

April 18, 2007

Mr. Kenneth E. Moriarty, Jr. P.E.
Director, In-House Design
Bureau of Engineering Design & Construction
New York City Department of Environmental Protection
96-05 Horace Harding Expressway, 5th Floor
Corona, NY 11368-5107

Re: Permit Applications for Wells Subject to Article 23 of the Environmental Conservation Law Which are Near NYC Water Tunnels and Aqueducts

Dear Mr. Moriarty:

This is to inform you of the Department's plans for processing applications to drill wells subject to Division of Mineral Resources' (DMN) permitting requirements in proximity to tunnels and aqueducts which serve New York City's water supply. Technical and legal staff have reviewed the proposed guidelines and application requirements provided by the New York City Department of Environmental Protection, and considered the discussions at our meeting of January 25, 2007. As a result, we have concluded that the process described below affords the most effective and efficient use of existing authority and resources while ensuring that NYCDEP's very valid concerns are addressed.

The process described herein pertains to the following well types, in any county for which NYCDEP provides maps to the Department as discussed below:

- wells drilled to any depth to explore for or produce oil and/or natural gas
- wells drilled to any depth for underground gas storage or solution salt mining
- stratigraphic, brine disposal and geothermal wells drilled deeper than 500 feet

The well types listed above are those addressed by Article 23 of the Environmental Conservation Law. As we discussed, Article 23 does not cover stratigraphic, brine disposal and geothermal wells that are not deeper than 500 feet, and does not cover water wells of any depth. We understand you have commenced discussions with this Department's Division of Water regarding certain wells that fall within that Division's purview.

Implementation of this process is dependent upon receipt, by the Department, of maps provided by NYCDEP which depict the location of the protective corridor along each tunnel and aqueduct of concern. To date, we have on hand the following map:

- Undated NYCDEP map of "City Tunnels No. 1, 2, 3 & Richmond Tunnel" received by DMN on January 18, 2007.

For proposed wells in the counties depicted on the above map, we will commence the permitting process described below immediately, using the above map as reference. As you have requested, Mr. Edward Coleman of your Department will be our contact person. You have indicated that you may wish to provide a more detailed map, which you may do at your earliest convenience.

For proposed wells in Delaware, Dutchess, Greene, Orange, Putnam, Rockland, Schoharie, Sullivan, Ulster and Westchester Counties, prior to receiving maps from NYCDEP, we will notify Mr. Michael Keating of your Department of any proposed well so that he can inform us of implications relative to tunnels and aqueducts. We will follow the below process for any location he indicates is of concern. Once you have provided this office with the necessary maps, we will follow the process only for wells within the protective corridor, with Mr. Keating as our contact person.

If you wish maps submitted to the Department to be safeguarded from disclosure under the critical infrastructure provisions, please review Section 616.7 of the Department's records access regulations, accessible at <http://www.dec.state.ny.us/website/regs/part616.html>, and proceed accordingly.

Permitting Process

1. Upon receipt of an application, DMN staff will determine whether the location is within the 1,000-foot wide protective corridor indicated on maps provided by NYCDEP.
2. If the location is not within the corridor, then DMN will process the permit per normal procedures. No contact with NYCDEP will be necessary.
3. If the location is within the corridor, then DMN staff will take the following actions:
 - a. Notify the applicant that the project is an unlisted action and may pose a significant threat to a municipal water supply, necessitating a site-specific finding of environmental significance. The applications will not be deemed complete until sufficient information has been provided for DMN staff to make this finding. If it is demonstrated to NYCDEP's satisfaction, through proposed drilling and deviation surveying protocols, that it is feasible to drill at the requested locations with confidence that there will be no impact to tunnels or aqueducts, a negative declaration will be issued, if appropriate, and any required conditions on construction will be included in the drilling permit; and
 - b. Provide the appropriate NYCDEP contact person with a copy of each application for a permit to drill, along with the well plat and/or project site plan and the proposed well drilling and construction procedure, including deviation survey procedures if any have been proposed.
4. DMN will not issue a permit to drill within the corridor prior to completion of the State Environmental Quality Review Act (SEQRA) process. Once NYCDEP is notified of a project proposed within the corridor, DMN encourages NYCDEP staff to initiate contact with the applicant as soon as possible to determine if the impacts can be mitigated. DMN will take notice of any agreement by receipt of NYCDEP's written concurrence with the well drilling procedures provided to DMN by the applicant. Any negotiated revisions to the applicant's original proposal must be submitted to DMN, in writing, by the applicant. NYCDEP's written concurrence must reference the date of the applicant's submission to DMN.

5. The DMN permits will, as always, be conditioned upon the applicant receiving any required local permit or approval. However, the DMN permits will *not* specifically require, or be contingent upon:

- the applicant's agreement to NYCDEP inspection requirements or the costs thereof,
- indemnification of the City of New York or any City agency, or
- additional insurance requirements imposed by NYCDEP.

6. A copy of any permit issued within the corridor will be provided to the appropriate NYCDEP contact when it is issued.

7. The DMN permits will require pre-spud notification to the appropriate NYCDEP contact.

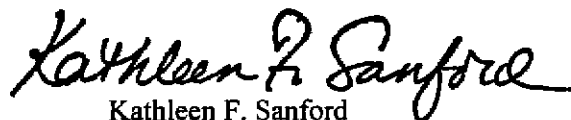
8. DMN will notify the appropriate NYCDEP contact of any proposal to move the location of a permitted well within the corridor.

We understand that you are in the process of working with the New York City Departments of Transportation and Buildings to further formalize NYCDEP involvement with projects that require permits or approvals from those Departments. Please keep me apprized of progress and any resultant impacts to the above DMN permitting process.

Finally, please note that I have copied Messrs. Coleman and Keating, as your designated contacts. Effective the date of this letter, we will contact Mr. Coleman or Mr. Keating directly and exclusively relative to any future applications and will also provide their names to prospective applicants. Unless you direct otherwise, we will continue to work with Mr. Burjor Kharivala regarding the General Theological Seminary and 250 Bowery projects. Please inform both Mr. Kharivala and Mr. Louis Huang of our appreciation for their cooperation and assistance for the past several years as we have addressed the increasing number of applications to drill wells subject to Article 23 in New York City and other downstate counties.

Please contact me with any concerns or questions.

Sincerely,



Kathleen F. Sanford
Chief, Permits Section

c: NYCDEP
E. Coleman (Flushing)
M. Keating (Katonah)

NYSDEC
R. Moore
B. Field/J. Harmon
S. Allen
J. Hairie
J. Dahl
T. Snow
D. Kendall

bc: P. Briggs/T. Noll/T. Loukides/file