

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

SENECA LAKE GUARDIAN, COMMITTEE
TO PRESERVE THE FINGER LAKES, and
SIERRA CLUB

Plaintiffs,

v.

GREENIDGE GENERATION LLC,

Defendant.

CIVIL ACTION NO.

COMPLAINT

1. This complaint alleges Greenidge Generation LLC (“Greenidge”), a company that owns and operates the Greenidge Generation Station (“Facility”), a power plant in Dresden, New York, has violated, and continues to violate, the Clean Water Act by discharging pollutants into Seneca Lake and the Keuka Lake Outlet, without a valid Clean Water Act permit.

2. Specifically, the permit authorizing the Facility to discharge pollutants into Seneca Lake via the Keuka Outlet expired on September 30, 2022. Because Greenidge failed to submit to the New York State Department of Environmental Conservation (“DEC”) a sufficient renewal application containing complete, federally required information necessary for a permit renewal, the Facility is not entitled to continue to discharge under its expired permit.

3. Upon information and belief, the Facility has discharged pollutants into Seneca Lake and the Keuka Outlet continuously since October 1, 2022, and the discharges are ongoing.

4. Plaintiffs Seneca Lake Guardian, Committee to Preserve the Finger Lakes, and Sierra Club seek a declaratory judgment that Greenidge has been, and continues to be, in violation of the Clean Water Act. Plaintiffs also seek an injunction requiring Greenidge to cease

discharging until it obtains a complete and lawful Clean Water Act permit authorizing the Facility's discharge. Plaintiffs seek imposition of maximum civil penalties for Greenidge's violation of the Clean Water Act and seek recovery of attorney's fees and costs for bringing this action.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over this action under 33 U.S.C. § 1365(a) and 28 U.S.C. §§ 1331, 2201, 2202.

6. Venue is proper in this Court pursuant to 33 U.S.C. § 1365(c), as the Facility is located in Dresden, New York, in Yates County.

NOTICE

7. On November 17, 2022, Plaintiffs gave written notice of the violations set forth in this complaint, and of their intent to file suit on these Clean Water Act claims, to Greenidge Generation LLC, the New York State Department of Environmental Conservation, Environmental Protection Agency ("EPA") Headquarters, and the Regional Administrator of EPA Region 2. *See* 33 U.S.C. § 1365(b)(1)(A). The notice of intent is attached hereto as Exhibit A.

8. More than sixty days have elapsed since service of Plaintiffs' notice of intent to sue, as the Clean Water Act requires. 33 U.S.C. § 1365(b)(1)(A).

9. Neither EPA nor DEC has commenced or is diligently prosecuting a civil or criminal action in a court to redress the violations specified in the notice.

PARTIES

A. Plaintiff Seneca Lake Guardian

10. Plaintiff Seneca Lake Guardian is a non-profit organization incorporated and

operating under the laws of New York.

11. Seneca Lake Guardian is a “person” under section 502(5) of the Clean Water Act. 33 U.S.C. § 1362(5).

12. Seneca Lake Guardian is a “citizen” as defined by section 505(g) of the Clean Water Act. *Id.* § 1365(g).

13. Seneca Lake Guardian’s members live, raise their families, and own property in the area surrounding Seneca Lake and the wider Finger Lakes region. Seneca Lake Guardian has individual members who reside, own property, work, and recreate in and near Seneca Lake and the Facility’s discharge location.

14. Seneca Lake Guardian sues on behalf of its individual members who are injured by Defendant’s unpermitted discharge. Seneca Lake Guardian’s members have suffered, are suffering, and will continue to suffer injury from Defendant’s unpermitted discharge. Multiple members of Seneca Lake Guardian rely on the water from Seneca Lake as a water source for drinking, cooking, and bathing. Members of Seneca Lake Guardian also use the lake for swimming, kayaking, fishing, and sailing. The members are concerned that the Facility’s unpermitted discharges threaten their health and safety because they drink and cook with the water. The discharges lessen their enjoyment of recreating in, on, and around the lake. The discharges have harmed, and continue to harm, members of Seneca Lake Guardian, and this lawsuit can redress those harms.

B. Plaintiff Committee to Preserve the Finger Lakes

15. Committee to Preserve the Finger Lakes is a non-profit organization incorporated in and operating under the laws of New York.

16. Committee to Preserve the Finger Lakes is a “person” under section 502(5) of the

Clean Water Act. 33 U.S.C. § 1362(5).

17. Committee to Preserve the Finger Lakes is a “citizen” as defined by section 505(g) of the Clean Water Act. *Id.* § 1365(g).

