

affidavit in support of DEC's Verified Answer and Objections in Point of Law in response to the Petition in the above-captioned matter.

2. I have a Bachelor's of Science degree in Biology/Environmental Science from Taylor University in Upland, Indiana and a Master's of Science degree in Environmental and Forest Biology from the State University of New York, College of Environmental Science and Forestry in Syracuse, New York.

3. I have worked for DEC's Division of Environmental Permits as an Environmental Analyst for more than nineteen years, and have worked as the Regional Permit Administrator of the DEC Region 8 Office for the past seven years. My responsibilities include managing the DEC review process for environmental permit applications.

4. As part of my job duties, I lead permit application reviews to ensure that DEC's permit process complies with the New York State Uniform Procedures Act ("UPA"), ECL Article 70, and its implementing regulations in 6 NYCRR Part 621; coordinate permit application reviews with appropriate DEC program areas; and guide DEC project review teams to ensure that projects satisfy the State Environmental Quality Review Act ("SEQRA"), ECL Article 8, and its implementing regulations in 6 NYCRR Part 617. As the Regional Permit Administrator, I also have authority to issue final agency decisions on all permit applications subject to the UPA.

5. I have managed the permit reviews for several dozen projects that involve SEQRA Type I actions where DEC has served as the lead agency, and many more that involve SEQRA Unlisted actions.

6. As the DEC Region 8 Regional Permit Administrator, I managed the DEC application review process for the various DEC permit applications associated with the

Greenidge Generating Station Power Plant (“Greenidge Station”). The review process included applications submitted to DEC since 2013 associated with the proposed restart of the plant. For these applications, I managed a large team of reviewers that included staff in both DEC’s Central Office and DEC’s Region 8 Office in the following Divisions: Water, Air Resources, and Fish & Wildlife. I also consulted with Division of Materials Management staff as needed about solid waste disposal at the Lockwood Hills Landfill (the “Landfill”).

7. On September 11, 2017, DEC issued the initial water withdrawal permit and State Pollution Discharge Elimination System (“SPDES”) permit to Greenidge Generation, LLC for Greenidge Station that petitioners challenge in this proceeding.

BACKGROUND ON GREENIDGE STATION AND LOCKWOOD HILLS LANDFILL

Greenidge Station

8. Greenidge Station is a power plant on the western shore of Seneca Lake, south of the Village of Dresden in the Town of Torrey, Yates County, New York. On information and belief, Greenidge Station started running in the 1930s.

9. On information and belief, on March 19, 2011, Greenidge Station ceased power generation. Before ceasing power generation, it ran steam-electric generating Units 3 and 4 with a combined generating capacity of 161 megawatts (“MW”). It used coal as a primary fuel.

10. On January 24, 2013, the company that owned Greenidge Station at the time, GMMM Greenidge, LLC, proposed to resume power generation at Greenidge Station (R 829-830). As part of this resumption of operations, effective September 7, 2016, DEC issued revised Title IV and Title V air permits (R 1288-1411).

11. Greenidge Station withdraws water from Seneca Lake for once-through condenser cooling and then discharges the water into the Keuka Lake outlet.

Lockwood Hills Landfill

12. The Landfill is an existing ash landfill on the west side of Swarthout Road, approximately 0.6 miles west of Greenidge Station, owned by Lockwood Hills, LLC (“Lockwood Hills”). Lockwood Hills holds a Solid Waste Management permit issued by DEC under 6 NYCRR Part 360 (the “Part 360 Permit”), DEC No. 8-5736-00005/00003 (R 805). The Part 360 permit has an effective date of September 5, 2008 and an expiration date of September 4, 2018 (R 805). The permitted design capacity is 1,729 tons per day (R 812).

13. Lockwood Hills also holds a SPDES permit, DEC No. 8-5736-00005/00001 and NY-0107069, for the Landfill (R 815). The Lockwood SPDES permit authorizes regulated discharges from the Landfill (R 816). The Lockwood SPDES permit has an effective date of December 1, 2010 and an expiration date of November 30, 2015 (R 814). On May 26, 2015, Lockwood Hills timely applied to renew the Lockwood SPDES permit, and the permit is currently extended under the State Administrative Procedure Act while DEC reviews the renewal application (R 879).

