



January 23, 2007

Mr. Steven Ressler
New York State Department of State
Consistency Review Department
41 State Street
Albany, NY

RE: Broadwater Energy

Dear Mr. Ressler,

Please accept Citizens Campaign for the Environment's (CCE) comments on the Broadwater Energy application to locate a Liquid Natural Gas (LNG) facility 9 miles off the coast of Long Island in the middle of the Long Island Sound. CCE is opposed to the siting of the Broadwater project in the Long Island Sound and is requesting that the New York State Department of State considering the following in your review process:

1. Unprecedented Public Input and Opposition to Broadwater. New York State should value and weigh the broad and extensive public opposition to Broadwater. Broad and extensive public participation has occurred in this application process. It is CCE's estimate that approximately 800 members of the public attended the hearing in Smithtown on January 10, 2007 and approximately 1,000 members of the public attended the hearing in Shoreham on January 11, 2007. The vast majority of those testifying (97% in the case of the Shoreham meeting) spoke in opposition to the project. In addition, 55,000 people have already signed petitions in opposition and these names are on record with FERC. **If it is New York State's goal to require broad public participation in planning and decision making processes regarding protection of our water bodies, then it should also be the goal that the public's input is heavily weighed and meaningful in these important decisions. When tens of thousands of members of the public are attending hearings, writing letters, signing petitions and attending rallies in opposition to a proposed project then it is incumbent upon the State to weigh and value that public input.**

The public has been citing the extensive cultural, historical, economic, recreational and aesthetic value they place on the Sound as reasons for their opposition. The public process has demonstrated the intensely **high value** the public places on the Long Island Sound for our quality of life.

As we move ahead to plan our future, quality of life issues should hold a high degree of importance. Quality of life is what attracts skilled work forces, preserve community character and fuels a thriving local economy. Communities that protect their quality of life enhance their economic well being. Long Island Sound generates \$5.5 billion into our regional economy each year. We should preserve our distinctive assets such as our maritime culture, commercial and recreational fishing and boating and the beauty of our natural surroundings – rather than giving all this away to multinational corporations who are here solely for profit.

Growth and opportunity doesn't have to mean changing and giving up what we love about where we live. ***Change is inevitable, but it doesn't have to come at the expense of what citizens and communities value.*** With proper planning we believe that New York State and the northeast region can develop an energy plan that preserves our maritime heritage and maintains our waterways for all the public to share. We look to the state to ensure that energy infrastructure does not exploit our estuaries and waterways but rather offers necessary safeguards to these natural and irreplaceable resources.

New York and Connecticut residents have lost much in the way of quality of life. Rising taxes, the lack of affordable homes, stressful traffic and overdevelopment are just of the few stress factors in our daily lives. Increasingly, we are seeking to preserve the last vestiges of what makes our communities desirable. We must ensure that growth and economic development do not come at the expense of degrading our unique identity and natural resources. A few will reap big profits from this industrial facility; however, other long time residents and users of the Sound will suffer. There will be economic impacts to fish, shellfish and wildlife habitat, historic maritime cultural preservation and impairment of recreational opportunities

It has become clear that FERC does not intend to safeguard what the resident's value; it has become solely the job of New York State to protect what resident's treasure.

2. The project creates a permanent no public access zone and an additional moving no access zone. A “no public access zone” of 1.5 square miles will surround the LNG terminal. This means that for the first time in the Sound's history, a section of the open water body will be given over to a private corporation. Gunned security vessels would patrol the no access zone 24/7. **No fishing, boating, canoeing, swimming or sailing will be allowed.** The Coast Guard report mandates an additional moving “no public access zone” around the incoming LNG tankers that would be 2 miles in front, 1 mile in back and 750 yards on each side. Armed escort boats would surround the tankers as they transverse the Sound, marking the moving zone and requiring all vessels to get out of the way. In addition, LNG tankers will create problems and disruptions in “The Race”. “The Race”, named for its strong currents and navigational challenges, is the main passageway into the Sound. There would be 2-3 LNG tankers that enter The Race each week. The Coast Guard report identified that The Race as having a heavy concentration of recreational fisherman throughout the boating season. ***These security zones would disrupt and conflict with traditional uses including commercial and recreational fishing, boating activities, fishing, shell fishing, sailing and even enjoyment of our***

