

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
625 Broadway
Albany, New York 12233-1010

In the Matter

-of-

the Application for
a State Pollutant Discharge Elimination
System (SPDES) Permit for the construction
and operation of a Linear Adsorption System
and for sanitary wastewater discharges to
groundwater from a clubhouse facility as part
of the proposed development of a golf course
located in the Towns of Bedford, New Castle
and North Castle, Westchester County, New York,
pursuant to Environmental Conservation Law (ECL)
Article 17, Titles 7 and 8 and Parts 750 through
758 of Title 6 of the Official Compilation of Codes,
Rules, and Regulations of the State of New York
(6 NYCRR Parts 750-758), and for a Water Quality
Certification pursuant to Section 401 of the
Federal Water Pollution Control Act
and 6 NYCRR Part 608,

- by -

SEVEN SPRINGS, LLC,

Applicant.

DEC Application No. 3-5599-00041/00001

DECISION OF THE DEPUTY COMMISSIONER

May 7, 2004

DECISION OF THE DEPUTY COMMISSIONER¹

In this proceeding, Seven Springs, LLC ("applicant"), applied for a State Pollutant Discharge Elimination System ("SPDES") permit for the construction and operation of a linear adsorption system and for sanitary wastewater discharges to groundwater from a clubhouse facility, and a water quality certification. The parties in this proceeding appeal, pursuant to section 624.8(d) of title 6 of the Official Compilation of the Codes, Rules and Regulations of the State of New York ("6 NYCRR"), from the Ruling on Issues and Party Status dated August 23, 2002 ("2002 Ruling") and the Supplemental Ruling on Issues dated September 2, 2003 ("2003 Supplemental Ruling") of Administrative Law Judge ("ALJ") Richard R. Wissler.

For the reasons that follow, I affirm the ALJ's rulings that no issues for adjudication exist in this proceeding. I remand this matter to Department staff for issuance of a SPDES permit and a water quality certification consistent with this decision.

¹ By memorandum dated October 15, 2002, the Commissioner of the Department of Environmental Conservation ("Department") delegated the authority to make this decision to the Department's Deputy Commissioner for Air and Waste Management.

BACKGROUND

Applicant proposes to develop an 18-hole championship golf course with associated amenities, including a clubhouse facility, on a 213-acre site located in the Towns of Bedford, New Castle and North Castle in Westchester County. To the east of the site is Byram Lake, a reservoir that provides drinking water to Mount Kisco and to an area of the Town of Bedford.

Associated with the golf course development is the construction and operation of a linear adsorption system ("LAS"), which is one of several stormwater control mechanisms proposed for the golf course. The LAS is a stormwater treatment system that combines a grassed swale, a specially engineered infiltration trench and a granular activated carbon chamber. It is proposed to be implemented throughout the golf course.

The LAS is designed to capture, store and treat at a minimum the "first flush" of stormwater runoff from the managed turf surfaces at the golf course. It is intended to remove pesticides, herbicides, fungicides, and other similar materials (collectively, "pesticides") that may be present in stormwater runoff such that the applicable limits in the proposed SPDES permit will not be exceeded. The treated stormwater runoff would

then be discharged from six outfall locations.

The 2002 Ruling and Appeals

The ALJ convened the issues conference on December 18, 2001. Participating in the issues conference were the applicant, Department staff, the Town of Bedford, and the Village and Town of Mount Kisco.

Subsequently, the ALJ identified two issues for adjudication in the 2002 Ruling. See 2003 Supplemental Ruling, at 1. Because no performance data on the effectiveness of the LAS was available to Department staff at the time the permit application for the LAS was under consideration, the ALJ directed that LAS performance data be compiled and, if necessary, the issues conference be reconvened for the receipt and evaluation of that data. See 2002 Ruling, Ruling No. 1, at 18.

The ALJ also ruled that potential failure modes of the LAS were adjudicable, including (1) whether the grading and elevation of the proposed swales were adequate to capture stormwater runoff and provide sufficient hydraulic head for the efficient operation of the LAS, (2) the potential for the swales and carbon chambers to clog with debris, and (3) whether the carbon filtration medium would remove pesticides to the levels

asserted by applicant, as well as design limitations in the LAS.²
See 2002 Ruling, Ruling No. 2, at 23.

