



NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

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Press Release

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For Immediate Release

**COURT ALLOWS NEW YORK CITY TO PROCEED
WITH CONSTRUCTION
OF CROTON WATER TREATMENT PLANT IN THE BRONX**

***COURT REFUSES TO ISSUE INJUNCTIONS IN TWO REMAINING LAWSUITS CHALLENGING THE ADEQUACY
OF NEW YORK CITY'S ENVIRONMENTAL REVIEW OF THE TREATMENT PLANT***

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New York, May 13, 2005 – The New York State Supreme Court in Queens County this week rejected two separate requests from the Town of Eastchester in Westchester County and the community group Bronx Environmental Health and Justice to halt construction of the Croton water treatment plant currently underway in Van Cortlandt Park in the Bronx. In both cases, the judges found that the City Department of Environmental Protection adequately identified and reviewed all potential environmental impacts of the plant. These cases were the two remaining lawsuits yet to be decided by the courts on this issue.

In the first matter of *Town of Eastchester et al. v. New York City Department of Environmental Protection et al.*, Justice James P. Dollard denied the Town's request for a preliminary injunction and dismissed all claims against the City. The Town and several individual residents had argued that the City was required to assess the potential impacts of its decision to locate the treatment plant in Van Cortlandt Park in the Bronx on the Town's water supply and water infrastructure. The Court concluded that the State and City environmental review laws do not require the City to analyze the cumulative impacts of its site selection decision on communities outside the City, which draw water from the City's drinking water system, but which were not considered as potential locations for the Croton treatment plant. The judge found that the City is not required to provide treated water to the Town, nor is it responsible for deciding how the Town will meet its independent water treatment obligations or for assessing the Town's decision as part of the process to locate the Croton water treatment plant.

In the second matter, *Bronx Environmental Health and Justice v. New York City Department of Environmental Protection*, Justice Marguerite Grays likewise denied Bronx Environmental's request for a preliminary injunction and dismissed all claims against the City. Bronx Environmental had challenged various aspects of the City's environmental review, including, among other things, the air quality analysis, public participation, availability of documents and environmental justice issues. In addition, Bronx Environmental alleged that the decision to site the treatment plant in the Bronx rather than in Westchester County discriminated against minority communities in the Bronx in violation of the State Constitution and City Administrative Code.

The Court rejected all of Bronx Environmental's claims. Among other things, Justice Grays held that the EIS contained all the information necessary for the public to understand the potential environmental impacts, that the air quality analysis was comprehensive and thorough, that the public was afforded ample opportunity to comment and participate in the process, and that no environmental justice analysis was required at this time. In addition, Justice Grays found that the discrimination claims under the State

Constitution and City Administrative Code were without merit.

Justice Grays in January had issued a Temporary Restraining Order halting construction of the treatment plant, which the Appellate Court subsequently stayed.

DEP Commissioner Emily Lloyd said, "Providing safe drinking water for all residents of the City is our top priority, and the Croton project needs to move ahead to meet this goal. We applaud the Law Department's successes on behalf of DEP."

Corporation Counsel Michael A. Cardozo of the Law Department added, "We are gratified by these decisions that will allow construction of this vital project to continue."

The City is building the Croton water treatment plant as required by federal and state law, and a federal court consent decree with the United States and State of New York. The City prepared an environmental impact statement for the Croton treatment plant in 1999 and a supplemental environmental impact statement 2004. Based on its assessment of environmental impacts and other considerations, in July 2004 the City determined that the Mosholu golf course in Van Cortlandt Park was the most suitable location for the Croton water treatment plant. The treatment plant will be built underground, beneath the golf course driving range.

Susan Amron, Janet Siegel, and Daniel Greene of the Law Department's Environmental Law Division represented the City in both matters.

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