



Save the Sound[®]

Action for our region's environment.

May 22, 2025

Esther Brunner

Mayor's Office of Environmental Coordination

100 Gold Street, 2nd Floor

New York, NY 10038

via email: ebrunner@cityhall.nyc.gov

Dear Ms. Brunner,

Save the Sound hereby submits the following comments regarding the Draft Environmental Impact Statement ("DEIS") for the Bally's Bronx Casino Project, proposed for construction in Ferry Point Park ("the Project"). We have serious concerns about this project and the inadequate DEIS submitted by the project applicant, Bally's Corporation, as described in detail below. Bally's must address these deficiencies in the Final Environmental Impact Statement ("FEIS"); if it cannot, the Mayor's Office of Environmental Coordination ("MOEC") and all involved agencies must disapprove this project in negative findings statements.

The DEIS fails to adequately disclose the significant adverse environmental impacts that are likely to result from this large private development on invaluable waterfront NYC parkland, identify effective and feasible mitigation measures, analyze a sufficient range of alternatives, or provide a document that facilitates meaningful public involvement, among other deficiencies described below. It therefore does not satisfy City Environmental Quality Review (CEQR) or State Environmental Quality Review Act (SEQRA) requirements and cannot provide a rationale to proceed with the Project. Our reasoning is detailed below and summarized here:

- **Parkland Alienation and Loss of Irreplaceable Open Space:** The Bally's proposal requires parkland alienation legislation permanently removing at least 17 acres of NYC parkland located directly on the East River and proximate to Long Island Sound from the public domain for private use by Bally's to build a casino complex in the middle of Ferry Point Park. Save the Sound does not believe that parkland improvements or replacement parkland is available that would adequately balance such a massive loss of unique waterfront land to the local community or the NYC Parks system, and the DEIS presents no evidence to the contrary.

- **Failure to Consider Range of Reasonable Alternatives:** The DEIS's alternatives analysis does not consider a reasonable range of alternatives, instead focusing only on the Action, No-Action, and No Unmitigated Impact Alternatives. It fails to consider alternatives that reduce the size of the Project, such as by reducing the Project footprint (i.e. reducing the number of gaming positions, hotel rooms, or parking spaces) or removing components that are not germane to the Project's purpose (i.e. any component other than the casino). Further, it assumes in the three alternatives currently in the DEIS that the existing golf course will continue to operate in perpetuity, despite that the current concession license will expire in 2035. Ferry Point Park has many potential futures other than as a golf course or casino site, and the DEIS must consider a reasonable range of these alternatives.
- **Inadequate Analysis of Stormwater and Sewage Impacts.** The DEIS fails to capture the full scope of the Project's stormwater and sewage impacts by failing to complete a wet weather analysis of impacts to sewer capacity and combined sewer overflows (CSOs), not once mentioning the current impairment of Westchester Creek or the East River and how the Project would avoid further perpetuating the water quality challenges facing those waterbodies, and disregards potentially unmitigable impacts to sewer connection capacity. The DEIS does not identify specific stormwater mitigation solutions, including green infrastructure practices which are to be prioritized under the Unified Stormwater Rule.
- **Faulty Methodology Obscuring Air Quality Impacts.** The DEIS ignores air quality impacts from increased vehicular traffic that can be expected throughout the local community and uses data from non-representative air monitoring sites to establish baseline air quality, likely inflating background pollutant concentrations and making it appear as though the Project would cause a lesser increase in air pollution than would actually be the case.
- **Harms to Disadvantaged Communities.** The DEIS excuses Bally's from considering adverse impacts to New York State Department of Environmental Conservation-identified disadvantaged communities (DACs) by stating the Project site is 1,100 feet from the nearest DAC. But that is because the Project site is in the middle of a public park. This should provide no excuse for insisting, as the DEIS does, that the Project will not result in significant adverse impacts to the nearby DACs from impacts that would inevitably spill out beyond the Project site and into these communities, such as traffic and associated air and noise pollution, land use changes, loss of open space, increased stormwater runoff, and burdens to sewer capacity.

- **Hazardous Materials and Toxics.** The DEIS does not adequately address the risks to public health and safety presented by constructing the proposed casino complex on top of a former landfill. It includes internal inconsistencies that obscure the potential for releases of hazardous materials and toxics from the site, lacks important monitoring data for hazardous gases such as methane, and does not adequately inform the public or decisionmakers of how Bally's plans to mitigate these impacts.
- **Wildlife.** The DEIS does not adequately address potential adverse impacts to wildlife. It does not justify the minimal effort put into bird surveys (only two days) or adequately explain how building and site design will avoid or minimize bird and bat collisions, especially given the Project's location within the Atlantic Flyway. Nor does it explain the complete lack of surveys for mammals, reptiles, or amphibians. It also bases its conclusion that wildlife will not be significantly adversely impacted on the unsupported assumption that wildlife displaced by construction will simply relocate to other habitat without adverse complications, such as nearby habitat already being occupied.
- **Wetlands.** The DEIS notes the presence of freshwater wetlands which, under new regulations effective January 1, 2025, may be subject to New York State Department of Environmental Conservation ("NYSDEC") jurisdiction. Bally's must request a jurisdictional determination from DEC regarding these wetlands and, if they are jurisdictional, apply for a freshwater wetlands permit. The DEIS must also describe if, when, and how it has corresponded with the U.S. Army Corps of Engineers ("Corps") regarding freshwater wetlands within the Study Area potentially subject to Corps jurisdiction.
- **The DEIS is Not Usable by the General Public.** The DEIS is extremely difficult to navigate, confuses the reader and obfuscates the Project's environmental impact with unnecessarily cumbersome lingo and project descriptions, and buries important public safety information in a lengthy and unusable appendix. This substantially interferes with the public's ability to meaningfully participate in the CEQR or ULURP processes.

We describe these concerns in further detail here:

I. Parkland Alienation and Loss of Irreplaceable Open Space

A large area of open space sitting on a beautiful piece of waterfront property with views of multiple bridges, Manhattan, across the East River, and out to Long Island Sound, Ferry Point Park is unique not just for the Bronx but for all of New York City. Even if there were

at least 17 acres of space in the Bronx to “replace” the land Bally’s proposes to alienate, there is no “replacing” Ferry Point Park.

A. The DEIS does not explain how Bally’s will mitigate the loss of at least 17 acres of Bronx parkland from the public domain.

The Proposed Action would require the permanent loss of approximately 17.15 acres of public NYC parkland to Bally’s private use for this 3,093,880 gsf casino and hotel complex. The DEIS papers over the gravity of this loss by promising vague “park improvements and replacement parkland... consistent with the requirements of the State alienation legislation,” (DEIS 2-13) but it does not elaborate on where this replacement parkland or funding for park improvements will go. This part of the Bronx is already densely developed, leaving few, if any, options for new parkland close enough to Ferry Point Park that the communities most deeply and directly affected by the proposed alienation would actually benefit.

Save the Sound does not believe that parkland improvements or replacement parkland is available that would adequately balance the massive loss within Ferry Point Park that Bally’s proposes. The FEIS must list specific projects it intends to pursue so that the community and the City fully understand what would be imposed upon them and what they would be receiving in exchange before this proposal moves forward. The FEIS should identify and commit to acquiring replacement parkland of at least the fair market value (FMV) of the parkland proposed for alienation, and preferably of at least the same acreage and recreational value as the alienated parkland. The FMV should be based on an appraisal from an unbiased expert selected by NYC Parks and paid for by Bally’s.

To the extent identifying and acquiring such substitute parkland is not possible, the FEIS should clearly detail what efforts Bally’s made and why they were ultimately unsuccessful. The FEIS should then commit Bally’s to reaching the independently assessed FMV threshold with at least dollar-for-dollar funding for improvements to Ferry Point Park or other parkland within the communities most impacted by the casino complex. Replacement parkland or funding for parkland improvements should be additive, and not simply providing private funding for projects the City was already planning to complete.