Appeals from the 2002 Ruling were filed by the Village and Town of Mount Kisco (collectively, "Mount Kisco"),³ applicant and Department staff.

In the 2002 Ruling, the ALJ held that no issue existed with respect to nutrient contamination from the proposed golf course to Byram Lake. See 2002 Ruling, Ruling No. 8, at 31-33. Mount Kisco challenged this ruling in its appeal dated September 26, 2002. It also challenged the ALJ's holding that the conditions in the proposed SPDES permit would provide sufficient warning of the failure of any of the project's best management practices, thereby allowing for the implementation of appropriate remedial measures.

Mount Kisco argued that applicant should be required to monitor Byram Lake for nutrient impacts from the project or any

² The ALJ sometimes treated Ruling No. 2 as two separate issues: (1) potential failure modes for the LAS; and (2) design limitations inherent in the LAS, and, in that circumstance, references were made to three issues identified for adjudication.

³ The Village of Mount Kisco and the Town of Mount Kisco were represented by the same counsel and filed joint briefs and responses in this proceeding.

failure of the proposed best management practices. In addition, Mount Kisco argued that applicant should be required to perform remediation of Byram Lake in the event of increased nutrient contamination in that water body from the proposed project. It proposed that the SPDES permit specify maintenance requirements for the proposed best management practices, establish additional reporting requirements and provide for greater Department oversight. As to the remaining determinations of the ALJ, Mount Kisco indicated that they should be affirmed.

Department staff appealed from the 2002 Ruling, arguing that no issues for adjudication existed. Department staff disputed the ALJ's conclusion that the LAS constituted a new technology that required testing. According to Department staff, the numerous monitoring requirements in the draft SPDES permit were sufficient to protect water quality, and applicant met the applicable statutory and regulatory criteria.

Applicant, in its appeal dated September 26, 2002, urged that the ALJ's two rulings identifying adjudicable issues be reversed, that the ALJ's determination that a pilot test for the LAS be performed to demonstrate the efficacy of the LAS be rejected, and that the SPDES permit and water quality certification be issued to applicant.

Applicant and Mount Kisco also submitted reply briefs. Applicant's reply brief was in opposition to the Mount Kisco appeal, with applicant arguing that no substantive and significant issue existed with respect to nutrient contamination. Mount Kisco in its reply brief opposed the appeals of applicant and Department staff, and argued that the Commissioner affirm the ALJ's ruling that adjudicable issues exist regarding the efficacy, potential failure and design limitations of the LAS, and that performance data from a pilot test of the LAS must be submitted for evaluation, review, and potential continuation of the issues conference.

LAS Pilot Study and Associated Permit Condition

Subsequent to the initial appeals, applicant developed a pilot test of the LAS to be conducted on the proposed golf course. Specifically, a protocol was prepared that "describe[d] the LAS design, the range of conditions to be simulated during the pilot test, field monitoring activities such as hydraulic performance and sampling, field maintenance activities such as Granular Activated Carbon (GAC) Chamber and trench maintenance, analytical methods, and quality assurance/quality control procedures." Linear Adsorption System (LAS) Pilot Test Protocol

-- Seven Springs Golf Course ("test protocol"), at 1.⁴ Pursuant to the test protocol, two golf course holes would be constructed in their final form to test the LAS under conditions simulating normal operation. Pesticides would be applied to the test area, and that area would be subjected to various simulated precipitation events. Empirical data would be collected to evaluate the performance of the LAS. See 2003 Supplemental Ruling, at 3-4; Exh E to Supplemental Issues Conference.

Following a review of the test protocol, Department staff, by letter dated March 26, 2003, notified the ALJ and the other participants in the issues conference that it had amended the draft SPDES permit to add the following special condition ("pilot study special condition"):

"Applicant shall complete the LAS Pilot Study which is annexed to this permit as Exhibit 'A'. Except as shall be required for completion of the LAS Pilot Study, and in full conformance therewith, Applicant is hereby prohibited from applying herbicides, fungicides, pesticides, lawn treatments, turfgrass treatments, fertilizers, chemicals or compounds, to the vegetated areas of the site until DEC has reviewed all required pilot study data and engineering certifications and confirmed in writing that the data and engineering certifications demonstrate that the LAS, as tested, has met design standards."

