

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF YATES

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In the Matter of the Application of

SIERRA CLUB, COMMITTEE TO PRESERVE  
THE FINGER LAKES by and in the name of  
PETER GAMBA, its President; COALITION TO  
PROTECT NEW YORK by and in the name of  
KATHRYN BARTHOLOMEW, its Treasurer; and  
SENECA LAKE GUARDIAN, A  
WATERKEEPER AFFILIATE by and in the name  
of YVONNE TAYLOR, its Vice President,

Petitioners,

For a Judgment Pursuant to Article 78 of the  
Civil Practice Law and Rules,

-against-

NEW YORK STATE DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION, BASIL  
SEGGOS, COMMISSIONER, GREENIDGE  
GENERATION, LLC and LOCKWOOD HILLS,  
LLC,

Respondents.

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**VERIFIED ANSWER AND  
OBJECTIONS IN POINT  
OF LAW**

Index No. 2017-0232

**VERIFIED ANSWER**

Respondents New York State Department of Environmental Conservation (DEC) and Basil Seggos, Commissioner (collectively, the State), by their attorney, Eric T. Schneiderman, Attorney General of the State of New York, respond to the Verified Petition, dated November 8, 2017, by petitioners Sierra Club, Committee to Preserve the Finger Lakes by and in the name of Peter Gamba, its President; and Coalition to Protect New York by and in the name of Kathryn Bartholomew, its Treasurer; and Seneca Lake Guardian, a Waterkeeper Affiliate by and in the name of Yvonne Taylor, its Vice President, and move pursuant to CPLR 3211(a)(7), 7804(f) on the following objections in point of law:

## OBJECTIONS IN POINT OF LAW

- a. Petitioners' claims should be dismissed because petitioners lack standing;
- b. Some or all of petitioners' claims are barred by the statute of limitations.

### I. PRELIMINARY STATEMENT<sup>1</sup>

1. Admit that the allegations in ¶ 1 are petitioners' characterization of this proceeding, but otherwise deny the allegations.

2. With respect to the allegations in ¶ 2, admit that Greenidge Generation's water withdrawal permit for Greenidge Station authorizes water withdrawals and that Greenidge Generation's SPDES permit authorizes the regulated discharge by Greenidge Station. Also admit the allegation in ¶ 2 that Greenidge Station is located on the western shore of Seneca Lake. Deny the allegations in ¶ 2 to the extent that they allege that the water withdrawal permit authorizes discharges and that the SPDES permit authorizes withdrawals.

3. Deny the allegations in ¶ 3.

4. Deny the allegations in ¶ 4, and affirmatively state that the third sentence in ¶ 4 calls for a legal conclusion to which no response is required. To the extent a response is required, deny knowledge or information sufficient to form a belief as to the truth of the allegations in the third sentence of ¶ 4.

5. With respect to the allegations in ¶ 5, admit that petitioners seek the relief requested, but deny that their claims have merit and deny that the Court should grant the requested relief.

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<sup>1</sup> Respondents retain petitioners' headings for the reader's convenience. Respondents deny the contents of the headings to the extent they are factual or legal conclusions.

## II. PARTIES

6. With respect to the allegations in ¶ 6, admit that Sierra Club participated in the DEC proceeding related to Greenidge Generation's air permit applications, but deny knowledge or information sufficient to form a belief regarding any participation by Sierra Club regarding any other Greenidge Generation permit applications. Deny that Sierra Club and its members are injured by operation of the plant and that they suffer an informational injury as alleged in ¶ 6. Deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations in ¶ 6.

7. With respect to the allegations in ¶ 7, admit that Committee to Preserve the Finger Lakes filed comment letters with DEC concerning Greenidge Generation's SPDES and Water Withdrawal permit applications. Deny that Committee to Preserve the Finger Lakes and its members are injured by operation of the plant and that they suffer an informational injury as alleged in ¶ 7. Deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations in ¶ 7.