B. The DEIS is ambiguous as to how much parkland Bally’s proposes for alienation.

The DEIS fails to clearly communicate exactly how much parkland Bally’s proposes the City alienate from the public domain for its private use, with inconsistent or confusing numbers appearing throughout. For example, the Project Description at 1-10 states that the “‘Disposition Parcel’ is a 15.73-acre parcel of parkland that would be alienated through State legislation,” but then almost immediately mentions what seems to be an additional

1.42-acre parcel east of the Whitestone Bridge that would also be alienated. But on page 5-20 of the Open Space section the draft EIS identifies only “12 acres that comprise a portion of the Development Site” that “would be removed from the Park and converted to a non-Park use.” Save the Sound also notes that Bally’s representative Chris Jewett, in his presentation at an April 9, 2025 hearing before the Bronx Borough President as part of the Uniform Land Use Review Procedure (ULURP), added further confusion by stating that the Project would require the alienation of “15 acres” of parkland. This is inconsistent with what is stated in the DEIS, and if something has changed in the project design then Bally’s must complete a supplemental EIS to explain the change.¹

The DEIS also describes a “Proposed Rezoning Area” as “the area proposed to be rezoned to a C8-4 district” and diagrams it as stretching well outside the Development Site, especially on the east side of the Development Site where it comes closest to the East River. (DEIS 1-7, 1-13) But the DEIS does not state the size of the Proposed Rezoning Area or explain its purpose beyond “ensur[ing] that the entirety of the Development Site was included in the Proposed Rezoning Area while providing regular dimensions that keyed off existing street and pierhead/bulkhead lines.” (DEIS 1-13) The DEIS does not clearly state how much of the Proposed Rezoning Area is parkland that would need to be alienated in addition to the parkland already identified for alienation within the Development Site. Bally’s must explain these inconsistencies and state clearly how much parkland will be lost to build its casino and hotel complex.

C. The DEIS does not adequately address the likely impacts to the remaining public portions of Ferry Point Park.

While it is true that even with the loss of these acres of public parkland nearly 400 acres would remain, those 400 acres and the public’s use and enjoyment of them would be permanently and fundamentally changed by the presence of the casino and hotel complex. Depending on where a park-goer is standing in relation to the complex, the physical structure and the light, traffic, and noise it produces would interfere with enjoyment of iconic views and the peace and quiet that is so rare in the city but can be enjoyed in Ferry Point Park. Further, as discussed in more detail in Section VII below, the DEIS fails to adequately address likely adverse impacts to wildlife which may be injured, killed, displaced, or otherwise harmed by the Project. Such impacts would diminish recreational opportunities such as birding and other wildlife-watching well beyond the approximately 17 acres of parkland proposed for alienation.

¹ See 6 NYCRR 617.9(a)(7)(i) (stating that a supplemental EIS may be required when significant adverse environmental affects not addressed or inadequately addressed in the EIS arise from changes proposed for the project or newly discovered information).

Parts of the DEIS seem to downplay these impacts based on technicalities. But while it may be true that the casino and hotel will not proportionately *block* much given the expansiveness of the viewsapes available in Ferry Point Park, or may not produce much noise in the grand scheme of “noise” in New York City, the fact remains that this is a massive new structure producing light, noise, and traffic where previously there was open space. Bally’s should provide realistic visual representations of many different views from many different directions and distances around Ferry Point Park that compare a “before” and “after” scenario. These visual representations should be offered for multiple seasons, including winter, when trees are bare of leaves that may in other seasons shield the sight of the casino from certain parts of the surrounding neighborhood.

Access to quiet, green, open spaces is an important but rare resource in New York City. The disruption of such access for the sake of placing a private casino and hotel complex on public parkland is an issue not to be taken lightly; yet the DEIS does not address it with the substance it warrants. In sum, the FEIS must:

- Identify specific locations for substitute parkland of equivalent FMV and, if at all possible, size and recreational value.
 - If this is not possible, Bally’s must explain why not, and identify the specific parkland improvements it intends to fund instead, dollar-for-dollar according to an appraisal paid for by Bally’s.
- Provide a single, clear number for the acreage of NYC Parks land to be alienated. Inconsistent or confusing numbers appear throughout the draft EIS. If the numbers that are provided in the draft EIS are no longer consistent with Bally’s plan, then a supplemental EIS must be prepared to address any design changes.
- Provide realistic visual representations of many different views from many different directions and distances around Ferry Point Park that compare a “before” and “after” scenario in multiple seasons, including, at least, winter.

II. Failure to Consider Range of Reasonable Alternatives

A. The DEIS does not consider alternatives that minimize the Project’s impact.

A DEIS must consider “the range of reasonable alternatives to the action that are feasible, considering the objectives and capabilities of the project sponsor.”² This analysis is essential to enable the lead agency to “certify that consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent

² 6 NYCRR § 617.9(5)(iii)(v).

practicable.”³ The DEIS fails in this regard because it considers only the Action and the No-Action and No Unmitigated Impact Alternatives.

Despite that the Project’s impact may be reduced by reducing the size of the Project, the DEIS does not include any alternatives that reduce the footprint of proposed structures or eliminate elements not germane to the project’s purpose.⁴ For example, reasonable alternatives that would still serve the Project’s purpose of “enabl[ing] a destination gaming facility” (DEIS 1-28) might reduce the number of gaming positions, number of hotel rooms, size of the parking structure, or size of the replacement golf clubhouse (which would be nearly 15,000 gsf larger than the existing clubhouse under the Action, a detail the DEIS does not substantively comment on or explain the reasoning behind). Other reasonable alternatives might eliminate the retail space or event center, for example. But the DEIS considers none of these.

B. The continued operation of the golf course should not be assumed inherent in every alternative.

Save the Sound notes in particular the DEIS’s failure to consider any alternative under which the golf course ceases operations upon the expiration of its concession license in 2035. As anyone who has driven over the Whitestone Bridge well knows, 222 acres of Ferry Point Park east of the bridge is currently utilized as a public golf course, operated by Bally’s pursuant to a concession license, where anyone is welcome to play 18 holes for \$210 on the weekends if they are a New York City resident (non-residents pay \$266). The current concession license expires on March 31, 2035. (DEIS ES-4) After that time, NYC Parks could renew the license, or it could, in theory, convert the land to a use that is truly accessible to all New Yorkers, improves the health of our environment, and provides a beautiful welcome into the Bronx from the Whitestone Bridge. It could involve the community in this process and facilitate the cultivation of an open space that prioritizes the needs and visions of Bronx community members and their families.

But Bally’s proposes to preempt and prevent this vision not just by taking public land for its own private use to build a 20-floor 3,093,880 gsf hotel and casino complex on prime waterfront property that is supposed to be for the use and enjoyment of the public in one of the most densely populated cities in the world, but also by including in its proposed Action

³ 6 NYCRR § 617.11(d)(5).

⁴ See NYC MAYOR’S OFFICE OF ENVIRONMENTAL COORDINATION, CITY ENVIRONMENTAL QUALITY REVIEW TECHNICAL MANUAL 23-1–23-2 (2021) (hereinafter, “CEQR Technical Manual”) (explaining that an alternative that reduces a project’s size or density “may be reasonable for projects for which the degree of potential impact is related to the size or density of the project. In that event, a lesser size or density alternative with the potential to reduce the impacts of a proposed project while, to some extent, still meeting the project’s stated purpose and need may be considered”).

an extension and modification of the golf course concession license. (DEIS ES-10) Such an action is not germane to the Project's Purpose of "enabl[ing] a destination gaming facility." (DEIS ES-11) Whether or not to extend the golf course concession license is a separate matter that should be left to NYC Parks upon the expiration of the current license based on all applicable review procedures, including a separate CEQR process focused on the impacts of the golf course. And if Bally's is going to continue to include the golf course in the Proposed Action, it must expand the scope of the EIS to include potential adverse environmental impacts from the entire Project area, including the golf course. This would very likely require a supplemental EIS.

The DEIS also assumes the continued operation of the golf course in the No-Action Alternative. In response to Save the Sound's comment on the Draft Scope of Work requesting that the alternatives analysis "should include consideration of a potential future outcome where the current lease is not renewed," Bally's stated that if the concession license is not extended "Bally's would cease operations of the Golf Course, and maintenance and operations would become the responsibility of NYC Parks; this would result in conditions represented by the No-Action Alternative." (Final Scope of Work, Response to Comments on the Draft Scope of Work 23) But that is not what is reflected in the DEIS, which states that under the No-Action Alternative "existing conditions on the Development Site and Ring Road are expected to remain," including "uses that support the Golf Course" such as the clubhouse and practice area. (DEIS 21-2–21-3)

A "range of reasonable alternatives" for the Project should, as explained above, include alternatives that reduce the size of the Project. That should include at least one alternative where some form of the casino complex is constructed, but without the continued operation of the golf course beyond the expiration of the current concession license. Further, if Bally's sees fit to consider an alternative where the golf course concession license is renewed, but other proposed project elements are not implemented, it must do that in a separate additional alternative, *not* the No-Action Alternative. The No-Action Alternative should consider the *current* conditions, wherein Bally's operates the golf course pursuant to a concession license that will expire in 2035.

