

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

CHAUTAUQUA LAKE PARTNERSHIP, INC., MARY HUTCHINGS, MICHAEL LATONE, and JAMES CIRBUS,

Petitioners-Plaintiffs,

For a Judgment and Order Pursuant to Article 78 and/or Article 30 of the N.Y. Civil Practice Law and Rules (CPLR),

-against-

VERIFIED ANSWER

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, SEAN MAHAR, in his capacity as INTERIM COMMISSIONER OF THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, AMANDA LEFTON, in her capacity as ACTING COMMISSIONER OF THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

Index No. 905313-25

Respondents-Defendants.

Respondents-Defendants New York State Department of Environmental Conservation; Sean Mahar, in his capacity as Interim Commissioner of the New York State Department of Environmental Conservation; and Amanda Lefton, in her capacity as Acting Commissioner of the New York State Department of Environmental Conservation (collectively, DEC) by their attorney, Letitia James, Attorney General of the State of New York, respond to the Amended Verified Petition and Complaint, dated June 2, 2025, by petitioners-plaintiffs Chautauqua

Lake Partnership, Inc.; Mary Hutchings; Michael LaTone; and James Cirbus
(collectively, the Partnership) as follows:

OBJECTIONS IN POINT OF LAW:

a. Petitioners' first cause of action, seeking to invalidate 6 NYCRR part 664 as arbitrary and capricious, should be dismissed because DEC has taken no final action inflicting concrete harm and, thus, petitioners lack standing because they have suffered no injury from the regulations; alternatively, petitioners' third cause of action should be dismissed as unripe because DEC has taken no final action inflicting concrete harm ;

b. To the extent that petitioners challenge any DEC jurisdictional or permit determination, any such challenge is unripe because DEC has taken no final action;

c. Petitioners' fifth cause of action, seeking relief under the State Environmental Quality Review Act (SEQRA), should be dismissed because petitioners fail to state any concrete, particularized injury in fact that is distinct from the public at large. And to the extent that petitioners challenge decisions made by the Legislature and codified in the amended Freshwater Wetlands Act, no claim lies against either DEC or the Legislature, which is exempt from SEQRA;

d. Because DEC's promulgation of 6 NYCRR part 664 were rational and otherwise constitutional, and petitioners' procedural claims lack merit, petitioners are not entitled to injunctive relief.

STATEMENT OF GROUNDS FOR DEC'S ACTION:

DEC affirmatively states that it acted in accordance with all applicable constitutional provisions, statutes, regulations, procedures, and policies, and that the bases for its actions and determinations were rational and neither arbitrary nor capricious, as set forth in the accompanying Certified Administrative Return, affidavits of Roy Jacobson, Lisa M. Czechowicz, and Matthew Walter, and the accompanying memorandum of law.

Without waiving the foregoing objections in point of law, DEC answers as follows:

1. As to the truth of the allegations in ¶ 1, refers to the Amended Verified Petition and Complaint as the best evidence of its contents and denies the substantive allegations therein.
2. The allegations in ¶ 2 contain legal conclusions to which no response is necessary but to the extent a response is required, refers to Environmental Conservation Law (ECL) article 24 and 6 NYCRR part 664 for their complete texts, contexts, meanings, and legal effects.
3. The allegations in ¶ 3 contain legal conclusions to which no response is necessary but to the extent a response is required, denies the allegations in ¶ 3
4. Denies the allegations in ¶ 4.
5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 5.

6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of ¶ 6 and admits the allegations in the second sentence of ¶ 6.

7. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 7.

8. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 8.

9. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 9.

10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 10.

11. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 11 and affirmatively states that applicants must apply annually for herbicide treatments under both ECL article 15 and article 24 and the applicability of those statutes depends on the nature, extent, and exact location of the proposed treatment.