beaches. The creation of a permanent security zone will establish a statewide precedent for all water bodies. This will allow water bodies to be used in a manner that restricts public access, allows for non-water dependent uses to take precedence over water dependent uses and allows for large sections of public resources to be turned over to private corporations.

3. The project is inconsistent with the *Long Island Sound Comprehensive Conservation Management Plan (CCMP)*.

CCE believes that Broadwater conflicts with the stated goals of the CCMP including:

- Ensure that opportunities for water-dependent recreational activities are maximized without conflict with ecosystem management.
- Preserve and enhance the physical, chemical, and biological integrity of the Sound and the interdependence of its ecosystems.
- Ensure the social and economic benefits associated with the use of the Sound are realized to the fullest extent possible, consistent with social and economic costs.
- Establish a water quality policy that supports both the health and habitats of the living resources of the Sound and the active and passive recreational and commercial activities of people.

New York State and Connecticut signed the LI Sound Comprehensive Management Plan and are obligated to implement this meaningful strategy. Broadwater blatantly conflicts with each of the above policy objectives.

4. The project is inconsistent with the *Long Island Sound Coastal Policies Plan*

Policy 1 of the Coastal Policy Plan states this policy “shall foster a pattern of development in the Long Island Sound coastal area that enhances community character, preserves open space, makes efficient use of infrastructure...”

Policy one identifies the critical need to avoid disturbances of the shorelines and waters in open space areas. CCE believes that the open waters of the Long Island Sound should be considered as open space and afforded similar protections

Section 1.2 states, “Reserve coastal waters for water-dependent uses and activities....Do not displace or interfere with water-dependent uses...”

Policy 2 states, “Preserve historic resources of the Long Island Sound coastal areas.”

Policy 3 states, Enhance visual quality and protect scenic resources throughout Long Island Sound.

Policy 5 states, “Protect and improve water quality and supply in the Long Island Sound coastal area.”

Policy 6 states, “Protect and restore the quality and function of the Long Island Sound ecosystem.”

Policy 9 states the plan will “Provide for public access to, and recreational use of coastal waters, public lands and public resources of the LIS coastal area.”

Policy 10 states, “Protect LI Sound’s water-dependent uses and promote siting of new water dependent uses in suitable locations. “

Policy 11 states, “Promote sustainable use of living marine resources in Long Island Sound.”

5. The project is inconsistent in the recently signed North Shore Heritage Management Plan. In December 2006, NY State approved the first management plan for the north shore of Long Island to collectively showcase the North Shore’s treasures and provide stewardship over these resources. This area was designated as a natural heritage area in 1998 and a special commission worked for over 7 years to develop this important plan. Siting a natural gas terminal in the middle of the sound does not lend itself to the important goals of increasing tourism and preserving the natural beauty of the north shore character.

6. Broadwater violates the federal 2006 Long Island Stewardship Act. The Long Island Sound Stewardship Act was signed into law October 2006. The law’s principle goal is to preserve LIS for “ecological, educational, open space, public access, or recreational use. The critical goal of this important new legislation is to protect the water quality of the Sound and make the water body more usable and accessible to the public. Broadwater conflicts with this federal policy.