Department staff requested that the issues conference be

⁴ The test protocol was introduced as Exhibit E in the issues conference held on April 23, 2003 ("supplemental issues conference").

reconvened to consider the adequacy of the proposed study and, if the study were deemed adequate, that the 2002 Ruling "be amended to delete the requirement of the prior performance of the LAS pilot study." See Exh A to Supplemental Issues Conference.

By letter dated April 8, 2003, the ALJ advised that the issues conference would be reconvened to address the LAS pilot study. The ALJ requested that participants in the issues conference submit a letter that articulated their position on the proposed pilot study special condition and the LAS pilot study, as well as setting forth any issues that they believed should be considered at the reconvened issues conference. Correspondence was received from applicant, the Town of Bedford and Mount Kisco. See Exhs B, C and D to Supplemental Issues Conference. The ALJ also indicated that any decision by the Deputy Commissioner concerning the appeals from the 2002 Ruling would be held in abeyance pending the outcome of the reconvened issues conference.

The 2003 Supplemental Ruling and Appeals

The ALJ reconvened the issues conference on April 23, 2003 and, following the receipt of post-issues conference briefs, issued the 2003 Supplemental Ruling. The ALJ ruled that the Department-proposed pilot study special condition, together with the test protocol that applicant prepared, ensured that

performance data for the LAS would be fully developed. Accordingly, the ALJ rescinded his rulings in the 2002 Ruling which had determined that two issues were adjudicable. In addition, he determined that no substantive and significant issues had been raised in the supplemental issues conference and that there were no issues for adjudication in this proceeding.

The ALJ recommended, however, that the pilot study special condition be amended to read as follows:

"Applicant shall complete the LAS Pilot Study which is annexed to this permit as Exhibit 'A'. Except as shall be required for completion of the LAS Pilot Study, and in full conformance therewith, Applicant is hereby prohibited from applying herbicides, fungicides, pesticides, lawn treatments, turfgrass treatments, fertilizers, chemicals or compounds, to the vegetated areas of the site until DEC has reviewed all required pilot study data and engineering certifications, as well as any comments thereto provided by the Towns of North Castle and Bedford and the Village and Town of Mount Kisco, which comments shall be provided to the Department within 30 days of their receipt of the pilot study report provided for in Section 6.5.1 of the protocol to the aforementioned LAS Pilot Study, and confirmed in writing that the data and engineering certifications demonstrate that the LAS, as tested, has met design standards." (amendment underscored).

Pursuant to the amended language, the LAS pilot study report would be provided to Mount Kisco, and the Towns of North Castle and Bedford. The municipalities would then have the opportunity to file written comments with the Department. Department staff would, based upon the pilot study report and

supporting data and certifications, and upon consideration of any submitted comments, determine whether the LAS, as tested, met design standards -- that is, whether the pesticide levels in the treated stormwater did not exceed the applicable limits established in the SPDES permit. Department staff's determination would be dispositive and would not be referred back to the ALJ for any further proceedings. With the amendment of the pilot study special condition, the ALJ recommended that the SPDES permit be issued to applicant, in addition to the water quality certification.

Appeals from the 2003 Supplemental Ruling were filed by Mount Kisco and the Town of Bedford. Department staff submitted a letter expressing its concern about a statement made by the ALJ in the 2003 Supplementary Ruling. Applicant filed a response to the appeals of Mount Kisco and the Town of Bedford.

The Town of Bedford, in its appeal dated October 8, 2003, argued that the Commissioner should reverse the 2003 Supplemental Ruling. It agreed that applicant should be permitted to conduct the pilot study, but contended that the results should be forwarded to the ALJ to reconvene the issues conference and to determine whether an adjudicatory hearing would be required. The Town of Bedford argued that the final

determination on the SPDES permit should be made by the ALJ and the Commissioner, and not solely by Department staff.