14. The Part 360 and SPDES permits for the Lockwood Hills Landfill are separate from all of the DEC permits associated with Greenidge Station.

ISSUANCE OF THE WATER WITHDRAWAL PERMIT

15. Amendments in 2011 to ECL Article 15, Title 15 extended the requirement to obtain a water withdrawal permit to commercial and industrial entities like Greenidge Station. ECL 15-1501(9) states that “the department *shall issue* an initial permit, subject to appropriate terms and conditions under this article . . . for the maximum water withdrawal capacity reported to the department . . . on or before February fifteenth, two thousand twelve (emphasis added).”

16. On January 16, 2012, a predecessor to Greenidge Generation reported Greenidge Station’s water withdrawals to DEC in its annual water withdrawal report (R 732), which was

before the statutory deadline. Under 6 NYCRR § 601.7(b)(2) entities with withdrawal systems of 100 million gallons per day or more, including Greenidge Generation, needed to apply for an initial permit by June 1, 2013.

17. Greenidge Generation submitted an application to DEC, dated May 28, 2013, for an initial water withdrawal permit for the withdrawal of water by Greenidge Station from Seneca Lake (*see* R 832).

18. On August 12, 2015, after determining that the application for an initial water withdrawal permit was complete, DEC published a notice of complete application in the *Environmental Notice Bulletin*, which stated that the application was available for review (R 1017-1019). The notice set a comment period deadline of September 11, 2015 (R 1018). DEC regulations implementing the UPA do not require newspaper publication of a notice of complete application for the initial water withdrawal permit (*see* 6 NYCRR §§ 621.4[b][2][v], 621.7[c]). DEC reviewed the public comments received along with the application (*see* R 1167-1252).

19. On September 11, 2017, DEC issued an initial water withdrawal permit to Greenidge Generation (R 1412-1416). Although 6 NYCRR § 621.10(e) did not require DEC to issue a responsiveness summary for the water withdrawal permit because the water withdrawal program is not a delegated program, DEC decided to respond to comments associated with the water withdrawal permit (*see* R 1167-1252). Also on September 11, 2017, DEC released a final responsiveness summary to address public comments (*see* R 1166).

20. DEC imposed appropriate conditions in the initial water withdrawal permit, as required by ECL 15-1501(9). 6 NYCRR 601.7 applies ECL 15-1501(9) and requires environmentally sound and economically feasible water conservation measures for the initial water withdrawal permit. The initial water withdrawal permit requires: the installation,

maintenance and calibration of meters; completion of an annual system-wide water audit to determine unaccounted for water; retention of records of production and consumption; the report of audit results and summaries of leaks detected in the last ten years; leak detection and repair; and, annual water withdrawal reporting (R 1414).

21. DEC coordinated review of the initial water withdrawal permit application with the SPDES renewal application (*see* 6 NYCRR § 601.7[f]). The initial water withdrawal permit also incorporated the required measures for the reduction of impacts to the fisheries resources, as contained in the Biological Monitoring Requirement Section of Greenidge Generation's SPDES permit (R 1429-1431).

ISSUANCE OF THE SPDES PERMIT

22. Under ECL Article 17, it is illegal to discharge a pollutant to the waters of the State from any point source without a SPDES permit. Heat is a "pollutant" under ECL 17-0105(17). Thus, Greenidge Generation must have a SPDES permit for the thermal discharge of heated cooling water from Greenidge Station. On January 29, 2010, DEC issued a SPDES permit renewal (the "2010 SPDES Permit") to the prior owner (AES Eastern Energy, L.P.) with effective dates from February 1, 2010 until January 31, 2015 (R 467).

23. The SPDES permit for Greenidge Station is DEC No. 8-5736-00004/00001 and NY-0001325 (R 465, 1417).

24. Under 6 NYCRR § 750-1.17, SPDES permits may be transferred. Applicants for transfer must apply to DEC for a transfer and cannot alter the volume or the composition of the discharge without applying for a new permit (*see* 6 NYCRR § 750-1.17).