7. Broadwater is inconsistent with the 1972 federal Coastal Zone Management Act (CZMA). This significant state policy has been used to guide water protection policy for 35 years through out New York State and our Nation. Broadwater conflicts with both the stated purposes of this policy and the intended goals in multiple areas. Conflicts include but are not limited to;

- The CZMA seeks to avoid the expansion of infrastructure and services which would promote conversion of open space, natural areas or agricultural lands to developed use.
- The CZMA seeks to preserve open space and rural character as well as enhance community character.
- The CZMA seeks to evaluate cumulative impacts likely to lead to destruction or significant impairment of natural resources,
- Preserving traditional uses which define the character of the area and maintaining appropriate scales.
- Maximize preservation and historical character of the resource by protecting historical features.

- Protect aesthetic quality of Scenic Areas of Statewide significance.
- Minimize the loss of public trust land including public access.
- Protect and Restore the quality and function of NYS's ecosystems, including the Long Island Sound.
- Protect the marketability of aquatic and fishery resources.
- Protect aquatic resources so as to provide a recreational resource experience and viable business opportunities for commercial and recreational fisheries.
- Maintain the navigability of waterways. Broadwater will have pervasive and continuous impacts on navigable waters.

8. **Broadwater is inconsistent with *The New York Ocean and Great Lakes Ecosystem Conservation Act signed in 2006.*** The traditional “first-come, first-served” approach to the use of New York’s estuaries threatens their protection, conservation and sustainable use. This legislation was crafted to manage estuaries in a more protection fashion. The stated goal of this legislation is to “conserve, maintain and restore coastal ecosystems so that they are healthy, productive and resilient and able to deliver the resources people want and need.” CCE attended 3 out of the 4 public hearings sponsored by FERC, US Coast Guard, Army Corp of Engineers and the NYS Department of State regarding the Broadwater DEIS. The public was overwhelming clear in their collective message that what people **want** is for the Long Island Sound to be preserved for the benefit of the public and traditional water-dependent uses. In addition, this legislation was designed to specifically apply to massive projects such as Broadwater which need to be evaluated and reviewed in a more comprehensive manor for their potential impact to the estuarine system rather than a segmented picture as provided by FERC’s DEIS.

9. **Alternative Analysis** – New York State needs to review all reasonable alternatives including but not limited to alternative sites, designs and technologies.

The FERC Broadwater DEIS does not adequately address the alternatives to the Broadwater project. CCE is not opposed to LNG and is not opposed to LNG facilities. CCE opposes Broadwater based primarily on the siting of Broadwater in Long Island Sound, an Estuary of National Significance and a national, regional, and local treasure. CCE believes that there are viable alternatives that the DEIS glosses over. CCE does not believe the answer to any given need is in one silver bullet project, rather there several real solutions that will not close off portions of the open waters of LIS to multi-national, multi-billion dollar corporations. CCE offers the following comments regarding alternatives:

A. The DEIS bases its alternatives on the assumption that an additional 1bcf a day is needed to the region, without a comprehensive analysis of whether or not that is a REAL need.

Nowhere in the DEIS is there a substantiated calculated analysis of what the future need will be. The DEIS points to LIPA’s Energy Plan for 2004-2013 as evidence of increasing demand for energy. The DEIS then recognized that the LIPA Energy Plan lays out a comprehensive plan to meet the increasing energy need, which

includes a variety of projects. The LIPA plan does not indicate nor discuss the need for a LNG project. It is unclear how the DEIS translates facts such as these into a demonstrated need for an additional 1 bcf a day.

In the alternatives section of the DEIS, many proposed and currently under construction projects appear to only be evaluated at the standard of 1bcf/per day. The projects are not looked at holistically; rather each project is looked at and then eliminated due to the fact that the project will not produce 1 bcf of natural gas per day.

For example the DEIS looks at expanding additional pipelines such as the Algonquin Pipeline that serves the Northeast region. The document reads (page 4-7), “To supply an additional 1.0 bcf per day of natural gas to the region, the Algonquin system would require significant modification and expansion.”