8. With respect to the allegations in ¶ 8, admit that Committee to Preserve the Finger Lakes filed comment letters with DEC concerning Greenidge Generation's SPDES and Water Withdrawal permits. Deny that Coalition to Protect New York and its members are injured by operation of the plant and that they suffer an informational injury as alleged in ¶ 8. Deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations in ¶ 8.

9. Deny that Seneca Lake Guardian and its members are injured and that they suffer an informational injury, as alleged in ¶ 9. Deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations in ¶ 9.

10. With respect to the allegations in the first sentence of ¶ 10, admit that the New York State Department of Environmental Conservation is an administrative agency of the State of New York, but deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations in that sentence. With respect to the allegations in the second sentence of ¶ 10, admit that DEC is a governmental body with the responsibilities stated, but deny that DEC is the only governmental body with these responsibilities. Admit the allegations in the third and fourth sentences of ¶ 10.

11. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 11.

12. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 12.

### **III. FACTUAL BACKGROUND**

13. Admit the allegations in ¶ 13.

14. Admit the allegations in ¶ 14.

15. Admit the allegations in ¶ 15, except deny the allegations in the second sentence of ¶ 15.

16. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 16. Affirmatively state that based upon data that DEC has access to, the bottom of Seneca Lake is at a depth of 115 feet at a distance of 2,400 feet NE of the mouth of the Keuka Outlet.

17. With respect to the allegations in ¶ 17, admit that Seneca Lake is used for recreation and as a source of drinking water. Deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations in ¶ 17.

18. With respect to the allegations in ¶ 18, deny knowledge or information sufficient to form a belief regarding the distance of 700-feet that is specified, and admit the remaining allegations in ¶ 18.

19. Admit the allegations in ¶ 19.

20. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in the first, fourth and fifth sentences of ¶ 20. Admit the allegations in the second and third sentences of ¶ 20.

21. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of ¶ 21. Deny the allegations in the second sentence of ¶ 21.

22. With respect to the allegations in ¶ 22, admit that the EPA promulgated Phase II rules under §316(b) of the federal Clean Water Act, and refer to those rules for their full text, meaning, and application. Deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations in ¶ 22.

23. With respect to the allegations in ¶ 23, admit that the 2005 Consent Decree was entered into and refer to that Consent Decree for its full text and meaning. To the extent a further response is required, deny petitioners' characterization of the Consent Decree.

24. Paragraph 24 calls for a legal conclusion to which no response is required. To the extent a response is required, deny knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 24, and refer to the 2008 Great Lakes-St. Lawrence River Basin Water Resources Compact for its full text, meaning, and application.

25. The first sentence of ¶ 25 calls for a legal conclusion for which no response is required. To the extent that a response is required, deny knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of ¶ 25, and refer to any

applicable provisions of law for their full text and meaning. With respect to the allegations in the second sentence of ¶ 25, admit that the Great Lakes Advisory Council released a final report, but deny that the final report was released in June 2009. Deny the allegations in the third sentence of ¶ 25.

26. With respect to the allegations in the first sentence of ¶ 26, admit the existence of a letter dated January 22, 2009 from AEE2 that is addressed to the PSC, and refer to that letter for its full text and meaning. Deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations in ¶ 26.

27. Admit the allegations in ¶ 27.

28. With respect to the allegations in ¶ 28, admit that AES Greenidge LLC filed an Impingement and Entrainment Characterization Study, and refer to that study for its full text and meaning. To the extent a further response is required, deny petitioners' characterization of the study.

29. With respect to the allegations in ¶ 29, admit that AES Greenidge LLC filed an Impingement and Entrainment Study and refer to that study for its full text and meaning. To the extent a further response is required, deny petitioners' characterization of the study.

30. With respect to the allegations in ¶ 30, admit that DEC issued a department-initiated modification to the SPDES permit for discharges into Keuka Outlet from LADS dated March 16, 2010. Deny the allegation in ¶ 30 that DEC initiated a modification to the SPDES permit issued to AES Eastern. Affirmatively state that DEC initiated a modification to the SPDES permit issued to AES Greenidge, LLC and that it had an effective date of April 1, 2010.