25. The SPDES permit for Greenidge Station has been in effect throughout the changes in ownership. On December 5, 2012, DEC received a request from the prior owner, AES

Eastern Energy, L.P. and prospective owner, GMMM Greenidge, LLC to transfer the SPDES permit for Greenidge Station to GMMM Greenidge, LLC (R 736). DEC gave notice of its intent to transfer on December 14, 2012 (R 746). On January 15, 2013, DEC properly transferred the SPDES permit for Greenidge Station, without changes, from AES Eastern Energy, L.P. to GMMM Greenidge, LLC (R 825).

26. On April 22, 2014, Greenidge Generation advised DEC of a change in the name of GMMM Greenidge to Greenidge Generation (R 865). The taxpayer ID number provided on a transfer application form was the same for both entities, and information obtained from the New York State Department of State corporation database indicated that the two entities were the same. As a result, DEC updated its records to reflect Greenidge Generation as the permit holder (*see* R 4).

27. Greenidge Generation submitted a timely and sufficient application, dated July 30, 2014, for renewal of the SPDES permit for Greenidge Station (R 875). In light of the SPDES permit renewal application, DEC advised Greenidge Generation of its intent to make a Best Technology Available determination and modify the SPDES permit accordingly. The Clean Water Act requires DEC to impose these measures. DEC's implementing policy (CP-52) guides staff in implementing these provisions and making a Best Technology Available determination about what measures a facility must install or under what conditions it can operate (*see* R 724-731). DEC made its Best Technology Available determination and appropriate measures were included in the SPDES permit when the permit was issued.

28. Once DEC received the renewal application, it treated the application as a new application (*see* 6 NYCRR § 621.11[i]) and it conducted a full technical review. As required by 6 NYCRR § 621.7(b)(7) and (8), DEC prepared fact sheets and a draft permit for public review.

Specifically, DEC prepared a draft biological fact sheet that analyzed the potential biological impacts of the proposed SPDES permit (R 916-920; *see* Affidavit of Colleen Kimble, dated February 28, 2018) and a draft industrial fact sheet, that analyzed the effluent characteristics and limits on the water discharges for Greenidge Station (R 954-982). DEC also prepared a draft SPDES permit (R 921-949; *see* Affidavit of Michael Caseiras, dated February 28, 2018).

29. On July 30, 2015, DEC provided a notice of complete application for the SPDES permit to Greenidge Generation (R 950-953).

30. On August 12, 2015, DEC published a notice of complete application in the *Environmental Notice Bulletin* of the SPDES permit renewal and modification application (R 1015-1017). Greenidge Generation also published the required notice of complete application for and SPDES renewal and modification in a newspaper in accordance with DEC regulations implementing the UPA (R 1000-1004; *see* 6 NYCRR § 621.7[c]).

31. The *Environmental Notice Bulletin* notice announced the availability of the draft SPDES permit (R 1016). The notice also announced the time during which the public could submit written comments on the application (R 1017). DEC provided electronic copies of all application documents and the draft permit to the public on request. The comment period ended on September 11, 2015 (R 1017).

32. On that date, the Committee to Preserve the Finger Lakes (the “Committee”) submitted a written comment letter to DEC (R 1196-1204). The Committee asserted: DEC could not approve the water withdrawal permit without further environmental review; DEC unlawfully transferred the SPDES Permit; the proposed conditions did not meet DEC’s Best Technology Available standards in CP-52; and DEC could not issue the proposed air permits without further environmental review (R 1196-1204).

33. DEC responded to these comments, and all other comments received, in its September 11, 2017 responsiveness summary (R 1167-1174). On that same day, DEC issued the final 2017 SPDES permit (R 1417-1444). Along with the final 2017 SPDES Permit, DEC issued the final Biological Fact Sheet (R 1474-1478) and the final Industrial Fact Sheet (R 1445-1477).