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

13. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in the first four sentences of ¶ 13; denies the allegations in the fifth, sixth, seventh, and eighth sentences of ¶ 13; and states that the

allegations in the final sentence of ¶ 13 contain legal conclusions to which no response is necessary but to the extent that a response is required, denies those allegations.

14. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 14.

15. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 15.

16. The allegations in ¶ 16 contain legal conclusions to which no response is necessary but to the extent a response is required, refers to 6 NYCRR part 664 for its complete text, context, meaning, and legal effects; otherwise denies the allegations in ¶ 16; and affirmatively states that 6 NYCRR 663.4(d) lists exempt activities including routine beach regrading and cleaning.

17. The allegations in ¶ 17 contain legal conclusions to which no response is necessary but to the extent a response is required, refers to 6 NYCRR parts 663 and 664 for their complete texts, contexts, meanings, and legal effects; denies knowledge or information sufficient to form a belief as to the allegations in the first sentence of ¶ 17 and affirmatively states that 6 NYCRR 663.4 provides permitting standards for the activities listed and in many circumstances such activities are not prohibited; and denies the allegations in the second sentence of ¶ 17 and affirmatively states that the activities listed are not prohibited but may require a permit, which would be granted or denied based on the standards in 6 NYCRR

663.5; and further affirmatively states that sections of Chautauqua Lake were regulated wetlands under the former version of ECL article 24 and the part 664 regulations.

18. The allegations in ¶ 18 contain legal conclusions to which no response is necessary but to the extent a response is required, denies the allegations and affirmatively states that certain portions of Chautauqua Lake were previously included in DEC's jurisdictional wetlands maps and regulated as freshwater wetlands, even under the previous version of 6 NYCRR part 664.

19. Admits the allegations in ¶ 19 except subject to the clarification in ¶ 21.

20. Admits the allegations in ¶ 20.

21. Denies so much of the allegations in ¶ 21 as allege that Amanda Lefton is the Acting DEC Commissioner, affirmatively states that, on May 20, 2025, Amanda Lefton was confirmed as the DEC Commissioner, and admits the remainder of the allegations in ¶ 21.

22. The allegations in ¶ 22 contain legal conclusions to which no response is necessary but to the extent a response is required, denies the allegations.

23. The allegations in ¶ 23 contain legal conclusions to which no response is necessary but to the extent a response is required, admits the allegations.

24. Admits the allegations in ¶ 24 except denies knowledge or information sufficient to form a belief as to whether Chautauqua Lake is “one of North America’s best-known navigable bodies of water.”

25. Admits the allegations in ¶ 25.

26. Admits the allegations in ¶ 26.

27. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 27.

28. Admits the allegations in ¶ 28.

29. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 29.

30. Admits the allegations in ¶ 30.

31. Denies as unclear the allegations in the first sentence of ¶ 31, specifically the meaning of “these qualities” and admits that the Partnership has complied with all substantive and procedural requirements of obtaining article 15 and herbicide permits but denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations in the second sentence of ¶ 31.

32. Admits the allegations in ¶ 32 and refers to ECL article 24 for its complete text, context, meaning, and legal effect.

33. As to the truth of the allegations in ¶ 33, refers to ECL article 24 and its legislative history for their complete texts, contexts, meanings, and legal effects and denies any factual allegations.

34. As to the truth of the allegations in ¶ 34, refers to ECL article 24 and its legislative history for their complete texts, contexts, meanings, and legal effects and denies any factual allegations.

35. As to the truth of the allegations in ¶ 35, refers to ECL article 24 and its legislative history for their complete texts, contexts, meanings, and legal effects and denies any factual allegations.

36. Admits the allegations in ¶ 36.

37. As to the truth of the allegations in ¶ 37, refers to ECL article 24 for its complete texts, context, meaning, and legal effect and denies any factual allegations.

