



January 6, 2021

Caitlyn P Nichols
NYSDEC Region 2 Headquarters
47-40 21st St
Long Island City, NY 11101
(718)482-4997
DEP.R2@dec.ny.gov

Re: 2455 Third Ave., Bronx NY 10451
Application ID: 2-6004-00647/00001
Article 15 Title 15 Water Withdrawal Non-public

Dear Ms. Nichols:

Please accept these seven comments on the above listed permit.

The notice stated: The applicant proposes to install and operate a temporary construction dewatering system with a proposed maximum withdrawal of 360,000 gallons per day to facilitate the construction of a new multi-story building. Pumped groundwater is to be directed to an existing combined sewer located in East 135th Street between Rider and 3rd Avenues which discharges to NYCDEP's Wards Island WRRF.

Comment 1: The documentation presented from the New York City Department of Environmental Protection has expired.

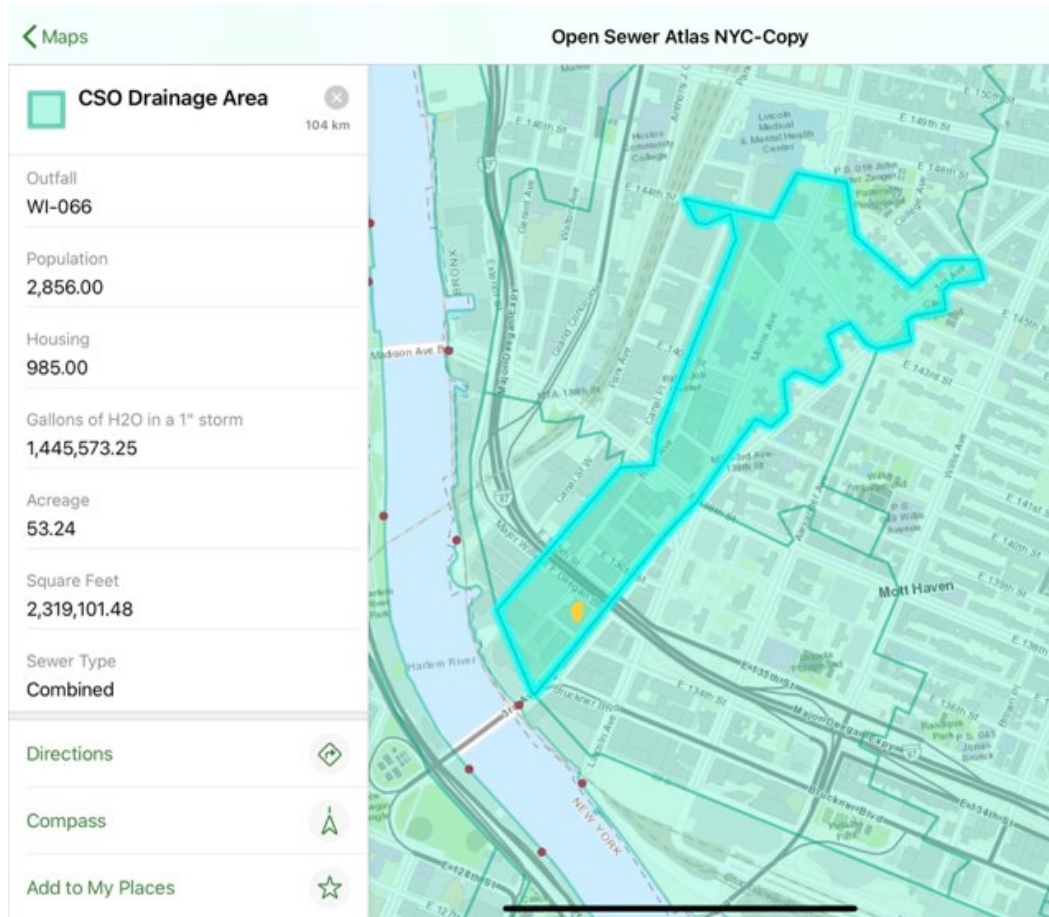
The notice stated: The State Environmental Quality Review (SEQR) Determination: Project is an Unlisted Action and will not have a significant impact on the environment. A Negative Declaration is on file. A coordinated review was performed. SEQR Lead Agency: NYC Dept of City Planning. The SEQR determination statement finds: *"This Revised Negative Declaration reflects modifications to the proposed actions as certified, under consideration by the City Planning Commission (CPC), based on verbal and written testimony from the CPC and stakeholders as delivered at the CPC Public Hearing. The modifications concern revisions to the proposed zoning text amendments. The zoning map amendment would not change. ..."*