18. Committee to Preserve the Finger Lakes is committed to preserving the natural beauty and purity of the water in the Finger Lakes region of New York State for future generations and recognizes tourism and agriculture as the well-established foundation of the region’s economy.

19. Committee to Preserve the Finger Lakes has individual members who reside, own property, work, and recreate in and near Seneca Lake and the Facility’s discharge location.

20. Committee to Preserve the Finger Lakes sues on behalf of its individual members who are injured by Defendant’s unpermitted discharge. Members of the Committee to Preserve the Finger Lakes draw water from Seneca Lake for their personal use via shore well. Members also use Seneca Lake recreationally for activities such as swimming, fishing, kayaking, viewing wildlife, and sailing. The members are concerned that the Facility’s unpermitted discharges threaten their health and safety because they use the water for bathing. The unpermitted discharges also lessen their enjoyment of recreating in, on, and around the lake. The discharges have harmed, and continue to harm, members of Committee to Preserve the Finger Lakes, and this lawsuit can redress those harms. Committee to Preserve the Finger Lakes’ members have suffered, are suffering, and will continue to suffer injury from Defendant’s Clean Water Act violations.

C. Plaintiff Sierra Club

21. Sierra Club is a non-profit organization incorporated in California as a Nonprofit Public Benefit Corporation with headquarters in Oakland, California.

22. Sierra Club has over 779,000 members nationwide and local chapters across the country. Sierra Club's Atlantic Chapter has a membership of approximately 50,000 members in New York State.

23. Sierra Club is a "person" under section 502(5) of the Clean Water Act. 33 U.S.C. § 1362(5).

24. Sierra Club is a "citizen" as defined by section 505(g) of the Clean Water Act. *Id.* § 1365(g).

25. Sierra Club is dedicated to protecting and preserving the natural and human environment, and its purpose is to explore, enjoy, and protect the wild places of the earth; to practice and promote the responsible use of the earth's ecosystems and resources; and to educate and enlist humanity to protect and restore the quality of the natural and human environments.

26. Sierra Club sues on behalf of its individual members who are injured by Defendant's Clean Water Act violations. Sierra Club members have suffered, are suffering, and will continue to suffer injury from Defendant's violations. Specifically, members of Sierra Club own property on Seneca Lake and use its waters or those of the Keuka Lake Outlet for recreation, such as swimming, fishing, kayaking, or sailing. Members of the organization are deeply concerned that the unpermitted discharge from the Greenidge Generation Station is degrading, and will continue to degrade, the quality of water in Seneca Lake and Keuka Lake Outlet, making activities like swimming and kayaking more perilous.

D. Defendant Greenidge Generation LLC

27. Greenidge is a limited liability corporation engaged in cryptocurrency mining and power generation.

28. Greenidge owns and operates the Facility, located in Dresden, New York.

29. Greenidge is a “person” as defined under section 502(5) of the Clean Water Act. 33 U.S.C. § 1362(5).

LEGAL BACKGROUND

A. The Clean Water Act

30. Congress passed the Clean Water Act to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” 33 U.S.C. § 1251(a).

31. Clean Water Act section 301 prohibits “the discharge of any pollutant by any person,” except “as in compliance with this section and [section 402] . . . of this title.” *Id.* § 1311(a).

32. The Clean Water Act defines “person” as “an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body.” *Id.* § 1362(5).

33. The Clean Water Act defines “discharge of a pollutant” as “any addition of any pollutant to navigable waters from any point source.” *Id.* § 1362(12).

34. The Clean Water Act defines “point sources” as “discernible, confined and discrete conveyance[s].” *Id.* § 1362(14).

35. The Clean Water Act defines “pollutant” as “dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.” 33 U.S.C. § 1362(6).

36. “Navigable waters” are “the waters of the United States,” defined by regulations to include tributaries to intrastate lakes. *Id.* § 1362(7); 33 C.F.R § 328.3.

37. Clean Water Act section 402 establishes the National Pollution Discharge

Elimination System, which authorizes the EPA Administrator to “issue a permit for the discharge of any pollutant.” 33 U.S.C. § 1342(a)(1).

38. The Clean Water Act authorizes states desiring to administer their own discharge permitting program to seek and receive approval from the EPA Administrator to operate a delegated permitting program. *Id.* § 1342(b).

39. The Clean Water Act requires that permits issued by state permit programs “are for fixed terms not exceeding five years.” *Id.* § 1342(b)(1)(B).