31. With respect to the allegations in ¶ 31, admit that DEC issued a modification to the SPDES permit for discharges from LADS, but deny that it issued to AES Eastern and deny

that it issued on the date alleged. Affirmatively state that the modification to the SPDES permit for discharges from LADS is dated July 28, 2010 and issued to AES Greenidge, LLC with an effective date of December 1, 2010.

32. With respect to the allegations in ¶ 32, admit knowledge of a letter dated September 17, 2010 from AEE2 that is addressed to PSC indicating cc: to NYISO and NYSEG, and refer to that letter for its full text and meaning. Deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations in ¶ 32.

33. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of ¶ 33. With respect to the allegations in the second sentence of ¶ 33, admit that a lay-up plan for LADS dated May 2011 was submitted to DEC, but deny knowledge or information sufficient to form a belief regarding the date that the lay-up plan was submitted or who submitted it. Affirmatively state that the lay-up plan states that it was prepared on behalf of AES Greenidge, LLC.

34. Paragraph 34 calls for a legal conclusion to which no response is required. To the extent a response is required, deny knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 34, and refer to the referenced legislation for its full text, meaning, and applicability.

35. With respect to the allegations in ¶ 35, admit that Governor Cuomo made a press release, and refer to the referenced press release for its full text and meaning. To the extent a further response is required, deny petitioners' characterization of the press release.

36. Paragraph 36 calls for a legal conclusion to which no response is required. To the extent a response is required, deny knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 36. Refer to the statute for its full text, meaning and applicability.

37. Admit the allegations in ¶ 37.
38. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 38.
39. With respect to the allegations in ¶ 39, admit knowledge of a letter dated September 18, 2012 from AEE2 that is addressed to PSC, and refer to that letter for its full text and meaning. Deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations in ¶ 39.
40. With respect to the allegations in ¶ 40, admit that AEE2 and other debtors filed a motion dated September 19, 2012, and refer to that motion for its full text and meaning. Deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations in ¶ 40.
41. With respect to the allegations in ¶ 41, admit that the United States Bankruptcy Court signed a Findings of Fact, Conclusions of Law and Order dated October 11, 2012, and refer to that document for its full text and meaning. To the extent a further response is required, deny petitioners' characterization of the Bankruptcy Court's order.
42. Admit the allegations in ¶ 42. Refer to 6 NYCRR Part 601 for its full text and meaning.
43. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 43.
44. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 44. Refer to the stipulation and order for its full text and meaning.



45. With respect to the allegations in ¶ 45, deny knowledge or information sufficient to form a belief that GMMM Greenidge, LLC was a subsidiary of GMMM Holdings, but admit the remaining allegations in ¶ 45.

46. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 46.

47. With respect to the allegations in ¶ 47, admit that an application was submitted to DEC by GMMM Greenidge, LLC for a water withdrawal permit for Greenidge Station, but deny knowledge or information sufficient to form a belief regarding the date that it was submitted. Affirmatively state that the application indicates that it was signed in May 2013.

48. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 48.

49. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 49.

50. Admit the allegations in ¶ 50.

51. With respect to the allegations in ¶ 51, admit that Greenidge Generation, LLC submitted an application to DEC to renew the SPDES permit for Greenidge Station, but deny knowledge or information sufficient to form a belief regarding the date that it was submitted. Deny that AEE2 previously held a SPDES permit for Greenidge Station. Affirmatively state that the application is dated July 30, 2014 and that it was received by DEC on August 4, 2014.

52. With respect to the allegations in ¶ 52, admit that DEC entered into Consent Order No R8-20140710 with Lockwood Hills LLC on February 18, 2015. Refer to that Consent Order for its full text and meaning. To the extent a further response is required, deny petitioners' characterization of the Consent Order.