Comment 2: The document provided for the SEQR Determination is a Type 1 action – not an Unlisted. The lead agency, the Department of City Planning, was preparing a zoning change for housing. It did not evaluate the impact of the groundwater withdrawal. There is no mention of groundwater withdrawal in the SEQR review or the revised EAS.

Comment 3. There was no coordinated review; it was only sent to DCP, as evidenced by the document cc's. In fact, the only review was the comments to CPC at their hearing. Comments at a CPC hearing are not sufficient grounds for a determination of Negative Declaration.



Sewersheds and CSS. A quick review of the NYC CSO map on Arc GIS describes the small subsewershed catchment area as 53 acres which discharges 1,445,573.25 gallons of water in a 1-inch rain event.



As the map above indicates, the existing sewer line for this project cannot handle any "clean" water (ie, stormwater)) let alone the singly treated albeit "groundwater". The application proposes to build what amounts to an underground stream within the sewer line, leading to sewer backups in storm events and increased outfall at Wards Island 066. As WI066 is included in the DEP LTCP Open Waters Plan for reducing CSO, proposed project would alter DEP mitigation and reduction calculations for meeting DEC water quality targets.

Comment 4: It would appear that this sewer line is already overloaded, in a flood zone and may include runoff from the MDE and the 3rd Avenue Bridge. What other alternatives were reviewed to collect and remove the groundwater to another site? Was the chosen alternative the no cost alternative, that is throw it down the drain instead of removing, dewatering and paying to dump it in an appropriate location? Neither the Wards Island treatment plant nor the Harlem River are appropriate locations.



Groundwater Pollution. From the October 5, 2020 NYC DEP letter, it is obvious that this is a result of the NYS DEC BCP C203125:

“This is in response to the October 5 and 8, 2020 submissions requesting permission to discharge up to **360,000 gallons per day (gpd)** of groundwater generated during the construction of a new multi-story building located at 2455 3rd Avenue, Bronx, NY 10451 (New York State Department of Environmental Conservation Brownfield Cleanup Program Site Code C203125). The groundwater will be treated through one 8,000 gallon settling tank, two 5-micron bag filter units, and two 5,000 lb carbon units, per provided schematic and information, before discharging to a proposed underground 8” pipe. The pipe leads to the existing 36” combined sewer located at East 135th Street between Rider and 3rd Avenues in Bronx, NY.”

We understand from the Final BCP (Remedial Investigation Report Langan Project No. 190051701 13 May 2020) that “historical uses of environmental concern at the site include a railyard (circa 1935-1951). ... The proposed redevelopment will include removal of the existing concrete building slab and concrete paved lot and excavation of at least 2 feet of historic fill to accommodate installation of the cover system.” The list of the pollutants found in the groundwater report is chilling (Langan 2020, page 10):

“Groundwater was observed at depths ranging from about 5.25 feet bgs in the western part of the site to 8.25 feet bgs in the center of the site. Groundwater is inferred to flow west towards the Harlem River and may be tidally influenced.

Groundwater samples were compared to the NYSDEC 6 NYCRR Part 703.5 and the NYSDEC Technical and Operational Guidance Series (TOGS) 1.1.1 Ambient Water Quality Standards and Guidance Values (SGVs) for Class GA water. The results from the groundwater samples collected are summarized below:¹