40. The Clean Water Act requires that “[a]ny State permit program . . . shall at all times be in accordance with this section and guidelines promulgated” *Id.* § 1342(c)(2).

41. Clean Water Act regulations list minimum requirements for State delegated programs. Specifically, federal regulations mandate that “[a]ll State Programs . . . must have legal authority to implement” the Clean Water Act regulations listed in 40 C.F.R. § 123.25 and directs that State programs “must be administered in conformance with each.” 40 C.F.R. § 123.25.

42. 40 C.F.R. § 123.25 includes 40 C.F.R. “§ 122.21(a)-(b), (c)(2), (e)-(k), (m)-(p), (q) and (r)—(Application for a permit)” and “Subparts A, B, D, H, I, J, and N of part 125 of this chapter” in the list of federal regulations that State programs must implement.

43. Federal regulations set forth application requirements for both new and existing applicants. 40 C.F.R. § 122.21.

44. Federal regulations require that “[a]ll applicants, other than POTWs, TWTDS, vessels, and pesticide applicators must submit Form 1.” 40 C.F.R. § 122.21(a)(2)(i)(A).

45. Applicants for “existing industrial facilities (including manufacturing facilities, commercial facilities, mining activities, and silvicultural activities), must submit Form 2C.” *Id.*

§ 122.21(a)(2)(i)(D).

46. Applicants for “State-issued permits must use State forms which must require at a minimum the information listed in the appropriate paragraphs” of 40 C.F.R. § 122.21. *Id.*

§ 122.21(a)(2)(iv).

47. Federal regulations direct that permittees with “currently effective permits shall submit a new application 180 days before the existing permit expires.” *Id.* § 122.21(d)(2).

48. 40 C.F.R. § 122.21(g) sets forth “[a]pplication requirements for existing manufacturing, commercial, mining, and silvicultural dischargers.”

49. Federal regulations require existing manufacturing, commercial, mining, and silvicultural dischargers to include data regarding effluent characteristics as part of the application process. *Id.* § 122.21(g)(7).

50. National Permit Discharge Elimination System Permit Program Application Form 2C: Existing Manufacturing, Commercial, Mining, and Silvicultural Operations includes Section 7, which requests information to comply with requirements in 40 C.F.R. § 122.21(g)(7) “Effluent and Intake Characteristics.”

51. National Permit Discharge Elimination System Permitting Program Application Form 1 includes the following field: “Identify the source of cooling water. (Note that facilities that use a cooling water intake structure as described at 40 CFR 125, Subparts I and J may have additional application requirements at 40 CFR 122.21(r))”

52. Subpart J of 40 C.F.R. § 125 establishes “Requirements Applicable to Cooling Water Intake Structures for Existing Facilities Under Section 316(b) of the Clean Water Act.”

53. Subpart J is applicable to existing point source facilities that use “one or more cooling water intake structures with a cumulative design intake flow (DIF) of greater than 2

million gallons per day (mgd) to withdraw water from waters of the United States,” where “[t]wenty-five percent or more of the water the facility withdraws on an actual intake flow basis is used exclusively for cooling purposes,” and for which construction commenced before 2002. *See* 40 C.F.R. §§ 125.91(a), 125.92(k).

54. A “cooling water intake structure” is a “physical structure and any associated constructed waterways used to withdraw cooling water from waters of the United States” that “extends from the point at which water is first withdrawn from the waters of the United States up to, and including, the intake pumps.” 40 C.F.R. § 125.92(f).

55. Subpart J includes 40 C.F.R. § 125.95, which states that “[t]he owner or operator of a facility subject to this subpart whose currently effective permit expires after July 14, 2018, must submit to the Director the information required in the applicable provisions of 40 CFR 122.21(r) when applying for a subsequent permit (consistent with the owner or operator's duty to reapply pursuant to 40 CFR 122.21(d)).”

56. 40 C.F.R. § 122.21(r) sets forth application requirements for facilities with cooling water intake structures.

57. 40 C.F.R. § 122.21(r)(1)(ii)(A) states: “The owner or operator of an existing facility defined at 40 CFR 125.92(k) must submit to the Director for review the information required under paragraphs (r)(2) and (3) of this section and applicable provisions of paragraphs (r)(4), (5), (6), (7), and (8) of this section.”

58. 40 C.F.R. § 122.21(r)(2) requires submission of source water physical data.

59. 40 C.F.R. § 122.21(r)(3) requires submission of cooling water intake structure data.

60. 40 C.F.R. § 122.21(r)(4) requires submission of source water baseline biological

characterization data.