38. As to the truth of the allegations in ¶ 38, refers to the former freshwater wetlands jurisdictional maps as the best evidence of their contents and affirmatively states that such maps were created over 40 years ago and did not always accurately reflect the locations or jurisdictional borders of wetlands that otherwise met the statutory and regulatory definitions of “freshwater wetland,” and deny any remaining allegations

39. Admits the allegations in ¶ 39.

40. As to the truth of the allegations in ¶ 40, refers to the prior versions of ECL article 24 and 6 NYCRR part 664 for their complete texts, contexts, meanings, and legal effects, and affirmatively states that certain portions of Chautauqua Lake were previously included in DEC’s jurisdictional wetlands maps and regulated as

freshwater wetlands, even under the previous version of 6 NYCRR part 664, and deny any remaining allegations.

41. As to the truth of the allegations in ¶ 41, refers to the existing version of 6 NYCRR part 663 and prior versions of ECL article 24 and 6 NYCRR part 664 for their complete texts, contexts, meanings, and legal effects, and deny any remaining allegations.

42. As to the truth of the allegations in ¶ 42, refers to ECL article 24 for its complete text, context, meaning, and legal effect and deny legal conclusions and any remaining allegations.

43. Admits the allegations in ¶ 43.

44. Deny the allegations in ¶ 44.

45. Admits the allegations in ¶ 45 and refers to DEC's regulatory impact statement for 6 NYCRR part 664 as the best evidence of its contents.

46. Denies the allegations in ¶ 46 and affirmatively states that ECL article 24 and its accompanying regulations have, since their inception, applied statewide.

47. Denies the allegations in ¶ 47.

48. Denies the allegations in ¶ 48; affirmatively assert that as a result of the amendments to ECL article 24 and 6 NYCRR part 664, an additional 1 million acres of land will likely fall within DEC's freshwater wetlands jurisdiction; and further affirmatively asserts that this includes lands that have long met the statutory and regulatory definitions of "freshwater wetlands" but were excluded

from DEC jurisdiction because of technological limitations when DEC issued jurisdictional maps under ECL article 24.

49. Denies the allegations in ¶ 49.

50. The allegations in ¶ 50 contain legal conclusions to which no response is necessary but to the extent a response is required, refers to ECL article 24 and 6 NYCRR part 664 for their complete texts, contexts, meanings, and legal effects, and otherwise denies the allegations in ¶ 50.

51. The allegations in ¶ 51 contain legal conclusions to which no response is necessary but to the extent a response is required, refers to 6 NYCRR part 664 for its complete text, context, meaning, and legal effect, denies the allegations in the third sentence of ¶ 51, and affirmatively states that if a property owner appeals a positive jurisdictional determination, 6 NYCRR 664.9 provides for consultations with DEC as well as a process by which a landowner may challenge DEC's jurisdictional determination.

52. Denies the allegations in ¶ 52 and refers to 6 NYCRR 664.9 for its complete text, context, meaning, and legal effect and to DEC's Standard Operating Procedures for making jurisdictional determinations, publicly available at <https://dec.ny.gov/sites/default/files/2025-01/sopfwremotejd.pdf>, as the best evidence of its contents.

53. Admits so much of the allegations in ¶ 53 as allege that any person may request a jurisdictional determination and deny all other allegations; refers to

6 NYCRR 664.8 for its complete text, context, meaning, and legal effect; and denies the remainder of the allegations in ¶ 53; and affirmatively states that although ECL article 24 and 6 NYCRR part 664 provide that any person may request a jurisdictional determination—a determination whether regulated wetlands exist on a parcel—, 6 NYCRR part 664 clarifies that only a landowner may request a wetland delineation, which involves a site inspection and field work to determine the precise boundary of a wetland.

54. Denies the allegations in ¶ 54 and affirmatively states that even under the original version of the Freshwater Wetlands Act and its accompanying regulations, regulated freshwater wetlands and their adjacent areas have existed across parcel boundaries.

