New suit filed against permits for Greenidge Power Plant

Three local environmental organizations joined the Sierra Club last week in filing a new lawsuit challenging two new permits issued for operation of the Greenidge Generating Station on Seneca Lake.

The new permits are the water withdrawal permit and the SPDES water discharge permit issued by the New York State Department of Environmental Conservation (“DEC”) on September 11, 2017. The lawsuit claims that DEC failed to conduct the proper environmental reviews before issuing the permits. The suit asks for the permits to be annulled and new environmental reviews conducted.

The groups filed Sierra Club v. DEC, Index No. 2017-0232, in Yates County Supreme Court in Penn Yan on November 8, 2017.

The local groups joining the Sierra Club as petitioners in the lawsuit are the Committee to Preserve the Finger Lakes (“CPFL”), the Coalition to Preserve New York (“CPNY”) and Seneca Lake Guardian, a Waterkeeper Affiliate (“SLG”).

This is the second suit filed challenging permits issued for operation of Greenidge Station by DEC.

In October 2016, Sierra Club, CPFL and CPNY challenged the air emission discharge permits DEC issued to Greenidge. The air emission permits were issued in September 2016 before the plant resumed operations.

Michael McKeon, a spokesman for Greenidge issued the following statement to FingerLakes1.com:

“The state and federal permits and approvals we were required to secure were and are uniquely strong; they facilitated our conversation to natural gas as our primary fuel and they will fully protect the region’s air and water. Greenidge is now, in many ways, the environmental permitting benchmark by which other similar facilities will be measured. This suit, which attempts to rehash the same arguments already brought by these same few individuals and soundly rejected by the court, does not erase that reality.”
DEC waited until six months after new operations began in April 2017 to issue the plant's water withdrawal and the water discharge permits.

“These two permits authorize the largest daily water withdrawals and the largest daily water discharges into Seneca Lake,” said Peter Gamba, president of CPFL. “The water withdrawal permit authorizes withdrawals of almost 140,000,000 million gallons per day from Seneca Lake and the SPDES water discharge permit authorizes discharges of up to 134,000,000 million gallons of heated condenser cooling water from the plant's once-through cooling system into the Keuka Outlet, 700 feet from the lake.”

“Seneca Lake Guardian joined in this suit because we are concerned about the huge impacts the new operations of the Greenidge plant will have on Seneca Lake,” said Joseph Campbell, President of SLG. “The heated discharges from the plant increase the likelihood of toxic algae blooms in the shallow area of the lake surrounding Keuka Outlet. The maximum temperature of the discharge allowed is 108 degrees Fahrenheit in summer and 86 degrees Fahrenheit in winter. These discharges can have a big effect in this area of the lake,” Campbell said.

“In addition to the discharge of up to 134,000,000 gallons per day of heated condenser cooling water into Keuka Outlet, the SPDES Permit also authorizes discharges into Seneca Lake and groundwater of bottom ash pond overflow, including stormwater, treated coal pile runoff, treated maintenance cleaning wastewater, oil separator, and boiler chemical cleaning final rinse; boiler water final rinse, coal pile runoff, fly ash hopper decant, demineralizer regenerate wastewater, maintenance cleaning wastewater, stormwater and other discharges. These additional discharges are not subject to any flow restrictions, but are subject to other standards that vary by the type of discharge,” Gamba remarked.

Kate Bartholomew, Conservation Chair of the Sierra Club Atlantic Chapter noted that “the SPDES permit requires the installation of cylindrical wedge-wire screens and variable speed drives to reduce fish kills and injuries by the plant and requires GGLLC to submit a cylindrical wedge-wire screen pilot study plan, installation and operation plan, and a verification monitoring plan. The SPDES Permit also requires a dilution study to determine appropriate dilution factors for Seneca Lake,” Bartholomew said.

“We think DEC should have required the preparation of a draft environmental impact statement and allowed the public to weigh in on the impacts of these withdrawals and discharges before allowing this plant to begin new operations,” Bartholomew said. “The plant is currently operating without any equipment to reduce fish kills and injuries in violation of Clean Water Act requirements, what impact is that having on the lake?” Bartholomew asked.

The environmental groups assert that the water withdrawal and SPDES discharge permits are legally deficient because DEC violated the requirements of the water withdrawal permitting law, the SPDES law and the State Environmental Quality Review Act (“SEQRA”) when it issued the permits without conducting a proper environmental review of the impacts of restarting the Greenidge Station.

Petitioners are preparing their appeal to the Appellate Division, Fourth Department in Rochester of Judge William Kocher’s April 2017 decision to grant Respondents' motion to dismiss the first Article 78 petition, which challenged the air permits.

The environmental groups are represented in both proceedings by attorneys Richard Lippes from Buffalo and Rachel Treichler from Hammondsport.
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