34. Petitioners allege that DEC violated the Water Pollution Control Law by failing to treat Greenidge Generation's SPDES permit application as an application for a new permit. They claim that because Greenidge Station did not continuously operate during the previous permit term, DEC was required to treat Greenidge Generation's permit application as an application for a new permit and conduct a full technical review under 6 NYCRR § 621.11(b)(3). Petitioners also assert that the SPDES permit needed to be treated as a new application based upon the language in ECL 70-0115(2)(c), which provides that in the case of a renewal or modification of an existing SPDES permit the request shall be treated as an application for a new permit.

35. DEC followed appropriate procedures under the UPA. As explained above in ¶¶ 27-33, DEC received a timely renewal application, published notice of the complete application and availability of a draft permit, allowed public comment, and responded to public comment.

36. Furthermore, from a substantive perspective, DEC conducted a full technical review, as explained in the Affidavit of Michael Caseiras.

37. Petitioners also allege that DEC violated ECL Article 17 when it failed to impose appropriate terms and conditions to address fish impingement and entrainment. As explained in the Affidavit of Colleen Kimble, petitioners' claim that closed-cycle cooling is required as Best Technology Available for Greenidge Station is in error. DEC properly imposed conditions for

cylindrical wedge-wire screens and variable speed pumps to minimize fish impingement and entrainment (R 1429).

38. Petitioners incorrectly assert that SPDES permits are not transferrable. As explained in ¶¶ 24-26 of this affidavit, SPDES permits are transferrable and DEC properly transferred the SPDES permit for Greenidge Station without any lapse in permit coverage for the facility.

COMPLIANCE WITH SEQRA

39. Under SEQRA, ECL Article 8, an agency is required to first determine whether the action is subject to SEQRA. The implementing regulations for SEQRA are in 6 NYCRR Part 617.

40. SEQRA classifies actions into three types: Type I, Type II, and Unlisted.

41. Type I actions are those actions that are more likely to require preparation of an Environmental Impact Statement than Unlisted actions. DEC lists Type I actions in 6 NYCRR § 617.4. Of relevance to this proceeding, projects that occur “wholly or partially within, or substantially contiguous to, any historic building, structure, facility, site or district or prehistoric site that is listed on the National Register of Historic Places” are Type I actions (6 NYCRR § 617.4[b][9]).

42. Type II actions are actions that are legislatively exempt from SEQRA or that DEC has determined through rule making require no further environmental review under ECL Article 8. Type II actions, including legislative exemptions already contained in Article 8 of the ECL, are listed in 6 NYCRR § 617.5.

43. Unlisted actions are actions that are not identified as Type I or Type II actions in 6 NYCRR Part 617 (*see* 6 NYCRR § 617.2[ak]).

44. DEC defined the action as DEC approvals associated with resumption of operation of Greenidge Station (R 889).

45. At the start of the SEQRA review for these permit applications, DEC classified its SEQRA action as a Type I action because Greenidge Station is near a historic district listed on the National Register of Historic Places—the Crooked Lake Outlet Historic District.

46. Type I actions under SEQRA require completion of a Full Environmental Assessment Form and coordinated review with any other involved agency. An agency is an involved agency if it has a discretionary decision to fund, approve, or directly undertake the action. Coordinated reviews require, among other things, the designation of a lead agency to determine whether an environmental impact statement will be required for an action.

47. DEC coordinated the review of the project pursuant to SEQRA. On June 16, 2015, DEC started the coordinated review by providing a SEQRA lead agency request to other potentially involved agencies, indicating its intent to serve as the lead agency (*see* R 887). This request included the Full Environmental Assessment Form, and copies of the application materials before DEC (*see* R 890-915). Part 1 of the SEQRA Full Environmental Assessment Form prepared by DEC for the SPDES permit modification explained DEC's intent to modify the SPDES permit to include Best Technology Available measures (*see* R 903). DEC received no objections from any other agency to its request and designated itself the SEQRA lead agency on June 29, 2015.

48. For a Type I or Unlisted action, the lead agency must prepare an environmental impact statement if there is a determination that the action may have a potentially significant adverse environmental impact. If the lead agency determines that the proposed action will not

have a potentially significant adverse environmental impact, it issues a Negative Declaration and does not prepare an environmental impact statement.