55. Denies the allegations in ¶ 55.

56. Denies the allegations in ¶ 56.

57. Admits the allegations in ¶ 57.

58. Admits the allegations in ¶ 58.

59. Denies the allegations in ¶ 59 except admits that the Partnership submitted a comment letter in response to the Advanced Notice of Proposed Rulemaking.

60. Admits the allegations in ¶ 60.

61. Denies the allegations in ¶ 61 and affirmatively states that parts of Chautauqua Lake have always met the definition of freshwater wetland under ECL article 24 and its accompanying regulations.

62. Denies the allegations in ¶ 62, affirmatively states that parts of Chautauqua Lake have always met the definition of freshwater wetland under ECL article 24 and its accompanying regulations and have been included in DEC wetlands maps, that herbicide applicators have historically avoided these areas, and that DEC's herbicide permits for 2025—under the new regulatory scheme—have allowed greater application and invasive species management in Chautauqua Lake than in years past.

63. Denies the allegations in ¶ 63.

64. Denies the allegations in ¶ 64.

65. Denies the allegations in ¶ 65 and affirmatively states that DEC amended 6 NYCRR part 664 to reflect amendments to ECL article 24.

66. Admits the allegations in the second sentence of ¶ 66, denies the remainder of the allegations in ¶ 66, and affirmatively states that the scope of allowable herbicide treatment under ECL article 24 permits issued in 2025—under the Freshwater Wetlands Act and regulations as amended—to the Towns of Ellery, Ellicott, and Busti, was more expansive and covered more areas of Chautauqua Lake than in prior years.

67. Denies the allegations in ¶ 67.

68. Denies the allegations in ¶ 68; refers to 6 NYCRR part 664 for its complete text, context, meaning, and legal effect; and affirmatively states that many lakes—including Chautauqua Lake—contain wetlands, which the Department has always recognized.

69. Denies the allegations in ¶ 69, refers to 6 NYCRR 664.3(b)(4) for its complete text, context, meaning, and legal effect and affirmatively states that many lakes also accumulate silt and organic matter, in addition to wetlands.

70. Denies the allegations in ¶ 70 and refers to 6 NYCRR 664.3(b)(5) for its complete text, context, meaning, and legal effect.

71. Denies the allegations in ¶ 71.

72. Denies the allegations in ¶ 72.

73. Denies the allegations in ¶ 73 refers to ECL 24-0107 for its complete text, context, meaning, and legal effect.

74. Denies the allegations in ¶ 74.

75. Denies the allegations in ¶ 75.

76. Denies the allegations in ¶ 76.

77. Denies the allegations in ¶ 77 affirmatively states that DEC has issued freshwater wetlands permits for invasive species management in Chautauqua Lake, and refers to those permits as the best evidence of their contents.

78. Denies the allegations in ¶ 78 and affirmatively states that such a change would require an amendment to ECL article 24.

79. Denies the allegations in ¶ 79.

80. Denies the allegations in ¶ 80 and refers to ECL article 25, 6 NYCRR 664.5(a)(4), and 6 NYCRR 664.5(b)(4) for their complete texts, contexts, meanings, and legal effects.

81. Denies the allegations in ¶ 81.

82. Denies the allegations in ¶ 82 and affirmatively states that DEC is working with groups, including Chautauqua Lake Partnership, on general permits and one is specifically tailored for shallow lakes with submergent vegetation like Chautauqua Lake.

83. Denies the allegations in ¶ 83, refers to 6 NYCRR 663.4 for its complete text, context, meaning, and legal effects.

84. Denies the allegations in ¶ 84.

85. Denies the allegations in ¶ 85 and affirmatively states that dredging activities on navigable waterbodies such as Chautauqua Lake have historically required a permit from DEC under ECL article 15 and 6 NYCRR part 608.

86. Denies the allegations in ¶ 86 and affirmatively states that DEC issued permits to the Towns of Busti, Ellery and Ellicott on April 22, 2025, for pesticide treatments for curly leaf pondweed and Eurasian watermilfoil and to Chautauqua Lake Association on June 5, 2025 for harvesting of nuisance vegetation in the lake.