The appropriate treatment of the golf course in the EIS is especially important because of the potential adverse environmental impacts of the golf course itself. Golf courses are generally notoriously bad for the environment due to their high water demand and the pesticides, fertilizers, and other chemicals utilized to maintain them. The lead agency must compare how different alternatives — some of which perhaps include the continued operation of the golf course, some of which do not — minimize or avoid significant adverse environmental impacts. This is not possible if the EIS erroneously includes the golf course in every alternative.

C. The comparison of alternatives assigns benefits to the Proposed Action that are not supported in the record.

The DEIS compares the Action and the No-Action Alternative in misleading ways that cast the Action in an artificially positive light, assigning benefits to the Action and drawbacks to the No-Action Alternative that are not supported elsewhere in the DEIS. For example, the DEIS states that under the No-Action Alternative Bally's "would not deed the designated new parkland to NYC Parks." But Bally's has not committed to deed new parkland to NYC Parks under the Action either, and even if it did, the City would *be losing the alienated land at Ferry Point Park*. The DEIS implies the City would *gain* parkland under the Action, but nowhere else in the DEIS does Bally's commit to such an outcome.

The record also does not support the assertion that under the Action "water quality discharged into the surrounding waterbodies would be improved." (DEIS 21-9) As detailed further below in Section III, the DEIS does not explain how Bally's plans to mitigate the environmental impacts of the increased stormwater runoff anticipated from its proposed casino complex. The assertion in the alternatives analysis that the Proposed Action will improve water quality conditions as compared to the No-Action Alternative is therefore a conclusory statement unsupported by any evidence or data. This unacceptably deprives MOEC, involved agencies, other decision makers, and community members of a complete understanding of whether Bally's is capable of managing the volume of stormwater a 3.1 million gsf facility will generate in the middle of a public park adjacent to two impaired waterbodies (upper East River and Westchester Creek, as discussed further below) such that the Action will present an improvement in conditions, as Bally's claims.

In sum, the FEIS must:

- Analyze alternatives that reduce the size of the Project by reducing the footprint of proposed structures.
- Analyze alternatives that reduce the size of the Project by removing project components that are not germane to the purpose of operating a gaming facility, such as the continued operation of the golf course beyond 2035, the retail space, and the event center, for example.
- Analyze alternatives that combine elements from the above two recommendations (i.e. an alternative that both reduces the size of the casino and excludes the event center, golf course, and retail space).

III. Stormwater and Sewage

The effects of increased rainfall on New York City's communities are more apparent than ever as climate change continues to exacerbate the stormwater and wastewater issues faced by the City's aging infrastructure. Stormwater runoff provides a vector for contaminants such as oil and grease, animal waste, fertilizers, and pesticides to enter our waterways, leading to water quality impairments. Untreated wastewater discharges from overburdened treatment facilities also have negative impacts on water quality such as decreased oxygen levels and pathogen contamination. Furthermore, portions of the Project and accompanying re-development of Ring Road lie within the 100- and 500-year floodplains and will be subjected to continuous flood risks (Ring Road already floods under current conditions). Therefore, significant mitigation efforts are needed to adequately address concerns stemming from flooding, polluted wastewater discharge, and contaminated stormwater.

While Bally's has provided some insight into their plans to floodproof the Project and address stormwater runoff, the DEIS' current analysis is insufficient, and more details must be provided to allow community members and decision makers to make an informed assessment.

A. The DEIS does not adequately address the Project's impacts on combined sewer overflows (CSO).

Wastewater generated from the Project site is discharged to the combined sewer system on Emerson Avenue and conveyed to the Hunts Point WRRF, as will remain the case if the Project is completed. (DEIS 11-11) During periods of heavy rain, stormwater enters the combined sewer system and mixes with wastewater, overwhelming the sewer system and WRRF. As a result of this overburdening of the system's capacity, the WRRF has no choice but to discharge partially treated or untreated sewage into the nearest waterway (in this case the Upper East River). The DEIS states that the additional wastewater the Project would generate would not cause the Hunts Point WRRF to exceed its operational capacity, but it based this conclusion only on the WRRF's average dry weather flow. (DEIS 11-13) The lack of any wet weather analysis is a serious oversight, especially given that rainfall is projected to increase in the coming years as a result of climate change, so Hunts Point WRRF is likely to operate closer to its maximum capacity more often, with CSO discharges likely happening more frequently. The FEIS must include a wet weather analysis of the Project's potential significant adverse water and sewer impacts related to wastewater treatment, and a range of wastewater projections should be presented.

B. The DEIS does not adequately address potentially significant adverse impacts to sewer capacity or appropriate mitigation measures.

The Project is projected to generate an average of 388,117 gpd of wastewater, a 98% increase from the 6,064 gpd generated on average under the No-Action condition. (DEIS

11-13). The DEIS acknowledges that as a result of such a large increase in wastewater volume “the existing connection to the NYCDEP combined sewer on Emerson Avenue *may need to be upgraded* and, *if required*,” would require review and approval through the NYC Department of Environmental Protection (NYCDEP) permitting process. (DEIS 11-13 (emphasis added)) This process would include a hydraulic analysis which may reveal a need to amend the existing drainage plan. (DEIS 11-13)

There are several problems here:

- 1) This discussion seems to imply, without directly acknowledging, that the Project may cause or contribute to an exceedance of the capacity of the existing connection. If this is indeed the case, it may represent a significant adverse impact that was not disclosed in the DEIS and which may be unmitigable. Failure to disclose this critical information ahead of the public comment period unacceptably deprives the public of an opportunity to review and comment on this issue, warranting the completion of a supplemental EIS.
- 2) To address this potentially significant adverse environmental impact, Bally’s offers no solutions other than the vague suggestion that the connection “may need to be upgraded.” And even that suggestion, as the DEIS acknowledges, would require extensive involvement from DEP, including both a permitting process for the connection upgrade and potentially an amendment to the drainage plan. The DEIS says nothing about whether Bally’s has communicated with DEP about this issue and received assurances from DEP that this is something within their budgetary, planning, or staff capacity. Absent such assurances, Bally’s is making promises regarding its ability to mitigate impacts to sewer capacity it has no ability to keep.
- 3) Observing only that the connection “*may need to be upgraded*” suggests that Bally’s is waiting until the Project is completed to determine if there is even a problem here. That is not how CEQR works. As explained in (1) above, Bally’s must evaluate and disclose significant adverse environmental impacts and explain how they will be minimized or avoided *now*, not when the Project is completed and the problem reveals itself, requiring Bally’s and the City to both clean up the mess and identify and implement a solution. Should this scenario arise, it would, at the very least, require the permitting process noted in the DEIS, plus any other design, funding, environmental review, and other processes that may be needed. All the while, the environment and the surrounding communities would be suffering the consequences of a problem Bally’s could have, and should have, anticipated when drafting the DEIS.

The omission of a meaningful analysis of potential significant adverse environmental impacts to sewer capacity, including identification of feasible and effective mitigation measures, renders the DEIS inadequate and may warrant a supplemental EIS so that the public may review and comment on this previously undisclosed significant adverse impact.

C. The DEIS does not adequately address impacts to impaired waterways from stormwater runoff.

It is imperative that stormwater runoff be mitigated to prevent contaminants from entering the impaired waterways surrounding the Project site. Stormwater will be conveyed to existing outfalls that discharge to Westchester Creek and the East River. (DEIS 11-14, 11-16) These waterways are listed as impaired per 2018 Section 303(d) List of Impaired Waters Requiring a total maximum daily load (TMDL), a calculation that determines the maximum amount of a pollutant that a waterbody can receive while still meeting water quality standards. The word “impaired” does not appear in the DEIS’ Water and Sewer Infrastructure chapter, which is an oversight of current water quality conditions. Bally’s must comply with New York City’s 2022 Unified Stormwater Rule for new developments which prioritizes green infrastructure such as rain gardens, green roofs, porous pavements, and bioretention to address stormwater runoff. These solutions should be implemented throughout the Project and take priority over traditional “grey” infrastructure, and if they cannot be implemented, detailed explanations as to why must be provided. Furthermore, stormwater treatment practices such as hydrodynamic separators and media filters should also be deployed to treat stormwater that is not mitigated by green infrastructure, particularly around Ring Road where contaminants from vehicles can be picked up. Maintenance responsibilities for these resources must be identified in the FEIS, and adequate support must be provided to ensure these solutions operate properly.