49. On July 30, 2015, DEC completed Full Environmental Assessment Form Parts 2 and 3 and issued a Negative Declaration, which stated that there would be no significant adverse environmental impacts and that an environmental impact statement was not required (R 983-997). In Parts 2 and 3 of the Full Environmental Assessment Form, DEC reviewed the relevant areas of potential environmental impacts associated with the restart of Greenidge Station (R 983-997). DEC's review included an evaluation of air impacts, impacts to fisheries, impacts associated with water withdrawal, solid waste impacts, and impacts relating to regulated water discharge (R 983-997). The Negative Declaration properly provided DEC's reasoned elaboration that there was no potential for significant adverse environmental impacts (R 993-997).

50. On July 31, 2015, DEC provided notice and a copy of the Negative Declaration to all other involved agencies (R 998; *see* 6 NYCRR § 617.12[b],[c]).

51. For SEQRA Type I actions, the lead agency must publish notice of a Negative Declaration in the *Environmental Notice Bulletin*. DEC published that notice on August 12, 2015 (R 1022).

52. On June 28, 2016, DEC prepared an Amended Negative Declaration reflecting DEC's evaluation of new information on potential air impacts (R 1040-1057). There was no new information on impacts for water withdrawal or water discharge that required an updated analysis in the Amended Negative Declaration. DEC properly provided notice and a copy of the Amended Negative Declaration to the involved agencies on June 28, 2016 (R 1040). DEC also properly published a notice of its Amended Negative Declaration in the *Environmental Notice Bulletin* on June 29, 2016, as required under 6 NYCRR § 617.7(e)(2) (R 1059).

Water Withdrawal Permit

53. ECL 15-1501(9) states that DEC “shall issue” an initial water withdrawal permit to entities that reported water withdrawals before February 15, 2012. Accordingly, DEC has classified issuance of initial water withdrawal permits as Type II actions (*see* 6 NYCRR § 617.5[c][19]).

54. Although DEC classified the issuance of an initial water withdrawal permit under 6 NYCRR Part 601 as a Type II action under SEQRA and, therefore not subject to SEQRA, substantively, in this instance—because the initial water withdrawal permit was proposed to be issued along with permits that are subject to SEQRA—DEC considered the impacts of any change in withdrawal consistent with the impacts of the air and SPDES permits (R 1055). DEC considered the potential environmental impacts for all relevant areas of environmental concern identified in the Environmental Assessment Form Part 2 (R 1042-1053). In its analysis, DEC, in effect, considered the potential impacts of both the renewed and modified SPDES permit and the initial water withdrawal permit, including impacts to surface waters (R 1054-1056). DEC used the withdrawal capacity reported before February 15, 2012 as the baseline for withdrawals because the applicant was entitled to an initial permit for this amount under ECL 15-1501(9). DEC evaluated potential adverse environmental impacts to surface waters and properly concluded there would be no significant adverse impacts based on the following: 1) actual withdrawals would be less than the reported volume Greenidge Generation was entitled to by law since only Unit 4 would be restarted and 2) impacts of water withdrawal on fisheries would be reduced through measures required under the SPDES permit’s best technology available requirements.

SPDES Permit

55. The SEQRA review described above in ¶¶ 44-52 was conducted before DEC issued the 2017 SPDES permit.

56. Petitioners assert that DEC failed to compare the environmental impacts of the restarted operations to a baseline of zero—that is no operations. In essence, petitioners claim that DEC should have conducted its environmental review as if Greenidge Station does not currently exist and had never operated. Petitioners are incorrect. DEC properly transferred the SPDES permit for Greenidge Station and it remained valid, even when the previous owner did not run Greenidge Station. DEC properly evaluated the potential environmental impacts of restarting operations at Greenidge Station in light of its current physical existence compared to its permitted operations.