The DEIS needs to look at permitted pipeline expansion projects, such as Millennium Pipeline, the expansion of the Iroquois Pipeline (called Market Expansion), and Islander East, in conjunction with renewable projects, such as the Long Island Offshore Wind Project. In addition, the potential for Long Island to re-power old, antiquated power plants, which is estimated to increase energy efficiency by 50-90%, should be factored in. CCE believes that this comprehensive assessment provides for a more a complete picture and understanding of our true energy need and any alleged lack of supply or proposed infrastructure. In addition, Islander East representatives have informed CCE that if Islander East were approved they would be able to bring NEW sources of natural gas to Long Island from both the approved LNG facility in Canada and the two newly approved sub-sea LNG pipelines to be located 14 miles offshore of Massachusetts. These two pipelines will be providing 1 bcf of gas to the northeast market.

From a public perspective smaller projects that are less intrusive, less damaging, less dangerous are preferable over one large massive project.

B. CCE is concerned with the abundance of permitted, proposed, and planned LNG projects in the Nation, particularly in the Northeast region. CCE believes that the FERC DEIS does not adequately, nor objectively evaluate these viable alternatives.

In 2005 FERC stated that 8-10 LNG terminals would satisfy energy demand in the Nation. Currently 16 out of 17 projects have been approved by FERC. There are currently an additional 40 projects pending review and approval.

In the Northeast region there are projects that have already been approved that will supply an additional 3.2 bcfd. There are another 5 proposed projects (excluding Broadwater) that would supply an additional 5.2 bcfd. There are also 9 planned projects that would provide 8.3 bcf. CCE questions the need for 16.7 bcfd of natural gas to the Northeast region. FERC rules out all of these approved, proposed, and

planned projects because they are located to far away from NY/CT markets. It is unclear why FERC would object and outright dismiss the potential for utilizing pipeline infrastructure when FERC, in the past, has always approved such infrastructure. Currently, NY/CT currently receives natural gas and electricity from many of the approved, proposed, and planned location areas.

One approved facility in Canada, the Bear Head project, which would supply 1.5 bcf/d, has been permanently halted because they could not secure LNG sources. In general, the United States used less LNG in 2006 than in 2005 because the demand was so high in other countries and those countries were willing to pay more for it. This resulted in nations diverting LNG resources away from the US toward other nations. Much of the Broadwater LNG supply will come from hostile countries in the Middle East and Russia, making the US more dependent on foreign sources for energy. Today, most of the U.S. natural gas comes from Canada and the Gulf of Mexico.

CCE believes that the DEIS needs to realistically evaluate the alternatives to the Broadwater project.

C. The DEIS needs to further evaluate a true offshore location

Broadwater is proposed in a two-shore location, between NY and CT. It is proposed in an Estuary of National Significance, a federally designated Essential Fish Habitat area, a commercial trawl lane, a prime lobster ground.yet, the DEIS claims a location in the Atlantic ocean would have greater environmental impacts because the pipeline would have to be longer. This is simply NOT correct.

CCE believes that the DEIS did not adequately evaluate this important alternative. **This project needs to be seriously evaluated outside of the Long Island Sound estuary.**

CCE believes that this option was handily rejected in the DEIS because it would increase the cost to the applicant. FERC, as well as New York State's review needs to consider the cost of Broadwater to the many and real negative impacts to the estuary's ecosystem, public use and commercial and recreational value and not just infrastructure cost to the applicant.

For instance, the **DEIS and NYS DOS needs to further evaluate a SRV open-ocean facility.** The SRV is a pipeline that rises up and accepts re-gasified LNG from incoming tankers and then lowers down. Massachusetts recently approved The Bay State Plan, which are 2 offshore SRV's, the Northeast Gateway and the Neptune Project. This compromise plan came out AFTER a FSRU was proposed to the Massachusetts area. It was determined that the SRV, located in the open ocean would have less environmental impacts and require less security by the US Coast Guard, while still being able to supply 1 bcf/d to the region. This was a compromise

plan created after massive opposition to an LNG barge called Weavers Cove. This option is not adequately evaluated in the DEIS.