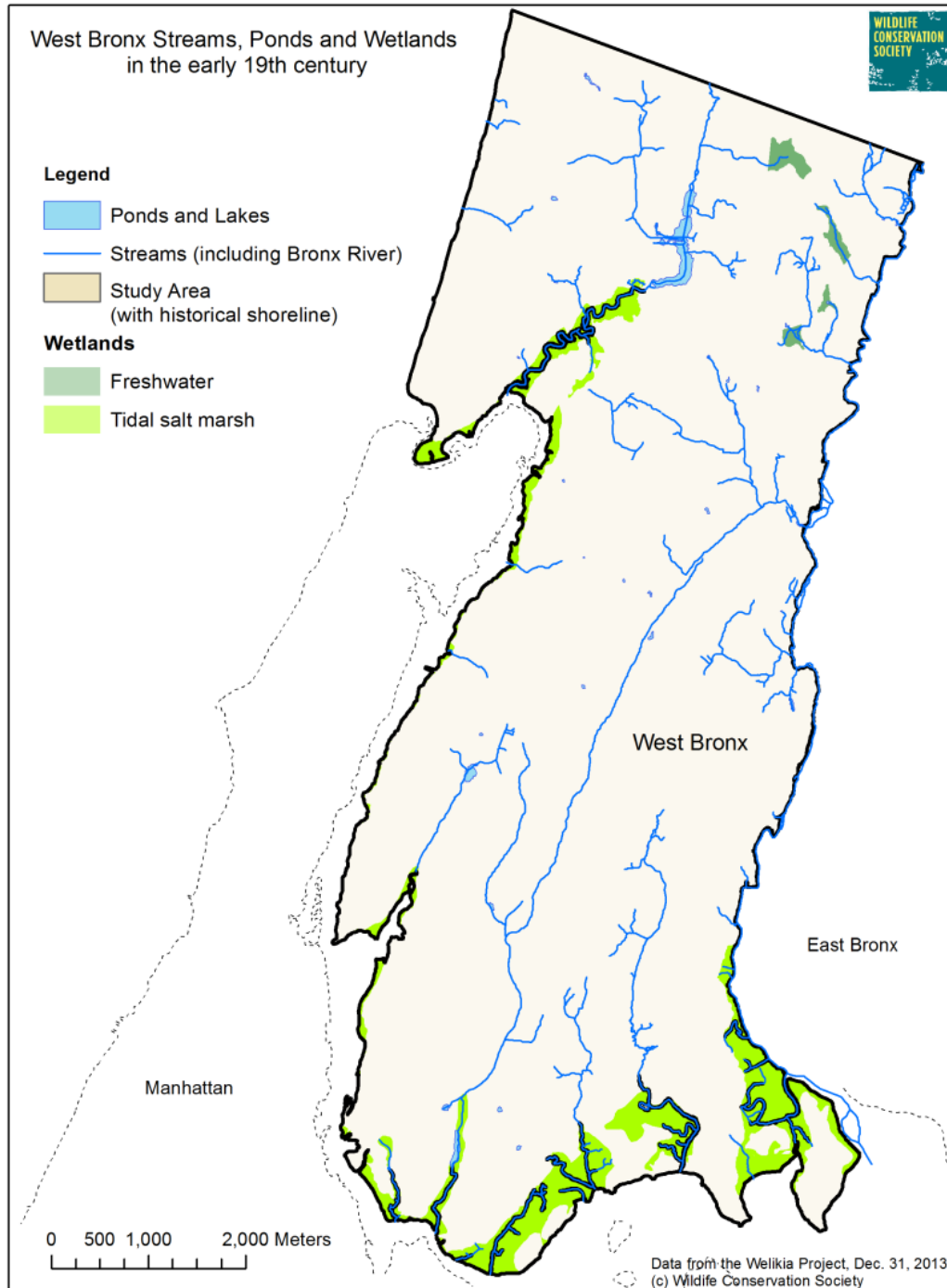
- o One SVOC, naphthalene (max concentration 56 micrograms per liter [$\mu\text{g/L}$]), was detected at a concentration exceeding the SGV.
- o Total metals, including iron (max concentration 12,700 $\mu\text{g/L}$), manganese (max concentration 547.5 $\mu\text{g/L}$), and sodium (max concentration 245,000 $\mu\text{g/L}$) were detected at concentrations exceeding their SGVs.
- o Dissolved metals, including iron (max concentration 13,200 $\mu\text{g/L}$), manganese (max concentration 581.9 $\mu\text{g/L}$), and sodium (max concentration 252,000 $\mu\text{g/L}$), were detected at concentrations exceeding their SGVs.”

