankton Assessment Model Methodology and Results (Docket No. USCG-2004-16860)

This document describes accepted modeling methodology to assess potential ichthyoplankton entrainment impacts. It provides an estimate of the potential entrainment impacts for the proposed Gulf Landing Deepwater Port in the Gulf of Mexico. This document provides clarifying information related to alleged coastal effects of the Broadwater Project.

Supplemental Document VII: October 27, 2005 Biological Fact Sheet – Cooling Water Intake Structure for the Northport Power Station

The New York State Department of Environmental Conservation (“NYSDEC”) issued this Biological Fact Sheet for the cooling water intake structure at the Northport Power Station located in the Town of Northport (County of Suffolk), New York, on Long Island Sound. This document provides clarifying information related to alleged coastal effects of the Broadwater Project.

Supplemental Document VIII: January 4, 2006 Final State Pollutant Discharge Elimination System (“SPDES”) Permit, Responsiveness Summary and Cover Letter for the KeySpan Generation – Northport Power Station; Northport, Suffolk County

NYSDEC recently issued this Final SPDES Permit for the KeySpan Northport Power Station. This document provides clarifying information related to alleged coastal effects of the Broadwater Project.

Supplemental Document IX: Figure 1 – Map of Atlantic Ocean South of Long Island

This map shows, *inter alia*, the proposed locations of NYSDOS’s Alternatives 1 and 2, the location of alternatives previously discussed by NYSDOS’s consultants, locations of metocean data buoys, and nearby maritime traffic lanes. This document provides clarifying information related to NYSDOS’s proposed Alternatives.

Supplemental Document X: U. S. Army Corp of Engineers Coastal Engineering Manual, Chapter 2: Site Characterization - Part V (EM 1110-2-1100), June 1, 2006

This chapter from the U.S Army Corp of Engineers Coastal Engineering Manual provides information on planning, designing, constructing and maintaining coastal project. NYSDOS cites to a different section of this

Engineering Manual on page 28 of its Principal Brief. This document provides clarifying information related to NYSDOS's proposed Alternatives.

Supplemental Document XI: Environmental Report in support of the Safe Harbor Energy Project Deepwater Port License Application May 2007, Topic Report Nine - Alternatives

This report, prepared for the Safe Harbor Energy Project, addresses constraints for operating an LNG terminal in the Atlantic Ocean. This document provides clarifying information related to NYSDOS's proposed Alternatives.

Supplemental Document XII: Det Norske Veritas, "Sloshing Analysis of LNG Membrane Tanks "June 2006

This document provides scientific analysis of sloshing in LNG carriers. This document provides clarifying information related to NYSDOS's proposed Alternatives.

Supplemental Document XIII: Article Entitled "ExxonMobil Shifts Import Focus To US Northeast"

This article, which appeared in Poten & Partners publication *LNG in World Markets*, addresses ExxonMobil's proposed BlueOcean Energy terminal. This document is available at the Poten & Partners website: <http://www.poten.com/lngconsutlingproducts.asp>. This document provides clarifying information related to NYSDOS's proposed Alternatives.

Supplemental Document XIV: Buchner, B., P. Dierx and O. Waals. June 2005. The Behaviour of Tugs in Waves Assisting LNG Carriers During Berthing Along Offshore LNG Terminals. Proceedings of OMAE 2005, 24th International Conference on Offshore Mechanics and Artic Engineering, Halkidiki, Greece

This document describes the results of a study on tug behavior in waves when assisting LNG carriers during berthing and offloading operations at offshore LNG terminals. This document provides clarifying information related to NYSDOS's proposed Alternatives.

Supplemental Document XV: Draft Report “Operational and Training Guidelines” dated June 12, 2007, prepared by Marin

This document, prepared for the Joint Industry Project SAFETUG, provides draft guidelines to terminal and towage operators in setting up tug escort and assistance operations in waves. This document provides clarifying information related to NYSDOS’s proposed Alternatives.

Supplemental Document XVI: Accelerate Northeast Gateway Energy Bridge FEIS/FEIR

Section 2.0 of this FEIS/FEIR, prepared for the Accelerate Northeast Gateway Energy Bridge Project, provides a description of and alternatives to a proposed LNG deepwater port in Massachusetts Bay. This document provides clarifying information related to NYSDOS’s proposed Alternatives.

Supplemental Document XVII: Accelerate Energy Presentation “LNG Ship-To-Ship Transfer” at the LNG Transshipping Conference in Houston on January 25, 2007

This presentation, which was prepared by Accelerate Energy for an LNG transshipping conference, discusses LNG ship-to-ship transfers. This document provides clarifying information related to NYSDOS’s proposed Alternatives.

CONCLUSION

Based on the foregoing, Broadwater respectfully requests that the Secretary accept the attached Supplemental Documents into the decision record in this matter.

Dated: September 4, 2008

Respectfully submitted,



Robert J. Alessi
Jeffrey D. Kuhn
Dewey & LeBoeuf LLP
125 West 55th Street
New York, New York 10019
(212) 424-8515
ralessi@dl.com

James A. Thompson, Jr.
1101 New York Avenue, NW
Suite 1100
Washington, D.C. 20005-4213
(202) 346-8000
jthompson@dl.com

*Counsel to Broadwater Energy LLC and Broadwater
Pipeline LLC*

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Second Motion to Supplement and Supplement to the Decision Record was served this 4th day of September 2008, by first-class mail unless otherwise indicated, on the following persons at the addresses listed below.

Joel La Bissonniere
Assistant General Counsel of Ocean Services
1305 East West Highway
Room 6111 SSMC4
Silver Spring, Maryland 20910
(1 Copy by Mail; 2 Copies by Overnight Courier)

Susan Watson
General Counsel
State of New York Department of State
99 Washington Avenue
Albany, New York 12231-0001

Hon. Lorraine Cortes-Vazquez
Secretary of State
State of New York Department of State
99 Washington Avenue
Albany, New York 12231-0001

Robert Snook
Assistant Attorney General
55 Elm Street
P.O. Box 120
Hartford, Connecticut 06141-0120


Brett A. Snyder
Dewey & LeBoeuf LLP
1101 New York Avenue NW
Suite 1100
Washington, DC 20005-4213