Mount Kisco, in its appeal dated October 7, 2003, argued that the test protocol itself was insufficient and that an adjudicatory hearing should be held on the protocol before the pilot study was conducted. Specifically, Mount Kisco contended that the test protocol for the LAS: (1) differs from the LAS design on which the project's final environmental impact statement and SPDES permit application were based in ways that invalidate applicant's nutrient removal assumptions; (2) fails to provide sufficient detail to evaluate whether the LAS units would capture and treat all contaminated stormwater runoff; (3) fails to sufficiently monitor for stormwater that evades treatment by the LAS units; (4) does not confirm that the swales will not be overtopped; (5) does not provide for independent monitoring; and (6) does not resolve potential impacts to historical and archeological resources. Mount Kisco also argued that, upon completion of the pilot study, the opportunity for an adjudicatory hearing to address any disagreements relative to the test results should remain available. Mount Kisco also stated that its prior appeal of the 2002 Ruling with respect to the potential impacts of the golf course on nutrient levels in Byram Lake was still relevant.

Department staff submitted a letter dated September 30, 2003 in which it concurred with the ALJ's determination in the 2003 Supplemental Ruling that no issues remained for adjudication. Department staff, however, reiterated its position that, with respect to this application, the engineering theory and design submissions regarding the LAS, with the operational safeguards initially contained as special conditions in the SPDES permit, were sufficient to demonstrate compliance with applicable water quality regulatory criteria and that no need existed to produce empirical testing data through a pilot study. Department staff took issue with a statement by the ALJ that indicated otherwise. Department staff acknowledged, however, that this was rendered moot when applicant volunteered to perform the pilot study and agreed to the permit condition prohibiting application of pesticides (with the exception of the pilot study) until the LAS, as tested, met the required standards. Department staff also requested that its pending appeal from the 2002 Ruling be dismissed as moot.

Applicant filed a response dated October 22, 2003 to the appeals of Mount Kisco and the Town of Bedford. Applicant maintained that the issues that were raised in the appeals had been fully addressed, and referenced sections of the transcript and other documents in support of its conclusions. It indicated

that the test protocol, and the concerns that Mount Kisco and the Town of Bedford raised, had been adequately considered in the supplemental issues conference. Applicant contended that no need existed to reconvene the issues conference following the pilot study because Department staff had the expertise to determine whether the pilot study results demonstrated compliance with the SPDES permit.

DISCUSSION

Where a potential intervenor in a permit hearing proceeding proposes an issue for adjudication, that issue must be both substantive and significant. See 6 NYCRR 624.4 (c) (1) (iii). An issue is substantive "if there is sufficient doubt about the applicant's ability to meet statutory or regulatory criteria applicable to the project, such that a reasonable person would require further inquiry." 6 NYCRR 624.4(c) (2). An issue is significant "if it has the potential to result in the denial of a permit, a major modification to the proposed project or the imposition of significant permit conditions in addition to those proposed in the draft permit." 6 NYCRR 624.4(c) (3).

As in this proceeding, where Department staff has reviewed an application and determined that applicant's project,

as conditioned by the draft permit, conforms to all applicable statutory and regulatory requirements, the burden of persuasion is on the potential party proposing the issue to demonstrate that the issue is both substantive and significant. See 6 NYCRR 624.4(c)(4); see also Matter of Halfmoon Water Improvement Area No. 1, Decision of the Commissioner, April 2, 1982.

Assertions made by potential parties cannot be conclusory or speculative "but must be supported by a sound factual and/or scientific foundation." Matter of Bonded Concrete, Inc., Interim Decision of the Commissioner, June 4, 1990, at 2. Conducting an adjudicatory hearing where "offers of proof, at best, raise uncertainties," or where such a hearing would "dissolve into an academic debate" is not the intent of the Department's permit hearing process. Matter of Adirondack Fish Culture Station, Interim Decision of the Commissioner, August 19, 1999, at 8. See also Matter of AKZO Nobel Salt Inc., Interim Decision of the Commissioner, January 31, 1996, at 12; Matter of Jay Giardina, Interim Decision of the Commissioner, September 21, 1990, at 2.

In determining whether an adjudicable issue exists, the ALJ "must consider the proposed issue in light of the application and related documents, the draft permit, the content of any

petitions filed for party status, the record of the issues conference and any subsequent written arguments authorized by the ALJ." 6 NYCRR 624.4(c)(2). See also Matter of Halfmoon Water Improvement Area No. 1, Decision of the Commissioner, April 2, 1982, at 2 ("The ALJ's rulings will take into account the arguments, offers of proof, the application documents and the Department's expertise. . . ."). On an appeal to the Commissioner from an ALJ's issues ruling, substantial deference is given to the ALJ's judgment concerning whether factual issues exist. The analysis primarily focuses on whether the ALJ correctly applied the substantive and significant standard in consideration of these issues. See, e.g., Matter of Waste Management of New York, Inc., Interim Decision of the Commissioner, March 10, 1995, at 1-2.