57. Petitioners claim that DEC erred in its SEQRA analysis by issuing a Negative Declaration finding no significant adverse impacts on the environment associated with the renewal and modification of the SPDES permit. In this regard, petitioners allege that DEC's SEQRA determination was flawed because it was based upon new permit conditions for protections against fish impingement and entrainment. Therefore, petitioners assert that the Negative Declaration constituted a Conditional Negative Declaration, which is impermissible for a Type I action.

58. Under 6 NYCRR § 617.2(h), a Conditioned Negative Declaration is a Negative Declaration “for an Unlisted action, involving an applicant, in which the action as initially proposed may result in . . . significant adverse environmental impacts; however, mitigation measures identified and required by the lead agency . . . will modify the proposed action so that no significant adverse environmental impacts will result.”

59. Furthermore, 6 NYCRR § 617.7(d) outlines the procedures for Conditioned Negative Declarations. In issuing a Conditioned Negative Declaration, the agency must “impose[] SEQRA conditions pursuant to subdivision 617.3(b) of this Part that have mitigated all significant environmental impacts and are supported by the Full Environmental Assessment Forms and any other documentation” (6 NYCRR § 617.7[d][1][iii]).

60. DEC did not make a Conditioned Negative Declaration. DEC imposed no conditions in the Amended Negative Declaration and checked the box indicating its determination that there were no significant adverse impacts on the environment (R 1053). As explained in the Amended Negative Declaration (R 1054-1056), DEC found there were no significant adverse impacts on the environment because Greenidge Generation did not propose to undertake any new activity that differed from prior operations already allowed by the 2010 SPDES permit.

61. For the proposed modification of the existing SPDES permit, DEC was required to prepare a draft permit and permit conditions to impose Best Technology Available measures. In conducting the SEQRA review, DEC needed to evaluate the potential impacts of the required permit modification and conditions. Required conditions in a draft SPDES permit are not SEQRA conditions pursuant to 6 NYCRR § 617.3(b). DEC properly evaluated the potential impacts to surface waters associated with the proposed SPDES permit modification in its Amended Negative Declaration (R 1043-1044, 1055-1056). Although Greenidge Station did not operate for a time, it had a valid SPDES permit for that entire time and DEC issued a renewed and modified SPDES permit to allow continued operation. DEC’s issuance of the renewed SPDES permit as drafted could not have an adverse environmental impact because it imposed

more stringent conditions than the previous SPDES permit (*compare* 2010 SPDES permit [R 465-494] *with* 2017 SPDES permit [R 1417-1444]).

62. DEC's Amended Negative Declaration does not contain any SEQRA conditions Greenidge Generation is required to implement to mitigate significant environmental impacts. DEC did not identify any significant adverse environmental impacts in the Amended Negative Declaration. Any reference to applicable air permit and SPDES permit regulations and the analyses of impacts in implementing the regulatory requirements do not constitute a SEQRA condition. Nor does any reference to, or analysis of, a regulation as part of a provision of the draft permit create a SEQRA condition. DEC must review permit applications and explain its reasoning, but that review requirement, including the preparation of required draft permits, does not create conditions on the Amended Negative Declaration.

63. Petitioners assert that DEC failed to evaluate the impacts of waste disposal at the Landfill. However, DEC assessed the impact of waste disposal at the Landfill and the Amended Negative Declaration states that waste generated by Greenidge Station's operations will be less than the waste generated by previous operations because Greenidge Station will no longer burn coal (R 1057).

64. The Landfill has separate Solid Waste Management and SPDES permits from Greenidge Station. Although Greenidge Generation would use the Landfill as a disposal location for ash that it generates, DEC permits the Landfill to serve that function. DEC properly determined that it was not necessary to modify either permit for the Landfill based on the restart of Greenidge Station.

65. According to Part 1 of the SEQRA Full Environmental Assessment Form, dated March 15, 2016, approximately 6,500 tons of ash per year would be generated by the resumed

operation of Greenidge Station and that material would be disposed of at the Landfill (R 1032). Petitioners neither dispute the yearly amount of ash estimated to be generated by Greenidge Station, nor do they question the disposal location provided in the applicant's information in the Full Environmental Assessment Form. The Landfill is an existing, DEC-permitted facility with a daily-approved design capacity of 1,729 tons per day (R 812). The Landfill could easily accept the 6,500 tons of ash (R 1032) waste per year from Greenidge Station. Based on the information provided by the Full Environmental Assessment Form, DEC's SEQRA determination properly concluded that there were no significant adverse environmental impacts from solid waste generation and disposal.