61. 40 C.F.R. § 122.21(r)(5) requires submission of cooling water system data.

62. 40 C.F.R. § 122.21(r)(6) requires identification of chosen method(s) of compliance with the Impingement Mortality Standard.

63. 40 C.F.R. § 122.21(r)(7) requires submission of “any previously conducted studies or studies obtained from other facilities addressing technology efficacy, through-facility entrainment survival, and other entrainment studies.”

64. 40 C.F.R. § 122.21(r)(8) states: “The owner or operator of an existing facility must submit a description of the operational status of each generating, production, or process until that uses cooling water.”

65. Existing facilities with cooling water intakes that withdraw greater than 125 million gallons a day actual intake flow must also submit “for review the information required under paragraphs (r)(9), (10), (11), (12), and (13)” of 40 C.F.R. § 122.21. 40 C.F.R. § 122.21(r)(1)(ii)(B).

66. 40 C.F.R. § 122.21(r)(9) requires submission of an entrainment characterization study that includes a minimum of two years of entrainment data collection.

67. 40 C.F.R. § 122.21(r)(10) requires submission of “an engineering study of the technical feasibility and incremental costs of candidate entrainment control technologies.”

68. 40 C.F.R. § 122.21(r)(11) requires submission of an “evaluation of the benefits of the candidate entrainment reduction technologies and operational measures evaluated in paragraph (r)(10) . . . including using the [e]ntrainment [c]haracterization [s]tudy completed in paragraph (r)(9)”

69. 40 C.F.R. § 122.21(r)(12) requires submission of a “detailed facility-specific

discussion of the changes in non-water quality environmental and other impacts attributed to each technology and operational measure considered in paragraph (r)(10)”

70. 40 C.F.R. § 122.21(r)(13) requires the applicant to conduct an external peer review of each report to be submitted with the permit application, where the applicant is required to submit studies under paragraphs (r)(10) through (12).

71. Where EPA is the permit-issuing authority, the conditions of an expired permit continue in force under 5 U.S.C. § 558(c) until the effective date of a new permit if “the permittee has submitted a timely application under § 122.21 which is a complete (under § 122.21(e)) application for a new permit.” 40 C.F.R. § 122.6(a)(1).

72. States authorized to administer the section 402 permitting program “may continue either EPA or State-issued permits until the effective date of the new permits, if State law allows.” *Id.* § 122.6(d)(1).

73. Clean Water Act section 505 authorizes “any citizen” to bring suit “against any person . . . who is alleged to be in violation of (A) an effluent standard or limitation under this chapter” and grants district courts jurisdiction “to enforce such an effluent standard or limitation . . . and to apply any appropriate civil penalties under section 1319(d) of this title.” 33 U.S.C. § 1365(a).

74. The Clean Water Act defines “citizen” as “a person or persons having an interest which is or may be adversely affected.” *Id.* § 1365(g).

75. Under Clean Water Act section 309(g), “Any person who violates [Clean Water Act section 301] . . . shall be subject to a civil penalty” not to exceed \$64,618 per day for each violation. 33 U.S.C. § 1319(d); 40 C.F.R. § 19.4.

76. Clean Water Act section 505 defines “effluent standard or limitation” to include

any “prohibition, effluent standard or pretreatment standards” 33 U.S.C. § 1365(f); *see also id.* § 1317.

B. New York State Law

77. The purpose of Environmental Conservation Law Article 17, Title 8 is “[t]o create a state pollutant discharge elimination system (SPDES) to insure that the State of New York shall possess adequate authority to issue permits regulating the discharge of pollutants from new or existing outlets or point sources into the waters of the state” so that “such discharges will conform to and meet all applicable requirements of the” Clean Water Act. N.Y. Env’t Conserv. Law § 17-0801.

78. To implement the SPDES program, New York law provides “it shall be unlawful to discharge pollutants to the waters of the state from any outlet or point source without a SPDES permit issued pursuant hereto or in a manner other than as prescribed by such permit.” *Id.* § 17-0803.

79. New York law requires that DEC shall “by rule and regulation, require that every applicant for a permit to discharge pollutants into the waters of the state shall file such information at such times and in such form as the department may reasonably require to execute the provisions of this article.” *Id.*

80. New York law provides that “a permit holder may make written request to the department for the renewal . . . of an existing permit. Such request shall be accompanied by sufficient information supporting the request for the departmental action sought.” *Id.* § 70-0115.2.