Comment 5: The pollutants should have been remediated in the BCP. Meanwhile, what other alternatives were used to dispose of the pollutants? We suggest that after a complete and thorough review, then come back for the permit.

¹ The NYSDEC Part 375 PGW SCOs were only applied to analytes that also exceeded groundwater regulatory standards in groundwater samples collected from the site. The PGW SCOs are applicable to those constituents that are in areas that could be a source of groundwater contamination.



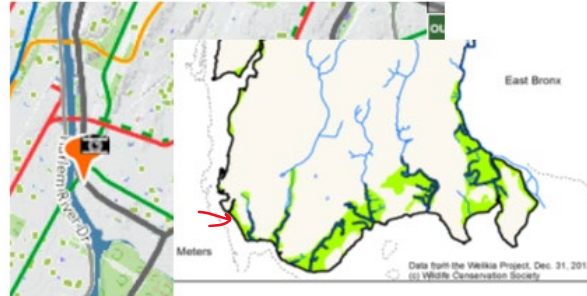
West Bronx Streams, Ponds and Wetlands in the early 19th Century. Here is the map from Eric Sanderson which includes this site (as marked on the second map).²



² <https://welikia.org/wp-content/uploads/WCS-final-report-West-Bronx-historical-ecology-1-10-2014.pdf>



Below are two maps combined to illustrate that this site was influenced by an inland tidal salt marsh years ago, and apparently filled in at a undetermined date later.



Comment 6: The groundwater withdrawal may have an unintended impact on the land, if it is a stream or a filled tidal marsh. This increases the sensitive nature of the landscape which has never been reviewed in and EAS as it was only discovered recently after the remedial plan from the BCP. Why are we allowing the BCP to extend to the construction process? The BCP is not complete. What other alternatives were used to protect the natural environment of buried streams?

Applicant's History. Below is a list of current violations pending with penalties from the NYC Department of Buildings:

**NYC Department of Buildings
OATH/ECB Violation Search by Location**

[Click here for more information about Severity, Violation and Hearing Statuses](#)

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Premises: 2439 3 AVENUE BRONX BIN: 2000782 Block: 2319 Lot: 37 CB: 201

Total Violations	OATH/ECB Hearings
Issued = 76 Open (Certificate of Correction Required) = 34	Completed / Defaulted = 71 Pending = 5

OATH/ECB Number	Certification Status	Respondent	OATH/ECB Hearing Status	Violation Date	Infraction Codes	OATH/ECB Penalty Due
35565556L	OPEN - NO COMPLIANCE RECORDED Severity: CLASS - 2	225 EAST REALTY PARTNERS Inspect Unit: SPECIAL OPERATIONS	PENDING	12/09/2021	263	\$1,250.00
39050032N	OPEN - NO COMPLIANCE RECORDED Severity: CLASS - 1	225 EAST REALTY PARTNERS Inspect Unit: QUALITY OF LIFE	PENDING	10/26/2021	101	\$2,500.00
39050031L	OPEN - NO COMPLIANCE RECORDED Severity: CLASS - 2	225 EAST REALTY PARTNERS Inspect Unit: QUALITY OF LIFE	PENDING	10/26/2021	203	\$1,250.00
39050030J	OPEN - NO COMPLIANCE RECORDED Severity: CLASS - 1	225 EAST REALTY PARTNERS Inspect Unit: QUALITY OF LIFE	PENDING	10/26/2021	101	\$6,250.00
39050029M	OPEN - NO COMPLIANCE RECORDED Severity: CLASS - 1	225 EAST REALTY PARTNERS Inspect Unit: QUALITY OF LIFE	PENDING	10/26/2021	103	\$6,250.00



Comment 7: This permit application is not complete. This site has many complaints and violations indicating the applicant does not pay attention to regulations. Until those are resolved, this should not be approved.

Thank you for this opportunity to comment. Please send the response and next steps to karen@bceq.org.

Sincerely,

Karen Argenti
Secretary, BCEQ

Robert Fanuzzi
President, BCEQ

Mychal Johnson
Board Member, BCEQ
& South Bronx Unite!

Copy to NYCDEP, SWIM