While Bally’s claims it will comply with the Unified Stormwater Rule, it provides no evidence of its ability to actually follow through on this empty assertion. Bally’s must explain how exactly it plans to mitigate the additional stormwater runoff this project will generate, and demonstrate that these plans will be effective under the conditions specific to this Project in this location.

D. The DEIS disregards impacts to groundwater and stormwater runoff from chemical inputs for the maintenance of the golf course.

The DEIS does not include any discussion of impacts to groundwater or surface waters via stormwater runoff from chemicals that may be used for maintenance of the golf course, such as pesticides, herbicides, and fertilizers. As explained in Section II above, the FEIS must consider alternatives in which the golf course ceases operations by the time its concession license expires in 2035. If Bally’s is going to continue to include the continued operation of

the golf course beyond that time in its Proposed Action or any alternatives, in the FEIS it must disclose if, how, and to what extent it intends to use such chemicals and how it will contain all overland precipitation runoff onsite to prevent these chemicals from entering nearby wetlands, the East River, or Westchester Creek.

The FEIS must also provide modeling to demonstrate chemical inputs on the golf course will not contaminate the groundwater. Even if the groundwater has already been contaminated by the landfill or past or existing activities on the golf course, the FEIS must demonstrate that the Proposed Action will not add to this existing contamination.

In sum, the FEIS, or a supplemental EIS, must:

- Provide wet weather analysis of wastewater flows to the Hunts Point WRRF to determine whether the Project would cause or contribute to exceedances of operational capacity during rain events.
- Determine whether the Project will significantly adversely affect sewer capacity and, if so, identify feasible and effective mitigation measures to minimize or avoid the impact.
- Identify specific stormwater mitigation solutions that prioritize green infrastructure practices such as rain gardens, green roofs, and bioretention basins among other strategies. Simply suggesting that they will be considered is not enough.
 - Should these practices be deemed infeasible, detailed explanations as to why must be provided.
 - Stormwater pre-treatment practices must also be specified and maintenance responsibilities for all stormwater mitigation solutions need to be clarified.
- Identify and analyze a potential NYCDOT Wetland Mitigation project located south of the Project site. Wetlands can assist in stormwater mitigation and a solution such as this should be considered as well.

IV. Air Quality

Clean air is critical to maintaining a healthy quality of life. Air pollution can lead to serious health problems, especially for vulnerable populations. Vehicle emissions, building emissions, and weather events can all contribute to worsening air quality. It is important to carefully consider and analyze how air quality can be negatively impacted by the introduction of new emission sources. The DEIS states that there will be no significant adverse impact to air quality from mobile sources; however, the FEIS must clarify how that conclusion was reached. The DEIS does not provide an adequate explanation, and more work needs to be done to fully understand the scope of how increased vehicular traffic and mobile emissions will contribute to air quality impacts.

Four intersections were selected to represent worst-case Project-generated mobile source emissions: **(1)** Hutchinson River Parkway service roads and Lafayette Avenue; **(2)** Ring Road, Schley Avenue, and southbound Hutchinson River Parkway service road; **(3)** Ring Road, Hutchinson River Expressway, and the Development Site; and **(4)** the Project's proposed parking garage and garage driveway on the Project site. However, there were a total of 15 identified intersections that could experience 50 or more peak hour vehicle trips. Furthermore, there were 15 identified highway segments that would have traffic impacts that exceed CEQR thresholds. As traffic is a major source of emissions, a detailed air quality analysis must be done along **all** these intersections and highway segments, not just the representative worst-case intersections. Mitigation in many of these intersections and highway segments was deemed infeasible or impractical, subjecting them to increased vehicular volume and resulting emissions. The FEIS must do more to help the public understand how air quality will be impacted, especially because many of these highway segments and intersections run along residential neighborhoods.

In addition to insufficient air monitoring analysis, the background air quality concentrations used to obtain the projected cumulative pollutant levels are questionable. Background pollutant concentrations were obtained from the nearest monitoring stations provided in the New York State Ambient Air Quality Report for 2023 published by NYSDEC. The only active monitoring stations are: IS 52 (Girls Prep Bronx Elementary Charter School – 681 Kelly St, Bronx, NY 10455), IS 74 (Hyde Leadership Charter School - 730 Bryant Ave, Bronx, NY 10474), and Queens NR (153-03 61st Rd, Flushing, NY 11367). These monitoring stations are wholly outside the Project site, relatively far from Throggs Neck, and experience their own heavy air pollution loads. Using data from these sources can inflate the resultant background concentrations and provide an inaccurate analysis of projected cumulative pollutant levels near the Project site, therefore Bally's must provide clarification in the DEIS as to what those monitoring stations recorded, and what cumulative pollutant levels would look like either without those stations as background levels, or with different monitoring stations used. All air quality assessments must be gauged against levels found within Throggs Neck and Ferry Point Park.

In sum, the FEIS must:

- Specify why air quality analysis was not performed at all the intersections and highway segments identified as having significant adverse traffic impacts.
- Perform that air quality analysis at those identified locations.
 - While Bally's may feel confident in their initial assessment, the community must be absolutely sure given that this Project will be irreversible once completed.

- Provide more clarity regarding background pollutant concentrations, and that current air quality conditions in Ferry Point Park and Throggs Neck are compared against projected mobile source emissions.
- Explore the feasibility of installing electric vehicle charging stations at the portions of parking that will be accessible to the general public as a commitment to promoting clean energy. The Project will already be implementing electric heating and hot water systems and should explore this possibility as another community benefit.

V. Inadequate Consideration of Harms to Disadvantaged Communities

The Project site is located within Ferry Point Park, entirely bordered by New York State Department of Environmental Conservation-identified disadvantaged communities (DACs). ECL § 75-0101(5) defines DACs as communities that bear disproportionate burdens of negative public health effects, environmental pollution, impacts of climate change, and possess certain socio-economic criteria, or comprise high-concentrations of low- and moderate- income households. The DEIS was required to consider whether the Project “may cause or increase a disproportionate burden on a disadvantaged community,” including communities “directly or significantly indirectly affected.”⁵ The DEIS’s 3-page analysis fails in this regard.

The DEIS highlights that the Project site is 1,100 feet away from the nearest DAC (the closest street being Emerson Ave.) and notes that the Project would not result in significant adverse impacts in the following CEQR technical areas: land use, zoning, and public policy; socioeconomic conditions; community facilities and services; open space; historic and cultural resources; urban design and visual resources; natural resources; hazardous materials; water and sewer infrastructure; solid waste and sanitation services; energy; air quality; greenhouse gas emissions and climate change; public health; and neighborhood character. The implication seems to be that Bally’s need not address the burdens this Project may bring to DACs in the neighborhoods of Throggs Neck, Soundview, and Pelham Bay simply because the Development Site does not sit squarely within these neighborhoods, but rather within a park bordering these neighborhoods. This is a serious oversimplification of how these adverse impacts may play out in a community.

The DEIS states: “The Proposed Actions have the potential to result in significant adverse traffic impacts at up to 15 highway segments. **While these highway segments are located partially within** and outside of a DAC, the purpose of the Interstate Highway system is to allow transportation between neighborhoods and cities along a limited-access roadway. **Outside of air and noise emissions**, additional vehicular volume on an existing Interstate

⁵ ECL § 8-0109.

Highway would have a limited effect on the community through which it traverses.” DEIS 26-3. This is an over-generalization of the likely traffic impact in the DACs surrounding Ferry Point Park. Should significant adverse traffic impacts exist, air and noise emissions will follow. Residents know that many sections of highway, particularly the Bruckner Expressway, Cross Bronx Expressway, Throgs Neck Expressway, and Hutchinson River Parkway, already experience significant traffic during different parts of the day, and a project of this size and scope will exacerbate those conditions especially with their projected levels of vehicular volume. Bally’s cannot simply dismiss their responsibility to address concerns of disadvantaged communities outside of Ferry Point Park simply because their development is not located squarely in those communities, even more so when they are posing their project as being of such a benefit to The Bronx. It must consider both direct and significant indirect impacts to these communities.

