

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: FOURTH DEPARTMENT

In the Matter of the Application of

SIERRA CLUB, COMMITTEE TO PRESERVE THE FINGER
LAKES by and in the name of PETER GAMBÀ, its President;
and COALITION TO PROTECT NEW YORK by and in the
name of KATHRYN BARTHOLOMEW, its Treasurer,

Petitioners-Appellants,

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, GREENIDGE PIPELINE,
LLC, GREENIDGE PIPELINE PROPERTIES CORPORATION
and LOCKWOOD HILLS, LLC,

Respondents-Respondents.

NOTICE OF MOTION
FOR TEMPORARY
INJUNCTIVE RELIEF

Docket No. CA 18-00648

Yates County
Index No. 2016-0165

PLEASE TAKE NOTICE that upon the annexed affirmation of Rachel Treichler, affirmed June 28, 2018, the undersigned will move this Court at a Term of the Appellate Division, 50 East Avenue, Rochester, New York, 14604 on Monday, July 16, 2018 at 10:00 A.M. or as soon thereafter as counsel can be heard, for an order enjoining Respondent Greenidge Generation, LLC (GGLLC) from taking any further steps to construct and install equipment to prevent fish impingement and entrainment at Greenidge Generating Station pending the resolution of this proceeding or further order of the Court, and, if the Court agrees with Petitioners' reading of the plain text of the SEQRA law and regulations, to continue thereafter until Respondent New York State Department of Environmental Conservation

("DEC") has completed the environmental review required by SEQRA, and for such other and further relief as the Court may deem just and proper.

As set forth in the attached affirmation of Rachel Treichler, Respondent GLLC is currently being allowed to operate without such equipment in violation of the Clean Water Act, but is subject to a conditions in its State Pollution Discharge and Elimination System ("SPDES") permit that require it to begin a process of installing equipment that Petitioners claim does not comply with the requirements of the applicable state and federal laws at Greenidge Station and to have completed the installation of variable speed drives on the cooling water pumps by October 1, 2019, and to have completed the installation of cylindrical wedge-wire screens within five years of October 1, 2017, or by October 1, 2022. Such construction could ultimately be determined to raise a colorable claim of mootness of the pending appeal which could render ineffectual any judgment ultimately obtained by Petitioners thereby causing them irreparable harm.

Petitioners will request that this Court impose no bond requirement or impose only a nominal undertaking in light of the strong public interest in this proceeding and the fact that Respondents will not be significantly harmed from issuance of the temporary injunctive relief sought.

DATED: Hammondsport, New York
July 6, 2018

Respectfully submitted,



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