81. New York law states, “[i]n the case of a request for the renewal . . . of an existing state pollutant discharge elimination system permit issued in lieu of a national pollutant

discharge elimination system permit the request shall be treated as an application for a new permit.” *Id.* § 70-0115.2(c).

82. New York law provides that “SPDES permits issued in lieu of national pollutant discharge elimination system permits shall be valid for a fixed term not to exceed five years.” *Id.* § 17-0817.

83. New York implementing regulations set SPDES permit terms at five years, except for discharges into groundwater. *See* N.Y. Comp. Codes R. & Regs. tit. 6, § 750-1.15.

84. New York’s State Administrative Procedure Act provides, “When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency.” N.Y.A.P.A. § 401.

85. New York regulations state that “[a]ny permittee who intends to continue to discharge beyond the period of time covered in the applicable SPDES permit must file for renewal of the permit at least 180 days prior to its expiration.” N.Y. Comp. Codes R. & Regs. tit. 6, § 750-1.16(a).

86. New York regulations direct that “[f]iling for renewal shall be made by the permittee on forms provided by the department.” *Id.*

FACTUAL BACKGROUND

87. The Facility is a gas-fired power plant that uses power for cryptocurrency mining operations and electricity generation.

88. The Facility is a “point source” as defined in 33 U.S.C. § 1362(14). *See* 40 C.F.R. § 125.91(a)(1).

89. The Facility was constructed prior to 1950.

90. Because the Facility was constructed before January 17, 2002, the power plant is an “existing facility.” 40 C.F.R. § 125.92(k).

91. The Facility uses “one or more cooling water intake structures with a cumulative design intake flow (DIF) of greater than 2 million gallons per day (mgd) to withdraw water from waters of the United States.” *Id.* § 125.91(a)(2).

92. Upon information and belief, the Facility withdraws greater than 125 mgd actual intake flow.

93. The Facility’s water intake system is a “cooling water intake structure” as defined in 40 C.F.R. § 125.92(f).

94. The Facility uses twenty-five percent or more of the water it withdraws on an actual intake flow basis exclusively for cooling purposes. *See id.* § 125.91(a)(3).

95. On October 1, 2017, DEC issued SPDES permit NY001325 to the Facility.

96. The Facility’s SPDES permit authorizes the Facility to discharge pollutants into Keuka Lake Outlet from Outfalls 01 and 01A and to Seneca Lake from Outfalls 02, 02A, 02B, 02C, 02D, 02E, 02F, 02G, 02H, 02I, and 005.

97. Seneca Lake is a water of the United States and a “navigable water.” *See* 33 U.S.C. § 1362(7); 33 C.F.R. § 328.3.

98. The Keuka Lake Outlet is a water of the United States and a “navigable water.” *See* 33 U.S.C. § 1362(7); 33 C.F.R. § 328.3.

99. DEC modified the Facility’s SPDES permit on October 1, 2019.

100. DEC modified the Facility’s SPDES permit on September 27, 2022.

101. The Facility’s SPDES permit expired on September 30, 2022.

102. On or about January 12, 2022, Greenidge submitted materials in support of its

application for a renewed SPDES permit for the Facility.

103. The material Greenidge submitted in support of its renewal application consisted of a one-page SPDES Permit Renewal Questionnaire; a one-page SPDES Permit—Designation of Authority; a one-page Notice/Renewal Application containing a SPDES Permit Renewal Application Certification; and a cover letter.

104. The information Greenidge submitted to DEC in support of its application for a renewed SPDES permit did not contain information required by 40 C.F.R. § 122.21(g).

105. The information Greenidge submitted to DEC in support of its application for a renewed SPDES permit did not contain information required by 40 C.F.R. § 122.21(r).

106. The information Greenidge submitted to DEC in support of its application for a renewed SPDES permit did not contain information required by EPA NPDES Form 1.

107. The information Greenidge submitted to DEC in support of its application for a renewed SPDES permit did not contain information required by EPA NPDES Form 2C.

108. On information and belief, since September 30, 2022, the Facility has been discharging and continues to discharge pollutants into the Keuka Lake Outlet. *See* 33 U.S.C. § 1362(12).

109. The Facility submitted Discharge Monitoring Reports for October 2022 on November 28, 2022 and for November 2022 on December 27, 2022. The Discharge Monitoring Reports show ongoing discharge of pollutants into Keuka Lake Outlet and Seneca Lake.

110. The Facility submitted a Discharge Monitoring Report for the monitoring period ending October 31, 2022 (“October DMR”). The October DMR shows a daily maximum flow of 87.55 mgd from Outfall 01. The October DMR reports a temperature difference between the effluent and receiving water of 12.5 degrees Fahrenheit.