This section of the DEIS also relies on the fault air quality analysis described in Section IV above to claim no harms to DACs. But as explained above, by using non-representative air monitoring stations to establish baseline air quality, the DEIS fails to accurately present how much air quality may worsen from that baseline with this Project.

The FEIS must provide a complete and thorough analysis of the impacts of this Project on the DACs outside of Ferry Point Park, and the appropriate air and noise analysis should be conducted as indicated in the Air Quality segment above.

In sum, the FEIS must:

- Expand their disadvantaged community scope to include the neighborhoods which people seeking to visit their casino will need to traverse.
- A full analysis of the effects on Disadvantaged Communities outside of the development site, including but not limited to Throggs Neck, Soundview, and Pelham Bay.
 - As Bally’s has identified highway segments that traverse these neighborhoods as potentially experiencing significant adverse impacts from traffic, they should perform an in-depth and transparent analysis on emission-related impacts.

VI. Hazardous Materials and Toxics

Hazardous materials are any substances that pose threats to human health or the environment. They can include substances such as heavy metals, volatile organic compounds (VOCs), or polychlorinated biphenyls (PCBs) among others. It is well known that the current golf course and proposed Project site are located on a former municipal

landfill. (DEIS 10-1) The original test programs in the 1990s showed high concentrations of methane gas and PCBS, lead, and arsenic above safety criteria. (DEIS 10-2) The DEIS notes a passive ventilation system located throughout the park, and an active system in the clubhouse. (DEIS 10-2) According to the DEIS ongoing monitoring suggests that hazardous gas conditions are stable, but groundwater beneath certain sections of the golf course contains VOCs, SVOCs, metals, ammonia, sulfate, and cyanide above NYSDEC Ambient Water Quality Standards (AWQS) signaling persistent contamination beneath the surface. (DEIS 10-3)

A. The DEIS does not adequately disclose potential risks associated with major construction atop a former landfill or adequately identify effective and feasible mitigation measures and monitoring plans.

Construction of a facility of this size on top of a former landfill requires clear, detailed plans to ensure public health and safety in and around the Project. The DEIS seems to rely heavily on the ability of current systems to avoid hazardous releases that endanger public safety, but provides little information on Bally's ability to contain underground the many toxic substances lurking in the landfill once a massive casino and hotel complex is sitting atop what is currently only a golf course. As environmental advocates noted during the original golf course construction, adding weight on top of the landfill "threatens to further compact the garbage like a giant whoopie cushion, sending not only potentially explosive methane gas into neighboring homes but also polluting the East River with toxic chemicals."⁶ Indeed, golf course construction was stalled when explosive methane gas was detected in surrounding communities, including in the basement of Throggs Neck Houses.⁷ While hazardous material management has come a long way since the golf course construction, the risks are too serious to simply trust that Bally's will be able to manage them without a clear plan and data to back it up.

The FEIS must explain what environmental oversight and monitoring during ground-intrusive activities and post-construction will look like, including how often it will be conducted, to whom results will be reported or where they will be publicly available, and who will be responsible if indeed a problem is detected. If these details are contained within the nearly 5,200-page Appendix F, they should be separated and highlighted in the Hazardous Materials chapter itself. The DEIS seems to characterize the idea that Bally's would become responsible for monitoring within the Development Site as an unequivocally positive change because of the resources it would save NYC Parks. **But Save the Sound has trepidations about outsourcing public health matters to a private company operating the**

⁶ John J. Goldman, *One Man's Trash, Another's Fairway*, THE LOS ANGELES TIMES (May 27, 2002), <https://www.latimes.com/archives/la-xpm-2002-may-27-na-golf27-story.html>.

⁷ *Id.*

facility atop the former landfill and how well that serves the public's best interest. The FEIS must provide more clarity on to whom and how Bally's will be accountable.

Further, a revised or supplemental DEIS should detail the Post Construction Custodial Care Plan (PCCCCP) for the project site. According to the DEIS, the PCCCCP would not be completed until after subsurface work is completed. But the information the PCCCCP would contain, including use restrictions and monitoring and maintenance of environmental protection systems, is important for decision makers and the public to understand the environmental impacts of the proposed project. **These sorts of disclosures are due at the time of the DEIS;** they should not be delayed until after ground has been broken and it may be "too late" to make needed changes to avoid dangerous environmental or public health impacts.

Finally, the FEIS must also explain what kinds of use restrictions were placed on the land in the past, why, and whether it is appropriate or safe to construct a facility of this size in this location.

B. The DEIS does not adequately disclose or address potential risks associated with the release of methane from the former landfill.

Methane is an extremely flammable and explosive gas generated in landfills as bacteria breaks down organic wastes.⁸ It can move through soil into the open air, or into nearby buildings through cracks in the structure, utility entry points, sump pump holes, or floor drains ("soil vapor intrusion", discussed further below).⁹ In addition to its explosive properties, methane can have serious health effects when it aggregates in high levels.¹⁰

The Hazardous Materials chapter of the DEIS states that a 1999 Environmental Assessment Statement (EAS) evaluating the area now occupied by the golf course for development as a public recreational facility reported "high methane concentrations at some locations at a depth of two- to three-feet below the surface of the landfill; however, negligible concentrations were found at the surface." (DEIS 10-2) The DEIS does not, however, provide the actual concentrations found or any kind of methane monitoring results.¹¹ The FEIS must provide and clearly identify these monitoring reports for methane and all

⁸ New York State Dep't of Health, *Important Things to Know About Landfill Gas*, https://www.health.ny.gov/environmental/outdoors/air/landfill_gas (last updated Feb. 2024).

⁹ *Id.*

¹⁰ *Id.*

¹¹ It is possible that some of this reporting appears in Appendix F, but as discussed further below, Appendix F is virtually impossible to navigate and cannot be relied upon as any kind of demonstration of disclosure to the public of risks, monitoring, or mitigation of hazardous materials.

monitored landfill gases, beginning from when monitoring began through the most recent report.

Methane and other landfill gas monitoring reports are particularly important for the public and decision makers to review because the DEIS indicates Bally's intends to continue to rely on passive venting systems to prevent methane from accumulating to dangerous levels inside the landfill. (See DEIS 10-3) If methane levels are high enough, passive venting may not be adequate and an active system may be necessary. The FEIS must provide this data and explain why passive venting will be adequate to prevent dangerous accumulations of methane.

The FEIS must also clarify what is meant by the remark that high methane concentrations were found "at a depth of two- to three-feet below the surface of the landfill." It is not clear if these high concentrations were found just below the top of the landfill cap, such that they were penetrating partway through the cap, or if they were found below the deepest layer of the cap.

C. The DEIS does not adequately describe Bally's plan to breach the landfill cap or how potential impacts and hazards of doing so will be managed and mitigated.

The DEIS states that the installation of piles to support the Project "would require a breach of the landfill cap and excavation of material underlying the existing cap." (DEIS 10-3) Such a breach increases the risk that the hazardous materials contained by the cap will spread.¹² To fully inform decision makers and the public of the risks involved here and Bally's ability to manage and mitigate them, the FEIS must include diagrams showing the extent of the landfill, what Bally's plans to do in regards to breaching the cap, and provide information about how they will seal the landfill after the pilings are installed in order to prevent additional methane and other hazardous materials from escaping. The FEIS must also include plans for a methane detection system in the area of the pilings to determine if there is a methane release both before, during, and following construction.

D. The "Hazardous Materials" section of the DEIS is internally inconsistent and fails to adequately address potential significant adverse impacts from soil vapors.

A Phase I environmental site assessment (ESA) was performed in September 2024, which identified two Recognized Environmental Conditions (RECs): (1) "Current and Historical Use of the Adjoining and Surrounding Properties: Historical adjoining and surrounding use of the Development Site, within the footprint of a former municipal solid waste landfill, a United Parcel Service (UPS) facility with petroleum and chemical bulk storage, and a

¹² Env't Prot. Agency, *Community Guide to Capping*, <https://semspub.epa.gov/work/HQ/401585.pdf> (2021).