53. With respect to the allegations in ¶ 53, admit that Lockwood Hills LLC submitted a SPDES permit renewal application certification dated May 26, 2015 for the Lockwood Ash Disposal Site that DEC received on June 1, 2015, and refer to that document for its full text and meaning. To the extent a further response is required, deny petitioners' characterization of the application.

54. With respect to the allegations in ¶ 54, admit that DEC published the referenced notices in its *Environmental Notice Bulletin*, and refer to those notices for their full text and meaning. To the extent a further response is required, deny petitioners' characterization of the notices.

55. With respect to the allegations in ¶ 55, admit that DEC published a notice in the *Environmental Notice Bulletin* for the water withdrawal permit application, and refer to that notice for its full text and meaning. To the extent a further response is required, deny petitioners' characterization of the notice.

56. With respect to the allegations in ¶ 56, admit that DEC published a notice in the *Environmental Notice Bulletin* for the SPDES permit application, and refer to that notice for its full text and meaning. To the extent a further response is required, deny petitioners' characterization of the notice.

57. With respect to the allegations in ¶ 57, admit knowledge of a petition by GLLC dated September 9, 2015, but deny the alleged filing date, and refer to that document for its full text and meaning. Deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations in ¶ 57.

58. With respect to the allegations in ¶ 58, admit that CPFL and a group of local environmental organizations filed comments with DEC and refer to those comments for their full text, meaning and application. Deny that those comments have merit.

59. With respect to the allegations in ¶ 59, admit that Greenidge Pipeline LLC and Greenidge Pipeline Properties Corporation filed a petition with the PSC dated September 23, 2015, but deny the alleged filing date, and refer to that document for its full text and meaning. Deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations in ¶ 59.

60. Admit the allegations in the first sentence of ¶ 60. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in the second sentence of ¶ 60.

61. Paragraph 61 calls for a legal conclusion to which no response is required. To the extent a response is required, deny knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 61, and refer to the referenced rule for its full text, meaning, and applicability.

62. With respect to the allegations in ¶ 62, admit that on November 4, 2015, PSC conducted a hearing in Dresden, New York on petitions filed by GGLLC and its affiliates. Deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations in ¶ 62.

63. Admit the allegations in ¶ 63.

64. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 64.

65. Admit the allegations in ¶ 65.

66. With respect to the allegations in ¶ 66, admit that on November 30, 2015, DEC wrote a letter to Greenidge Generation's attorneys, and refer to that letter for its full text and meaning. To the extent a further response is required, deny petitioners' characterization of the letter.

67. With respect to the allegations in ¶ 67, admit that on December 7, 2017, EPA wrote a letter to DEC. Deny the characterization of that letter and refer to that letter for its full text and meaning.

68. With respect to the allegations in ¶ 68, admit that the PSC issued a ruling on December 28, 2015, and refer to that ruling for its full text and meaning.

69. With respect to the allegations in ¶ 69, admit that CPFL filed comments with DEC on February 11, 2016 and refer to those comments for their full text and meaning. Deny that those comments have merit.

70. With respect to the allegations in the first sentence of ¶ 70, admit that DEC published notice in the *Environmental Notice Bulletin* on June 29, 2016, and refer to that publication for its full text and meaning. Deny the allegations in the second sentence of ¶ 70, except admit knowledge that EPA worked with the facility on the permit.

71. With respect to the allegations in ¶ 71, admit that a notice of complete application for the revised proposed air permits was published in the *Penn Yan Chronicle Express* on July 6, 2016, but deny the remaining allegations. Refer to the notice of complete application for its full text and meaning. Affirmatively state that GLLC, not DEC, published the notice of complete application in the *Penn Yan Chronicle Express*. Also affirmatively state that DEC published notice of the Amended Negative Declaration in the *Environmental Notice Bulletin* on June 29, 2016.

72. With respect to the allegations in ¶ 72, admit that CPFL and other environmental groups filed comments with DEC on August 5, 2016, and refer to those comments for their full text, meaning and application. Deny that those comments have merit.