66. DEC properly evaluated the potential impacts on energy in its Amended Negative Declaration (R 1049, 1056). Greenidge Station uses natural resources to generate energy, but its operation will not create additional or new demand for energy. Whether a project will create an additional or new demand for energy is the focus of the SEQRA Full Environmental Assessment Form's question in Part 1—2.D.k and Greenidge Generation properly answered "no" (R 1031, 1049). Upon information and belief, resumed operation of Greenidge Station provides a source of electricity to meet existing demands, which DEC accounted for in the Amended Negative Declaration (R 1056).

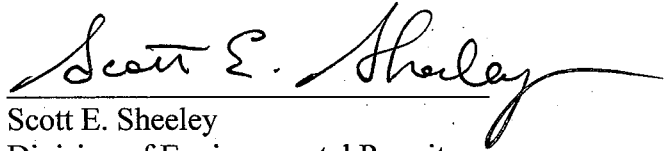
67. The remainder of the potential environmental impacts addressed in the Amended Negative Declaration pertained to "Impacts on Plants and Animals" and "Impacts on Historic and Archaeological Resources" (R 1046-1047, 1056). DEC determined that there would be no significant adverse impacts to these resources from resuming operations at the Greenidge Station site because the facility already exists (R 1056). Any modifications necessary to convert existing equipment at the facility to natural gas occur within existing buildings and prior-disturbed areas.

68. The New York State Public Service Commission addressed activities associated with the construction of the natural gas pipeline interconnection in its review under Article VII of the Public Service Law. 6 NYCRR § 617.5(c)(35) specifically exempts such actions from SEQRA review. The Public Service Commission issued a Certificate of Environmental Compatibility and Public Need under Article VII of the New York State Public Service Law effective September 16, 2016, approving the proposed gas pipeline project (R 1060-1121). Although exempt from SEQRA review, as evidenced in the Public Service Commission decision, staff from various DEC Divisions participated in the environmental review of the gas pipeline project. The issues PSC covered in its review of the gas pipeline proposal included storm water runoff, surface water impacts, wildlife and habitat impacts, and potential impacts to the Landfill. In actively participating in the Article VII review process, DEC ensured that these impacts were addressed as part of the overall environmental assessment for Greenidge Station notwithstanding the fact that 6 NYCRR § 617.5(c)(35) specifically exempts such actions from SEQRA review.

69. Petitioners allege that DEC failed to follow SEQRA in evaluating the potential environmental impacts from issuing the SPDES and initial water withdrawal permits. However, contrary to petitioners' unsupported allegations, DEC properly administered SEQRA. DEC properly defined the scope of the SEQRA action, properly classified the SEQRA action, properly followed required SEQRA procedures in conducting a coordinated SEQRA review, properly identified the relevant areas of environmental concern, took the requisite "hard look" at the relevant areas of environmental concern, and provided a reasoned elaboration of its determination of significance.

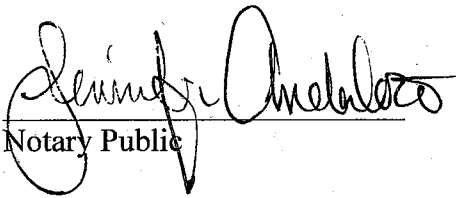
CONCLUSION

70. DEC complied with all applicable requirements under the law in issuing the initial water withdrawal permit and renewed and modified SPDES permit to Greenidge Generation for Greenidge Station.



Scott E. Sheeley
Division of Environmental Permits
New York State Department of
Environmental Conservation

Sworn to before me this
28th day of February, 2018


Notary Public

JENNIFER ANDALORO
Notary Public, State of New York
No. 02AN6098246
Qualified in Albany County
Commission Expires January 14, 20 20