Metropolitan Transportation Authority (MTA) bridge support facility with petroleum bulk storage are proximate to Ring Road. **Documented and undocumented spills or releases of petroleum products of hazardous substances associated with these properties have adversely affected groundwater and/or soil vapor near Ring Road.**”, and (2) “Non-Native Fill: Non-native fill is potentially beneath Ring Road above native soil. Non-native fill in New York City may contain contaminants, particularly metals and SVOCs, at concentrations that exceed applicable state and/or federal standards.” (DEIS 10-10) A subsequent Phase II ESI Work Plan was prepared and approved in September 2024 that outlines the subsurface investigation, environmental sampling, and laboratory analyses to be performed. The Phase II ESI Work Plan focused on areas identified as RECs in the Phase I ESA.

The Hazardous Materials chapter states that as part of the Phase II ESI Work Plan: “There are no enclosed structures along Ring Road or in the adjacent area; therefore, no soil vapor sampling is proposed”, which directly contradicts the Phase I ESA and facts on the ground. There is an MTA building (which the phase I ESA identified) between Ring Road and the Hutchinson River Expressway, and an enclosed public restroom southwest of that location. Soil vapor does not just move vertically from ground to atmosphere. It can move horizontally through circuitous routes and find its way up into basements and other underground spaces, causing people to get ill.¹³ It seems both contradictory and negligent to state in the Phase I ESA that there have been documented spills of hazardous substances which have adversely affected soil vapor near Ring Road, while simultaneously suggesting in the Phase II ESI that soil vapor analysis is not required because there are no enclosed structures adjacent to Ring Road. The FEIS must take these structures into account and perform the appropriate analysis to ensure that public safety is maintained at these locations.

In addition, the DEIS notes that the Phase II ESI Report will be prepared following completion of the field activities and receipt of the laboratory data. (DEIS 10-11) The report will provide detailed summaries of the investigative procedures and findings. MOEC, involved agencies, other decision makers, and the public must be able to review this report before any findings statements are made.

In sum, the FEIS must:

- Provide the results of a soil vapor analysis (currently not planned), which MOEC should require to include structures along Ring Road such as the enclosed public restroom and MTA building.

¹³ See Agency for Toxic Substances and Disease Registry, *Landfill Gas Control Measures*, <https://www.atsdr.cdc.gov/hac/landfill/html/ch5.html> (last updated November 2001) (discussing importance of preventing offsite migration of landfill gas).

- Provide specific plans to ensure public health and safety in and around the hotel and casino complex during and after ground-intrusive construction work.
- Clarify who will hold Bally's accountable for monitoring within the Development Site.
- Detail the Post Construction Custodial Care Plan (PCCCCP) for the project site in a revised DEIS, **before** groundbreaking to allow for adequate time to review.
- Explain the use restrictions placed on the land, and address safety concerns of constructing a facility of this size in this location.

VII. Natural Resources

A. The DEIS's analysis of impacts to birds and bats in flight is seriously deficient.

The DEIS does not adequately address and mitigate likely adverse impacts to wildlife, especially birds in flight. The "Natural Resources" section notes only two single-day bird surveys: one on May 22, 2024, and one on October 9, 2024, to document spring and fall migration. (DEIS 9-17) It does not state how long or during what time of day surveyors conducted their species counts, or explain why only two days of survey were deemed sufficient. It also does not provide any analysis of the collision- risks a large structure that appears in architectural renderings to be comprised largely of glass poses to birds and bats, especially given New York City's location in the Atlantic Flyway and the Project's location on the upper East River, so near to where it opens to the Sound.

The DEIS does give a brief nod to "bird-friendly design requirements" and a vague intent to explore methods to minimize light pollution, but makes no commitment to, or even mention of, actual plans to ensure building collisions are minimized or avoided. Again, it is not enough to expect the public and decision makers to simply trust that Bally's has the ability to mitigate these impacts; Bally's must enable informed decision making by demonstrating it has feasible, effective methods to protect wildlife.

B. The DEIS's assertion that the Project will not significantly impact terrestrial wildlife is scientifically unsound and unsupported.

The Natural Resources chapter dismissively asserts that "any wildlife currently using the Affected Area as habitat would have access to similar, nearby habitat when development within the Affected Area commences, and therefore "[a]lteration of habitat within the Affected Area is... not anticipated to have a significant impact on local populations of terrestrial wildlife." (DEIS 9-3) But animals cannot simply move to another nearby suitable location if they are being disturbed or if their habitat is modified or destroyed. This assertion ignores that if adjoining habitats are suitable, they are most likely already occupied, or may

be proximal to defended territories. This is particularly problematic for animals moving into adjoining areas as a result of disturbance, as they are already stressed and therefore less capable of competing successfully with the pre-existing populations in the adjoining areas. In sum, disturbance to habitat reduces population size and adversely affects fitness; these are adverse impacts the DEIS wholly disregards.

Moreover, the DEIS's conjectures about the alleged lack of impact to terrestrial wildlife are based not on actual surveys of what mammals, reptiles, or amphibians are present at the Project site, but rather on an NYC Parks website that appears to be intended to educate the general public on what animal species "can be found in our parks."¹⁴ The website is not specific to Ferry Point Park, or even to the Bronx; rather, it describes some of the wildlife that one might encounter somewhere in the NYC Parks system.

Further, the DEIS does not even attempt any kind of analysis based on this list; rather, it simply states that "[b]ecause the Study Area partly comprises an NYC public park, some of these species may be found in the Study Area." (DEIS 9-19–9-20) This is a wholly inadequate basis on which to conclude the Project would not result in a significant adverse impact to natural resources. The FEIS must undertake a wildlife survey in earnest and, based on the actual data collected and analyzed, consider whether the wildlife present will be significantly adversely affected by the Project.

C. The FEIS must be updated to reflect current freshwater wetland regulations and NYSDEC jurisdiction.

The DEIS was presumably drafted sometime in 2024, but was published on January 17, 2025. This means the Project is subject to the new freshwater wetlands regulations which became effective on January 1, 2025.¹⁵ The DEIS notes what was presumably at the time of drafting the impending effective date of the new regulations, and passively acknowledges that upon the effective date New York State Department of Environmental Conservation (NYSDEC) could potentially assert jurisdiction over the one freshwater wetland in the Study Area and its adjacent areas, requiring a freshwater wetland permit for the Project to proceed. (DEIS 9-5) But this passive acknowledgement is not sufficient. Bally's must request a jurisdictional determination from NYSDEC and report the Department's findings and their implications in the FEIS. Taking this step is of particular significance because the subject wetland could fit the criteria for a jurisdictional urban freshwater wetland, which

¹⁴ NYC Parks, *Wildlife in New York City*, <https://www.nycgovparks.org/learn/wildlife-in-new-york-city> (last visited May 21, 2025).

¹⁵ See New York State Dep't of Env't Cons., *Freshwater Wetlands Program*, <https://dec.ny.gov/nature/waterbodies/wetlands/freshwater-wetlands-program> (last visited May 22, 2025).

would be considered a “wetland of unusual importance” under the new regulations. The FEIS must also update the wetlands discussion generally to reflect the new regulations.

VIII. The DEIS is Extremely Difficult to Navigate and Inaccessible to the General Public

Public participation is a fundamental component of the CEQR process. The lead agency must provide opportunity for public comment and include and respond to substantive public comments in the FEIS.¹⁶ But for the public to comment, the DEIS must be usable. The DEIS here suffers from several deficiencies that make it inaccessible to the public:

- Appendices F (Hazardous Materials – Supporting Documentation) and G (As-Built Drawings) are extremely long — 295 pages and 5,146 pages, respectively. Neither of these appendices includes a table of contents, and much of Appendix F is not text searchable, rendering them both essentially unusable. This is particularly concerning in the context of Appendix F, the title of which suggests it includes vital information regarding how Bally’s intends to protect public health and safety from hazardous materials found on site and to which workers and visitors may be exposed. But without a table of contents or the ability to search the text it is virtually impossible for anyone to locate relevant information to understand the risks posed by this Project.
- The DEIS creates its own vocabulary to describe the Project. In many ways this can be useful. But the DEIS overcomplicates things, noting in the Executive Summary several different shorthands for different combinations of project elements. For example, the “Proposed Action,” the “Proposed Facility,” the “Proposed Rezoning Area,” the “Affected Area,” and the list goes on. Some of these shorthands encompass the others; for example, the “Proposed Rezoning Area” includes the “Development Site,” which in turn includes the “Proposed Facility,” which *does* include the casino and hotel, but *not* the replacement golf clubhouse. When these shorthands are then employed throughout the DEIS, it is impossible to keep track of what is and is not being discussed, obfuscating the discussion of the Project’s adverse environmental impacts.