73. With respect to the allegations in ¶ 73, admit that DEC issued the air permits. Affirmatively state that DEC issued Title IV (DEC Permit ID No. 8-5736-0004/00016) and Title V (DEC Permit ID No. 8-5736-00004/00017) air permits with the effective date of September 7, 2016. Refer to those permits for their full text and meaning.

74. With respect to the allegations in ¶ 74, admit that PSC issued an order on September 16, 2016, and refer to that order for its full text and meaning. To the extent a further response is required, deny petitioners' characterization of the PSC order.

75. With respect to the allegations in ¶ 75, admit that PSC issued a Notice to Proceed with Construction on October 17, 2016, and refer to that Notice for its full text and meaning. To the extent a further response is required, deny petitioners' characterization of the Notice to Proceed with Construction.

76. Admit the allegations in ¶ 76.

77. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 77.

78. Admit the allegations in ¶ 78.

79. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 79. Refer to the referenced document for its full text and meaning.

80. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 80.

81. Admit the allegations in ¶ 81.

82. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 82.

83. With respect to the allegations in ¶ 83, admit that Judge William Kocher of the Yates County Supreme Court issued an order granting Respondents' motion to dismiss the 2016 Petition, but deny that the Order issued on April 21, 2017. Affirmatively state that Judge William Kocher signed the decision on April 21, 2017 and that the Order and Judgment issued on June 13, 2017 and was filed on June 20, 2017.

84. With respect to the allegations in ¶ 84, admit that DEC issued notice of entry of the judgment, but deny that issuance of the notice of entry occurred on June 26, 2017. Affirmatively state that the Attorney General's Office signed and served the notice of entry on June 27, 2017.

85. Admit that DEC and Basil Seggos, Commissioner received a notice of appeal dated July 19, 2017 as alleged in ¶ 85. Deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations in ¶ 85.

86. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 86.

87. Admit the allegations in the first sentence of ¶ 87. Admit the allegations in the second sentence of ¶ 87, except deny knowledge or information sufficient to form a belief as to petitioners' use of the words "and other plant operations."

88. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 88.

89. With respect to the allegations in ¶ 89, admit that GGLLC is the holder of a SPDES permit, and refer to that permit for its full text and meaning.

90. With respect to the allegation in ¶ 90, admit that GGLLC is the holder of a SPDES permit, and refer to that permit for its full text and meaning.

91. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 91.

#### **IV. FIRST CAUSE OF ACTION**

92. With respect to the allegations in ¶ 92, respondents repeat their responses to ¶¶ 1-91 as if fully set forth herein.

93. Deny the allegations in ¶ 93.

94. Paragraph 94 calls for a legal conclusion to which no response is required. To the extent a response is required, deny the allegations in ¶ 94, and refer to the statute for its full text and meaning.

95. Deny the allegations in ¶ 95.

#### **V. SECOND CAUSE OF ACTION**

96. With respect to the allegations in ¶ 96, respondents repeat their responses to ¶¶ 1-95 as if fully set forth herein.

97. Deny the allegations in ¶ 97.

98. Deny the allegations in ¶ 98.

99. Deny the allegations in ¶ 99.

100. Deny the allegations in ¶ 100.

#### **VI. THIRD CAUSE OF ACTION**

101. With respect to the allegations in ¶ 101, respondents repeat their responses to ¶¶ 1-100 as if fully set forth herein.

102. Deny the allegations in ¶ 102.

103. Deny the allegations in ¶ 103.

104. Paragraph 104 calls for a legal conclusion to which no response is required. To the extent a response is required, deny knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 104. Refer to the statute for its full text and meaning.

105. Paragraph 105 calls for a legal conclusion to which no response is required. To the extent a response is required, deny knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 105.

106. Deny the allegations in ¶ 106.

107. Deny the allegations in ¶ 107.

#### **VII. FOURTH CAUSE OF ACTION**

108. With respect to the allegations in ¶ 108, respondents repeat their responses to ¶¶ 1-107 as if fully set forth herein.