111. Heat is a pollutant. *See* 33 U.S.C. § 1362(6).

112. The October DMR shows a daily maximum flow from Outfall 2 as 0.814 mgd and a monthly average flow of 0.66 mgd. The October DMR reports discharges of magnesium, fluoride, arsenic, barium, boron, iron, manganese, and aluminum from Outfall 2.

113. Magnesium, fluoride, arsenic, barium, boron, iron, manganese, and aluminum are pollutants. *See* 33 U.S.C. § 1362(6).

114. The Facility submitted a Discharge Monitoring Report for the monitoring period ending November 30, 2022 (“November DMR”). The November DMR shows a daily maximum flow of 87.89 mgd from Outfall 01. The November DMR reports a temperature difference between the effluent and receiving water of 12.9 degrees Fahrenheit.

115. The November DMR shows a daily maximum flow from Outfall 2 as 0.946 mgd and a monthly average flow of 0.407 mgd. The November DMR reports discharges of magnesium, fluoride, arsenic, barium, boron, iron, manganese, and aluminum from Outfall 2.

FIRST CLAIM

116. Plaintiffs reallege paragraphs 1 through 115 and incorporate them herein by reference.

117. The Facility is a point source discharging pollutants into waters of the United States.

118. The Facility’s SPDES permit authorizing discharge into Keuka Lake Outlet and Seneca Lake expired September 30, 2022.

119. The Facility is a once through cooling power plant subject to the requirements of Subpart J of 40 C.F.R. part 125.

120. The Facility is an existing industrial facility.

121. As owner and operator of the Facility, Greenidge was required to comply with federal requirements for renewal permit applications relating to existing industrial facilities and facilities with cooling water intake structures.

122. As an applicant for a renewal permit, Greenidge was required to submit information included on EPA NPDES Form 1 in its renewal application for the Facility.

123. As an existing industrial facility, the Facility was required to submit information required by EPA NPDES Form 2C with its renewal application.

124. Because the Facility is subject to Subpart J of 40 C.F.R. part 125, Greenidge was required to submit information required by 40 C.F.R. § 122.21(r) as part of its renewal application.

125. Greenidge failed to submit application information required by 40 C.F.R. § 122.21(r) at least 180 days prior to the expiration of its SPDES permit.

126. Greenidge failed to submit application information required by 40 C.F.R. § 122.21(g) at least 180 days prior to the expiration of its SPDES permit.

127. Greenidge failed to submit in support of its renewal application the information included in EPA NPDES Form 1 at least 180 days prior to the expiration of its permit.

128. Greenidge failed to submit in support of its renewal application the information included in EPA NPDES Form 2C at least 180 days prior to the expiration of its permit.

129. Greenidge failed to submit a timely and sufficient renewal application at least 180 days prior to the expiration of the Facility's SPDES permit.

130. The Facility's SPDES permit lapsed upon its expiration on September 30, 2022.

131. DEC has not issued the Facility a new or renewed SPDES permit since the prior permit expired on September 30, 2022.

132. Any discharge of pollutants by the Facility into Keuka Lake Outlet or Seneca Lake after September 30, 2022 is an unpermitted discharge in violation of the Clean Water Act.

133. The Facility has discharged and continues to discharge pollutants into Keuka Lake Outlet and Seneca Lake since September 30, 2022.

134. The Facility has violated and continues to violate the Clean Water Act by discharging pollutants from a point source into Keuka Lake Outlet and Seneca Lake. 33 U.S.C. § 1311(a).

REQUEST FOR RELIEF

Plaintiffs respectfully request that the Court:

A. Declare that Greenidge has violated and continues to violate the Clean Water Act, 33 U.S.C. § 1311(a);

B. Enjoin Defendant Greenidge from discharging into the Keuka Lake Outlet and Seneca Lake from the Facility;

B. Assess civil penalties against Defendant Greenidge in the amount of \$64,618 per day for each separate violation of the Clean Water Act, 33 U.S.C. § 1319(d) and 40 C.F.R. § 19.4;

C. Award Plaintiffs their reasonable fees, costs, expenses, and disbursements, including attorney's fees, as authorized by the Clean Water Act, 33 U.S.C. § 1365(d); and

D. Grant Plaintiffs such additional and further relief as the Court may deem just and proper.

Respectfully submitted this 24th day of January, 2023.

s/Jill Witkowski Heaps
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