A review of the challenges to the 2002 Ruling and the 2003 Supplemental Ruling follows.

- Nutrient Contamination

Mount Kisco argued, in its appeal from the 2002 Ruling, that the ALJ failed to give sufficient weight to the assertion by Mount Kisco's expert that the proposed golf course would result in significant increases in nutrient contamination to Byram Lake.

The ALJ, in the 2002 Ruling, evaluated Mount Kisco's offer of proof in the context of the application and related documents. He considered applicant's agreement to report the total quantity of nutrients nitrogen and phosphorus discharged on a monthly basis, and applicant's agreement to report, on a quarterly basis, the total number of pounds of these nutrients discharged from designated outfalls. The ALJ also referenced limits imposed by the draft SPDES permit, as well as the best management practices set forth in the final environmental impact statement for the project. See 2002 Ruling, at 32-33; see also Draft SPDES Permit, at 9 & 11 fns. 7(b) & 7(c).

With respect to other arguments that Mount Kisco raised on nutrient issues, the ALJ concluded that the strict monitoring measures required by the draft SPDES permit would provide sufficient warning to allow remedial measures to be taken. In light of those monitoring requirements and the fact that the record made clear that nutrient contamination is already present at Byram Lake, the ALJ ruled that further sampling of Byram Lake for nutrient levels by applicant was not necessary or warranted. See 2002 Ruling, at 32.

The ALJ's evaluation of the proposed nutrient contamination issue persuades me to conclude that the offer of

proof by Mount Kisco is not sufficient to raise an adjudicable issue. The ALJ properly applied the substantive and significant standard and his determination is therefore affirmed.

- Sufficiency of the Test Protocol for the Pilot Study

Mount Kisco raises issues, in its appeal from the 2003 Supplemental Ruling, regarding the sufficiency of the test protocol. Mount Kisco had previously outlined its concerns in its letter dated April 18, 2003 (Exh D to Supplemental Issues Conference), which were addressed in the supplemental issues conference. The ALJ, based on the record, determined that the test protocol was sufficient in both detail and method to ensure that it will achieve its goal, and that the concerns raised by Mount Kisco had been adequately addressed. See 2003 Supplemental Ruling, at 7-10. Nothing raised in the appeals leads me to disturb the ALJ's determination.

- Reconvening the Issues Conference

Both Mount Kisco and the Town of Bedford, in their appeals of the 2003 Supplemental Ruling, object to the pilot study special condition which provides that the determination of the efficacy of the LAS would be within the sole purview of Department staff. They assert that, although the parties might reach a consensus concerning the test results, it is also

possible that the parties might disagree. They propose that the test results be submitted to the ALJ for further consideration, and that the final determination on the issuance of the SPDES permit be made by the ALJ and, to the extent that appeals are taken from the ALJ's ruling or in the event of subsequent adjudication, by the Commissioner.

Based on a review of the record, the pilot study special condition, as proposed by Department staff and as modified by the ALJ, provides a sensible mechanism for evaluating the efficacy of the LAS. See e.g., 2003 Supplemental Ruling, at 3-4 (discussing the proposed pilot test) & Exh E to Supplemental Issues Conference. As the ALJ indicated, based on the pilot study, one of two scenarios would occur. The first scenario is that the LAS would be shown to function at the efficiency level asserted by applicant and there will be no exceedance of the applicable pesticide limits set forth in the SPDES permit. In that event, pesticides could then be used on the golf course. In the second scenario, the LAS would fail to function as asserted and one or more applicable pesticide limits would be exceeded. In that event, no pesticides could be used on the course.⁵

⁵ The ALJ found that no adjudicable issue was raised with respect to the pesticide limits established in the draft SPDES permit. The ALJ determined that the limits were protective of the receiving waters in the event that pesticides were used on the golf course. See 2002 Ruling, at 24-26.