109. Deny the allegations in ¶ 109.

110. Deny the allegations in ¶ 110. Except, the last sentence in ¶ 110 calls for a legal conclusion to which no response is required. To the extent a response is required, deny knowledge or information sufficient to form a belief as to the truth of the allegations in the last sentence of ¶ 110.

111. Deny the allegations in ¶ 111.

112. Deny the allegations in ¶ 112.

The State denies every allegation of the petition that is not otherwise admitted.

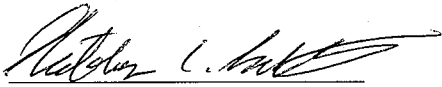
**WHEREFORE**, Respondents respectfully request an Order and Judgment from the Court:

1. Dismissing this proceeding against DEC and Basil Seggos, Commissioner.
2. Granting Respondents further relief as the Court deems just and equitable.



Dated: 3/28/2017  
Albany, NY

ERIC T. SCHNEIDERMAN  
Attorney General of the State of New York  
*Attorney for Respondents*

By:   
Nicholas C. Buttino  
Susan L. Taylor  
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Environmental Protection Bureau  
New York State Department of Law  
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Albany, New York 12224-0341  
(518) 776-2406  
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**VERIFICATION**

STATE OF NEW YORK    )  
                                  ) ss.:  
COUNTY OF ALBANY    )

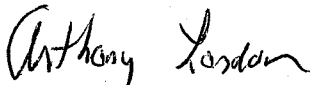
**ANTHONY LONDON**, being duly sworn deposes and says:

I am a Senior Attorney in the Office of General Counsel at the respondent New York State Department of Environmental Conservation (DEC), in Albany, NY.

I am acquainted with the facts and circumstances of this matter on the basis of my own personal knowledge, personal communications with various employees of DEC, and examination of pertinent DEC records and documents.


I have read the foregoing Verified Answer and Objections in Point of Law, and as to the answers of DEC, know the same are true to my own knowledge except as to the matters therein stated to be alleged on information and belief and, as to those matters, I believe them to be true.

This verification is made pursuant to the provisions of CPLR 3020(d)(2) and 7804(d), (e), and (f).

  
\_\_\_\_\_  
ANTHONY LONDON

Sworn to before me this

28<sup>th</sup> day of February, 2018.

  
\_\_\_\_\_  
Notary Public  
JENNIFER ANDALORO  
Notary Public, State of New York  
No. 02AN6098246  
Qualified in Albany County  
Commission Expires January 14, 2020

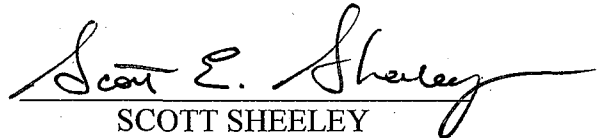
**CERTIFICATION OF ADMINISTRATIVE RETURN**

STATE OF NEW YORK     )  
  ) ss.:  
COUNTY OF ALBANY    )

**SCOTT E. SHEELEY**, being duly sworn deposes and says:

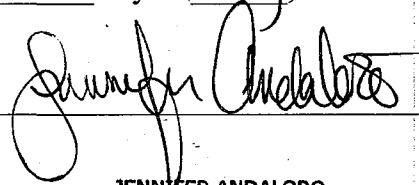
I am the Regional Permit Administrator in Region 8 at the respondent New York State Department of Environmental Conservation (DEC), and I am fully familiar with the facts of this proceeding. I have reviewed the exhibits in the Certified Return from the files, documents and records of DEC, and certify that they are true and accurate copies of DEC's files, documents and records.

I make this certification pursuant to the provisions of CPLR 7804(d), (e).

  
SCOTT SHEELEY

Sworn to before me this

28<sup>th</sup> day of February, 2018.



JENNIFER ANDALORO  
Notary Public, State of New York  
No. 02AN6098246  
Qualified in Albany County  
Commission Expires January 14, 2020