



JEFFREY DINOWITZ
Assemblyman 81st District
Bronx County

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

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July 18, 2008

Honorable Michael Bloomberg
Mayor of the City of New York
City Hall
New York, NY 10007 By Return Receipt Mail and Fax 212-788-7754

Honorable Emily Lloyd
Commissioner
New York City Department of Environmental Protection (DEP)
59-17 Junction Boulevard
Flushing, NY 11373 By Return Receipt Mail and Fax 718-595-3525

Honorable Robert LiMandri
Commissioner
New York City Department of Buildings (DOB)
280 Broadway, 7th Floor
New York, NY 10007 By Return Receipt Mail and Fax 212-566-3785

Re: Request for a FINAL DETERMINATION AND APPEAL of the decision for the August 1st start for blasting at the Jerome Park Reservoir, as well as the decision that a new building permit is not required for the Croton Water Treatment Plant (CWTP)

Dear Mayor Bloomberg, Commissioners Lloyd and LiMandri:

This is a request for a final administrative determination and appeal to the decision to conduct blasting at the Jerome Park Reservoir, as part of the Croton Water Treatment Plant project; as well as a request for a final administrative determination and appeal to the decision that a building permit is not required for the CWTP.

On June 19, 2008 the community was first informed that DEP planned to conduct blasting at Jerome Park Reservoir on or about August 1, 2008. According to Borough President Adolfo Carrion, this is excavation work as part of the tunnel work for CRO-312 awarded in 2007 to Skanska/Gottlieb, Skanska/Tully Construction JV for \$1.327 billion. It is clear that this matter was under consideration by your department for some time and not brought to the attention of the public, the community boards or the elected officials.

The three affected Community Boards held a meeting on July 15 to hear from the public. The stakeholders overwhelmingly voiced opposition to this violation of the 2004 Final Supplemental Environmental Impact Statement (FSEIS) without another supplemental EIS. The general opinion was that blasting would have a devastating impact on the health, safety and welfare of area residents and

students; as well as potential detrimental impacts on property through fly rock and/or vibration induced structural damage; and is in direct contravention to DEP's express promise to the public that "...**There would be no surface drilling or blasting in relation to work at the Reservoir...**" [emphasis added] (SFEIS @ Ch.8.2, p184)

Having provided firm assurances that there would be no blasting, and thus having avoided its obligation to take a hard look at blasting impacts and alternatives thereto during the SEQRA process, DEP may not now claim that blasting is an available option unless and until an SFEIS on this impact is undertaken; furthermore, now proposing a heretofore dismissed blasting option comprises substantial "changes proposed for the project" and/or a substantial "change in circumstances related to the project" [6 NYCRR 617.9 (a)(7)(i)]. Significant adverse environmental impacts related to blasting at the Reservoir were not addressed in the SFEIS and must now be addressed before DEP can proceed with any blasting. The Commissioner is mandated to require a supplemental EIS before proceeding.

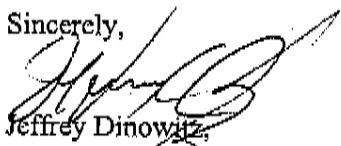
I agree with the Borough President's July 11, 2008 letter, stating that the "public must receive a full explanation of DEP's decision prior to work proceeding." Moreover, the timing of your announced blasting is curious, as you know that Community Boards are charter exempt from holding meetings during July and August.

On another related matter, the Department of Buildings informed the public on July 15, 2008 that the DEP's 2006 withdrawn application for a New Building permit (NB) at the Croton Water Treatment Plant is exempt based on the following DEP statement: "Under the New York City Charter § 643(7), a building permit is not required for the Croton Water Treatment Plant because it is appurtenant to an underground tunnel. Permits for other aspects of work are required, and the Department of Environmental Protection will comply with these requirements."

Neither this information, nor the 1989 memo referencing the Jerome Avenue Pumping Station, was discussed in the many years of the many environmental reviews leading up to the 2004 FSEIS. The job description of this "withdrawn NB" includes the shafts at the Jerome Park Reservoir, and therefore that decision is also appealed. What was the point of the ULURP if you did not need an NB?

I respectfully request an immediate response to these matters, or will have to consider these actions to be constructively a denial, and final decision of an administrative body exhausting all our available remedies. Please respond within one business day advising your final determination on these time-sensitive matters.

Sincerely,


Jeffrey Dinowitz,
Member of Assembly

Copy to

Hon. William Thompson, Comptroller
Hon. Adolfo Carrion, Borough President
Hon. Oliver Koppell, City Council Member, CD 11
Hon. Michael Cardozo, Corporation Counsel
Hon. Gregory Faulkner, Bronx CB7 Chair
Hon. Damian McShane, Bronx CB8 Chair
Fr. Richard Gorman, Bronx CB12 Chair
Hon. Anne Canty, NYCDEP Assistant Commissioner
Hon. Hector Aponte, NYCDPR Borough Commissioner
Ezra B. Glaser, Esq.