The draft SPDES permit, with the pilot test special condition, establishes objective criteria with respect to pesticides that Department staff will be able to apply to determine whether the LAS meets design standards. An exceedance of the applicable limits governing pesticides will indicate the failure of the LAS and prevent Department staff from confirming that the LAS met design standards. Accordingly, I concur with the determination of the ALJ that, because objective criteria are clearly established in the draft permit to determine the success or failure of the LAS, the final determination whether LAS meets these criteria can rest with Department staff. It is neither necessary nor required, based on this record, for the pilot study to be referred back to the ALJ for any further proceedings.

With respect to the pilot study special condition, I particularly approve of the amendment that allows the Towns of North Castle and Bedford and the Village and Town of Mount Kisco to comment on the pilot study report before Department staff makes its determination.

This opportunity for comment will ensure that Department staff, during their consideration of the pilot study report, will have before them the comments of the local communities. However, as part of the Department staff's final

determination on whether the LAS has met design standards, I conclude that it is appropriate for Department staff to prepare a written response to the comments that the municipalities submit. I therefore direct that the pilot study special condition, as amended by the ALJ, be further amended to require Department staff to prepare a written responsiveness summary that addresses the comments of the local communities and to provide a copy to the municipalities that are referenced in the pilot study special condition.

Accordingly, the pilot study special condition as amended will read as follows:

"Applicant shall complete the LAS Pilot Study which is annexed to this permit as Exhibit 'A'. Except as shall be required for completion of the LAS Pilot Study, and in full conformance therewith, Applicant is hereby prohibited from applying herbicides, fungicides, pesticides, lawn treatments, turfgrass treatments, fertilizers, chemicals or compounds, to the vegetated areas of the site until DEC has:

(1) reviewed all required pilot study data and engineering certifications, as well as any comments thereto provided by the Towns of North Castle and Bedford and the Village and Town of Mount Kisco, which comments shall be provided to the Department within 30 days of their receipt of the pilot study report provided for in Section 6.5.1 of the protocol to the aforementioned LAS Pilot Study;

(2) prepared a written responsiveness summary that addresses the comments submitted by the Towns of North Castle and Bedford and the Village and Town of Mount Kisco; and

(3) confirmed in writing that the data and engineering

certifications demonstrate that the LAS, as tested, has met design standards.

A copy of the responsiveness summary and DEC's determination whether the LAS, as tested, has met design standards shall be sent to each of the aforementioned municipalities, whether or not they submitted comments, and to the permittee."

- Remaining Appeals

I have reviewed the remaining arguments challenging the ALJ's 2002 Ruling and 2003 Supplemental Ruling not specifically addressed herein and find no reason to overturn the ALJ's determination that no substantive and significant issues exist.

Based on my review of the record, including but not limited to the petitions for party status, the 2002 Ruling, the 2003 Supplemental Ruling, the legislative hearing and issues conference transcripts and exhibits, the draft SPDES permit and special conditions, and the submissions of the parties, as well as the applicable legal standards, I affirm the determination of the ALJ, as set forth in the 2003 Supplemental Ruling, that no substantive and significant issues are raised for adjudication in this proceeding.

SEORA Findings and Conclusions

The record of this proceeding, the Final Environmental Impact Statement prepared by the Town of Bedford Zoning Board of Appeals and the Town of North Castle Town Board as co-lead agencies, and the Findings Statement jointly adopted by the Town of Bedford Zoning Board of Appeals and the Town of North Castle Town Board afford an adequate basis for my finding, on behalf of the Department, as an involved agency pursuant to section 8-0109(8) of the Environmental Conservation Law ("ECL") and 6 NYCRR 617.11(c), that the requirements of the State Environmental Quality Review Act contained in ECL 8-0109 and 6 NYCRR part 617 have been met, and 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 practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the permit those mitigative measures that were identified as practicable and such additional conditions imposed by this decision.

Because the parties to these appeals fail to raise any substantive and significant issues for adjudication, this matter is remanded to Department staff for issuance to applicant of the

SPDES permit and the water quality certification, consistent with the drafts prepared by Department staff as modified by the 2003 Supplemental Ruling and this decision.

For the New York State Department of
Environmental Conservation

By: Carl Johnson, Deputy Commissioner
for Air and Waste Management

Dated: May 7, 2004
Albany, New York

