

Filtration foes suffer two more setbacks

By Alejandro Lazo

Two Supreme Court justices in Queens dealt a one-two punch to efforts to halt construction of a water filtration plant in Van Cortlandt Park, dismissing lawsuits brought by the Town of Eastchester and Bronx Environmental Health and Justice, a citizens' group based in the Norwood neighborhood that borders the construction site.

Representatives for both said they were likely to appeal.

Charging environmental racism, the Bronx organization argued that the city had violated residents' civil rights by choosing a site for the \$1.5 billion plant near a densely-populated neighborhood most of whose inhabitants were poor and members of minority groups. Saying asthma was a major problem, the suit said the city Department of Environmental Protection had failed to conduct a proper air

quality review or fully lay out the health risks related to the plant.

The suit also charged that the DEP was not forthcoming in releasing documents and did not seek enough public participation when evaluating the plant.

But Judge Marguerite Grays ruled that the environmental impact statement included all of the information necessary for the public to understand the effect of the plant, and that the city had given the public enough time to comment.

Judge Grays added that the DEP was not obligated to study the relationship between exhaust from traffic and asthma rates in the area.

And she said, "The request for judicial review of the environmental justice analysis is premature," adding that the group could not prove that the city had "intentionally discriminated against minority communities in its siting

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Judges have dismissed suits brought by two filtration opponents. Both say they will appeal. But so far every legal action against the filtration plant has failed.

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decision."

The judge side-stepped allegations that the DEP had cooked the books in its cost analyses, saying the law did not require cost figures in environmental impact statements.

Noting that Justice James Dollard had dismissed several of the arguments made by the Bronx organization when they were raised by another group challenging the plant, the Croton Watershed Clean Water Coalition, she said she concurred with his reasoning.

Eastchester contended that the DEP failed to consider the impact that building the plant on Mosholu would have on Westchester residents. If the city had chosen to build the plant on land it owns in Westchester, Eastchester residents would not be obliged to build a water pumping plant, the suit argued.

No obligation

Judge Dollard found simply that the city was not obligated under the law to consider Eastchester in its evaluation.

DEP Commissioner Emily Lloyd hailed the dual decisions. "Providing safe drinking water for all resi-

dents of the city is our top priority, and the Croton project needs to move ahead to meet this goal," she said in a statement.

Reed Super, a lawyer for the the Environmental Law Clinic at Columbia University, which provided the legal team for Bronx Environmental Health and Justice suit, added, "We're extremely disappointed in the judge's decision."

Likely appeal

Fay Muir, a leader of the Norwood group said, "Absolutely, we're definitely going to appeal."

John Sarcone, attorney for the Town of Eastchester, also indicated that an appeal was likely.

"We are reviewing our options and feel strongly that the court's decision is incorrect and that the consequences are irreversible," Mr. Sarcone said. "We will likely appeal that ruling."

A lawyer for the Croton Watershed Clean Water Coalition, Jim Bacon, said his organization had filed an appeal and that oral arguments in a Brooklyn appellate court were expected to begin June 23.

Last week, Friends of Van Cortlandt Park said it had decided not to appeal the dismissal of its suit.