The DEIS also makes it difficult to understand the project footprint and its impacts to public parkland due, in part, to obscure allusions to the “Proposed Rezoning Area.” The DEIS describes the Proposed Rezoning Area as “the area proposed to be rezoned to a C8-4 district” and diagrams it as stretching well outside the Development Site, especially on the

¹⁶ 6 NYCRR 617.9(a)(3), (b)(8).

east side of the Development Site where it comes closest to the East River. (DEIS 1-7, 1-13) But the DEIS does not state the size of the Proposed Rezoning Area or explain its purpose beyond “ensur[ing] that the entirety of the Development Site was included in the Proposed Rezoning Area while providing regular dimensions that keyed off existing street and pierhead/bulkhead lines.” (DEIS 1-13) The DEIS does not clearly state how much of the Proposed Rezoning Area is parkland that would need to be alienated in addition to the parkland already identified for alienation within the Development Site.

Further, the extension of the Proposed Rezoning Area beyond the Development Site raises serious concerns about Bally’s intentions for the future of Ferry Point Park. As detrimental as the current proposal would be for this waterfront public park, the Proposed Rezoning Area stretching beyond the Development Site may prop the door open for future expansion of this private development even further into the park. In the FEIS Bally’s must fully explain the nature, size, purpose, and impacts of the Proposed Rezoning Area in its entirety.

In sum, the FEIS must:

- Ensure the entire DEIS, including all appendices, are text searchable and include tables of contents to assist the public and decision makers in locating useful information.
- Include in the DEIS a glossary of terms and abbreviations, including unambiguous descriptions of what each project-specific term includes and the size of the project component the terms allude to.
- Clearly state the precise size/area/footprint of each project component as well as the total size/area/footprint of the entire Project, including clearly explaining the precise size, purpose, and impacts, both individually and cumulatively with the rest of the Project, of the Proposed Rezoning Area.
- Clearly state the total area of parkland it proposes to alienate and clearly indicate on a map where this alienation would take place.

IX. Conclusion

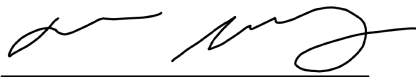
In conclusion, the DEIS fails to take the “hard look” at the potential significant adverse environmental impacts of the proposed Bally’s Bronx casino complex as required by CEQR.¹⁷ It lacks critical information on and analysis of numerous environmental concerns, including parkland, water quality, sewer capacity, air quality, disproportionate burdens on disadvantaged communities, hazardous materials, wildlife, and wetlands, and it fails to

¹⁷ See CEQR Technical Manual at 1-20; see also *Friends of P.S. 163, Inc. v. Jewish Home Lifecare*, 30 N.E.3d 1253, 1260 (N.Y. 2017) (quoting *Akpan v. Koch*, 554 N.E.2d 53, 57 (N.Y. 1990)).

adequately explore alternatives or mitigation measures to minimize or avoid potential impacts. The FEIS — or a supplemental EIS, as may be required — must address these deficiencies; if it does not, the requirements of CEQR will not have been met, there will be no rationale to support approval of the Proposed Action, and negative findings statements from MOEC and all involved agencies will be required.

Thank you for your consideration of these comments. If you have any questions or would like to further discuss our concerns, please do not hesitate to contact us.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Dara Illowsky', written over a horizontal line.

Dara Illowsky
New York Staff Attorney
Save the Sound
1385 Boston Post Road, 2nd Floor | Larchmont, NY 10538
dillowsky@savethesound.org

David Abreu
Clean Water Advocacy Specialist
Save the Sound
1385 Boston Post Road, 2nd Floor | Larchmont, NY 10538
dabreu@savethesound.org

WORLD & NATION

One Man's Trash, Another's Fairway

By **JOHN J. GOLDMAN**

May 27, 2002 12 AM PT

TIMES STAFF WRITER

NEW YORK — Ferry Point Park in the Bronx is one of this city's last, big pieces of undeveloped land. At 414 acres, it's half the size of Central Park, with spectacular waterfront views and vistas of the Empire State Building.

Seemingly the perfect spot for a PGA-caliber golf course being billed as the "Pebble Beach of the East." At least that was what city officials had in mind two years ago, when the parks department awarded developers the rights to construct the course.

But work at Ferry Point stopped in January because the land--a former garbage dump built atop a marsh--is sinking. Today the site resembles a moonscape, stripped of foliage and covered by a layer of gray construction debris.

The developers want to shore up Ferry Point by bringing in an additional 550,000 cubic yards of landfill. But environmental groups are protesting the plan, which they argue threatens to further compact the garbage like a giant whoopie cushion, sending not only potentially explosive methane gas into neighboring homes but also polluting the East River with toxic chemicals.

All sides in the controversy agree the stakes are sizable.

“It is essentially a good and honorable deal for everyone,” said Henry Stern, who was the city’s parks commissioner under former Mayor Rudolph W. Giuliani. “It was a wasteland for 30 years, and it is making the desert bloom.”

The project has the support of virtually all politicians in the Bronx. Giuliani, an enthusiastic golfer, had lobbied to make the course a stop on the PGA tour.

But Leslie Lowe--former executive director of the New York Environmental Justice Alliance, which filed an unsuccessful suit seeking to cancel the developer’s contract--charged that Ferry Point “has all the landmarks of a wired deal.... The project is undercapitalized. They put all of the potential liability off on the taxpayers.... You don’t play PGA tournaments on a toxic golf course.”

The accusation caused Edward C. Wallace, one of the developer’s principal lawyers, to bristle.

“Nobody would put up tens of millions of dollars to produce a toxic golf course.... I count on my client to do the right thing,” he said.

ADVERTISEMENT

“You are taking a landfill that was a horrific eyesore.... [The course] will be next to Yankee Stadium and the Botanical Gardens and the Bronx Zoo, the fourth jewel of the crown of the Bronx,” Wallace predicted.

In the 1950s and ‘60s, the Ferry Point site was a garbage dump where hazardous materials, including lead paint and asbestos, were deposited. Authorized use of the landfill stopped in the 1970s, but illegal dumping of used cars, drums of chemicals and old refrigerators continued.

During the summers, brush fires fed by methane from decomposing waste were so frequent that a fire engine often was stationed next to the park.

“When I moved here in January 1978, Ferry Point Park looked like something out of a science fiction movie,” Lehra Brooks, a longtime neighborhood resident, said in a court affidavit. “There were deep craters and the ground was very uneven. Parts of it sank below street level. For a long time, I didn’t know that it was a park.... This ooze came up between the cracks [in the asphalt].... In the spring and summer, you would see lots of rats, really big rats, and the odors were horrible.”

In May 2000, the parks department awarded the concession to build the golf course on 222 acres to Ferry Point Partners, a consortium consisting of J. Pierre Gagne, a White Plains, N.Y., developer, Jack Nicklaus’ design firm and several New York investors.

The 35-year contract called for Ferry Point Partners to build the course at its own expense and pay the city \$60 million in fees over the life of the agreement.

“I think it is one of the most spectacular locations for a golf course in the United States,” Gagne said, praising Nicklaus as the designer. “You have 140,000 cars that pass that property a day. Multiply it by a year, and it is one-third the population. It is surrounded by 13 million people.”

The original 2001 completion date for the course has been pushed back to 2004. The cost has risen from \$22 million to more than \$40 million, and some estimates are that it could reach \$50 million.

One reason is that techniques used these days to prevent the spread of contamination were not employed back when the dump was sealed decades ago. Because of a lack of cover materials over the garbage, it became necessary to bring in debris from construction and demolition sites to build up the ground so the course could be shaped, soil put down and grass planted.

Adding to these problems, methane gas was detected in surrounding communities. Prompted by worries from residents, several environmental groups began investigating.

Lowe charged that the Giuliani administration “made it impossible” to obtain information. When methane readings occurred in the basement of Throggs Neck Houses, a development with more than 3,500 residents next to the site, the New York City Housing Authority was queried. No response. Requests for records of previous fires at the site went unanswered. So did letters to the Department of Sanitation asking for listings of what was dumped back when Ferry Point Park was a landfill.