In addition, the DEIS states that the Atlantic Sea Island Group has proposed an offshore Island that would be capable of storing and re-gasifying LNG. The Island would be 13.5 miles off of New York, in the Atlantic Ocean. The Island would serve the same markets as Broadwater and be capable of sending out 2 bcf/d, twice the capacity of Broadwater. The DEIS identifies the Atlantic Sea Island as a project that will serve the same market as Broadwater and then side steps this as a potential alternative with erroneous information. The DEIS identifies the pipeline connection for the Atlantic Sea Island as being problematic because of the distance that would be needed for the pipeline to travel to shore. However, when CCE representatives met with Howard Bovers, Chairman of the Atlantic Sea Island Group, he conveyed that the necessary pipeline connection would 14 miles from the proposed island to the existing Transco Pipeline. This is 8 miles **LESS** that what is needed for the Broadwater connection. It is curious why the DEIS identifies the Atlantic Sea Island pipeline connection as problematic while identifying Broadwater's pipeline, which is a longer pipeline and in an estuary, as having only minimal impacts.

In addition, the DEIS cites concerns that the Atlantic Sea Island maybe to close to shipping lanes. This same fact for Broadwater was addressed by declaring that the ships, commercial and recreational boaters will just have to navigate around the structure. Also, according to representatives of the Atlantic Sea Island the location is between shipping lanes as opposed to Broadwater which is directly in the middle of a heavily trafficked shipping lane.

The Atlantic Sea Island proposal should be assessed as a real alternative to Broadwater. This alternative may prevent damage to lobster populations and avoid public access concerns in the estuary and in the Race. CCE believes that this is an inadequate assessment and believes that FERC and NYDOS should further analyze this alternative.

10. Broadwater is NOT a water dependent use. Water dependent use means an activity which can ONLY be conducted in, on, over or adjacent to a water body because such activity requires direct access to the water body, and which involves an integral part of such activity, the use of water. CCE believes that while Broadwater may prefer to be located in the middle of Long Island Sound, their activity is not **dependent** on such a location. There are currently 200 water-dependent uses documented for the Long Island Sound. Multiple state policies specifically express New York State's desire to avoid actions which would displace, adversely impact or interfere with existing water dependent uses. Broadwater displaces, interferes and adversely impacts traditional water dependent uses including lobstering, recreational and commercial fishing, recreational boating and general use of the main exit and entranceway of the Sound known as "The Race."

11. Protection of Bottomlands. - Broadwater conflicts with the policies and regulations of New York State to protect bottomlands.

NYS Office of General Services must consider the “size, character and effects of the project,” as well as, “the potential for interference with navigational, public use of waterway and riparian/littoral rights” and “consistency with the public interest for purposes of fishing, bathing and access to navigable waters.” At the time the public lands law was enacted, no one envisioned that easements would be sought for the vast scope and type of project Broadwater is proposing. The Law never intended to permit the transfer of bottomlands to a private corporation for the exclusive right to use this expansive amount of acreage..

In conclusion, CCE is asking the New York State Department of State to find that Broadwater is inconsistent with multiple state laws as well as the federal Coastal Zone Management Act. It is our contention that this project will serve to undermine the multiple local, state and federal efforts that have been working to preserve and restore the Long Island Sound. We have made progress in the last ten years. We need to continue along this pathway and continue to revitalize and advance protection of this estuary. Thank you for your consideration of this important matter.

Sincerely,

Adrienne Esposito
Executive Director

Cc: Senator Clinton,
Senator Schumer
Congressman Tim Bishop
Congressman Steve Israel
Congressman Peter King
Congresswoman Carolyn McCarthy
Congressman Gary Ackerman
Congresswoman Nita Lowery
Governor Spitzer
Secretary of State Lorraine Cortes-Vazquez
Steve County Executive Steve Levy