Former Bronx Borough President Fernando Ferrer, a supporter of the project, also had trouble getting information from the Giuliani administration.

“The mayor’s attitude was he wanted to get this done. His term was getting done,” Stern said. “He wanted to get this done beyond the point of no return.”

But completion has proved to be difficult. The project is stalled while the New York State Department of Environmental Conservation considers whether to issue the permit for the additional landfill--and whether remedies for the methane, including a 5,350-foot trench the developer dug at the department's direction to vent the gas, are sufficient.

Environmental groups see the permit request as a chance to reopen the case.

So it doesn't look like Tiger Woods will be teeing off at a PGA tournament at Ferry Point anytime soon.

More to Read

Corona-area dump burdened with underground fire sought to accept debris from L.A. infernos

Feb. 28, 2025



Protesters, elected officials take action to halt flow of toxic debris to local landfills

Feb. 21, 2025



Finally we know where toxic ash from the L.A. wildfires could end up

Feb. 7, 2025



Important Things to Know About Landfill Gas

Landfills can produce objectionable odors and landfill gas can move through soil and collect in nearby buildings. Of the gases produced in landfills, ammonia, sulfides, methane, and carbon dioxide are of most concern. Ammonia and hydrogen sulfide are responsible for most of the odors at landfills. Methane is flammable and concentrations have sometimes exceeded explosive levels indoors. Methane and carbon dioxide can also collect in nearby buildings and displace oxygen.

This fact sheet provides information on what measures can be taken to prevent gases from leaving landfills and entering off-site structures and how building owners can reduce landfill gas collection indoors, particularly in confined areas like basements and crawl spaces.

Landfill Gas

Landfill gas contains many different gases. Methane and carbon dioxide make up 90 to 98% of landfill gas. The remaining 2 to 10% includes nitrogen, oxygen, ammonia, sulfides, hydrogen, and various other gases. Landfill gases are produced when bacteria break down organic waste. The amount of these gases depends on the type of waste present in the landfill, the age of the landfill, oxygen content, the amount of moisture, and temperature. For example, gas production will increase if the temperature or moisture content increases. Though production of these gases generally reaches a peak in five to seven years, a landfill can continue to produce gases for more than 50 years.

Movement of Landfill Gases into Buildings

Landfill gases can move from a landfill through soil into outdoor air as well as the indoor air of nearby buildings. Landfill gases in outdoor air can enter a building through windows, doors, and ventilation systems. In soil, landfill gases can migrate and enter a building through cracks in the basement floors and walls, utility entry points (e.g., where underground water or electrical lines enter a building), sump pump holes or floor drains. This is called soil vapor intrusion. Once they enter a building, landfill gases may collect in areas of poor ventilation, such as basements, crawlspaces, and utility tunnels.

Odors from Landfill Gas

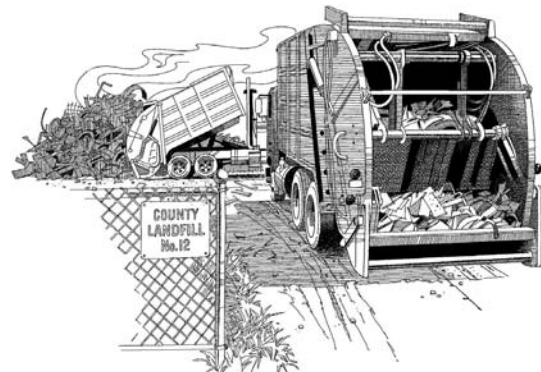
Odors in landfill gas are caused primarily by hydrogen sulfide and ammonia, which are produced during breakdown of waste material. For example, if construction and demolition debris contain large quantities of wallboard (also called drywall or gypsum board), large amounts of hydrogen sulfide can be formed. Hydrogen sulfide has the foul smell of rotten eggs, while ammonia has a strong pungent odor. Humans can detect hydrogen sulfide and ammonia odors at very low levels in air, generally below levels that would cause health effects.

Health Effects of Ammonia and Hydrogen Sulfide

Short-term exposures (typically up to about two weeks) to elevated levels of ammonia and hydrogen sulfide in air can cause coughing, irritation of the eyes, nose, and throat, headache, nausea, and breathing difficulties. These effects usually go away once the exposure is stopped. Studies have been conducted in communities near landfills and waste lagoons to evaluate health effects associated with exposure to landfill gases. These studies lasted for several months and reported health complaints which coincided with periods of elevated levels of hydrogen sulfide and landfill odors. The reported health complaints included eye, throat and lung irritation, nausea, headache, nasal blockage, sleeping difficulties, weight loss, chest pain, and aggravation of asthma. Although other chemicals may have been present in the air, many of these effects are consistent with exposure to hydrogen sulfide.

Methane Safety Hazards

Methane is the major component of natural gas. It is highly flammable and can form explosive mixtures with air if it concentrates in an enclosed space with poor ventilation. The range of air concentrations at which methane levels are considered to be an explosion hazard is 5 to 15% of the total air volume. Landfill gas explosions are not common occurrences.



Health Effects Associated with Methane and Carbon Dioxide

Methane and carbon dioxide are colorless, odorless gases that can displace oxygen in enclosed spaces. Health effects associated with both methane and carbon dioxide result from the lack of oxygen rather than direct exposure to these gases. Health effects caused by a reduced oxygen level include a faster heartbeat and having to take deeper breaths, similar to the effects felt after vigorous exercise. A greatly reduced oxygen level (that is, when the oxygen level is well below its usual level of 21% of the total air volume) can cause reduced coordination, fatigue, nausea, vomiting, and unconsciousness. These effects have rarely been reported from landfills.

Controlling Landfill Gas Migration at Landfills

When landfills have reached the maximum amount of waste they can hold, several feet of cover material are placed over the landfill mass. Gas collection wells are then installed throughout the capped landfill. These wells are made of perforated pipes which give the gas an easy path to move vertically to the surface rather than laterally (outward) toward off-site locations (e.g., buildings). As the gases enter these wells they are either vented into the outdoor air, passed through a flame and broken down by burning, passed through a filter, or used in an energy recovery program. Landfill gas vents need to be kept drained and clear of obstructions such as snow and debris. Older landfills and smaller dumps may not have gas control measures.

Reducing Landfill Gas in Homes

Homeowners should contact their Regional New York State Department of Environmental Conservation office if they suspect landfill gases are entering their home. A link for contact information is provided in the "For Additional Information: On a specific landfill" section of

this fact sheet. Measures a homeowner or developer can take to help prevent landfill gas from entering a building include minimizing entry points and making sure there is adequate ventilation. Entry points for landfill gas can be minimized by eliminating cracks and gaps in the basement by caulking and sealing. These measures will help to reduce the potential for landfill gases to build-up in indoor air. In some cases, additional measures may be needed to reduce landfill gas migration from soil into buildings. For example, installing a sub-slab depressurization system will direct soil vapor away from the building. A sub-slab depressurization system is often included in new construction on or adjacent to landfills.

For Additional Information

On a specific landfill:

New York State Department of Environmental Conservation
Regional Office Contact Information
www.dec.ny.gov/about/558.html

On a specific landfill gas:

U.S. Environmental Protection Agency
www.epa.gov/methane/

New York State Department of Health
www.health.state.ny.us/environmental/emergency/chemical_terrorism/ammonia_tech.htm
www.health.state.ny.us/environmental/chemicals/hydrogen_sulfide/index.htm

Landfills & landfill gas control measures:

Agency for Toxic Substances and Disease Registry
www.atsdr.cdc.gov/HAC/landfill/html/intro.html

U.S. Environmental Protection Agency
www.epa.gov/landfill/

U.S. Energy Information Administration
www.eia.doe.gov/cneaf/solar/renewables/page/landfillgas/landfillgas.html

Exposure:

New York State Department of Health
www.health.state.ny.us/environmental/about/exposure.htm

Soil vapor intrusion:

New York State Department of Health
www.health.state.ny.us/environmental/indoors/vapor_intrusion/index.htm

U.S. Environmental Protection Agency
www.epa.gov/region02/superfund/npl/vaporintrusion/

Landfill gas health effects, contact:

New York State Department of Health
Bureau of Toxic Substance Assessment
ESP, Corning Tower, Albany, New York 12237
518-402-7800 or 1-800-458-1158
e-mail at: btsa@health.state.ny.us

Landfill Gas Movement into Buildings