87. Denies the allegations in ¶ 87.

88. Denies the allegations in ¶ 88.

89. Denies the allegations in ¶ 89.

90. Denies the allegations in ¶ 90.

91. Denies the allegations in ¶ 91.

92. Denies the allegations in ¶ 92.

93. Denies the allegations in ¶ 93.

94. Denies the allegations in ¶ 94.

95. Denies the allegations in ¶ 95.

96. Denies the allegations in ¶ 96.

97. Admits the allegations in ¶ 97; refers to 6 NYCRR 664.5(a) for its complete text, context, meaning, and legal effect; and affirmatively states that DEC is bound by its own regulations, which it must interpret rationally.

98. Denies the allegations in ¶ 98.

99. Denies the allegations in ¶ 99.

100. Denies the allegations in ¶ 100.

101. Denies the allegations in ¶ 101.

102. Denies the allegations in ¶ 102.

103. Admits that DEC properly found no direct costs resulting from the part 664 amendments and denies all other allegations in ¶ 103.

104. Denies the allegations in ¶ 104.

105. Denies the allegations in ¶ 105.

106. Denies allegations in ¶ 106, and affirmatively states that DEC provides jurisdictional determinations at no cost.

107. Denies the allegations in ¶ 107.

108. Denies the allegations in ¶ 108.

109. Denies the allegations in ¶ 109.

110. Denies the allegations in ¶ 110.

111. Denies the allegations in ¶ 111 and affirmatively states that ECL 24-0301(2) requires DEC to conduct a delineation at no cost to a property owner upon request.

112. Denies the allegations in ¶ 112 and affirmatively states that DEC analyzed permitting costs in the Regulatory Impact Statement.

113. Denies the allegations in ¶ 113.

114. Denies the allegations in ¶ 114 and affirmatively states that most freshwater wetland permits do not require mitigation.

115. Denies the allegations in ¶ 115.

116. Admits the allegations in ¶ 116.

117. Denies the allegations in ¶ 117 and affirmatively states that DEC's expanded jurisdiction over areas containing submerged aquatic vegetation directly comes from the Legislature's decision to remove the mapping requirement in the 2022 amendments to ECL article 24.

118. Denies the allegations in ¶ 118.

119. Admits the allegations in ¶ 119 and refers to both the Certified Administrative Record and SAPA for their complete text, context, meaning, and legal effect.

120. Denies the allegations in ¶ 120.

121. Denies the allegations in ¶ 121.

122. The allegations in ¶ 122 contain legal conclusions to which no response is necessary but to the extent a response is required, denies the allegations, and refers to SEQRA (ECL article 8) for its complete text, context, meaning, and legal effect.

123. Denies the allegations in ¶ 123.

124. Denies the allegations in ¶ 124.

125. Denies the allegations in ¶ 125.

126. Denies the allegations in ¶ 126.

Petitioners' First Cause of Action

127. DEC reiterates its responses to the allegations in ¶¶ 1 through 126 as if fully set forth herein.

128. As to the truth of the allegations in ¶ 128, refers to CPLR 7803(3) for its complete text, context, meaning, and legal effect and denies the allegation.

129. Denies the allegations in ¶ 129.

130. Denies the allegations in ¶ 130.

131. Denies the allegations in ¶ 131 and affirmatively states that portions of Chautauqua Lake and other freshwater lakes in New York State were included in the previous jurisdictional freshwater wetlands maps and, thus, were regulated by DEC.

132. Denies the allegations in ¶ 132 and affirmatively states that DEC promulgated the freshwater wetlands regulations to best reflect the legislative intent of ECL article 24 and implement best scientific practices.

133. Denies the allegations in ¶ 133.

134. Denies the allegations in ¶ 134; refers to 6 NYCRR part 664 for its complete text, context, meaning, and legal effect; and affirmatively states that submergent wetlands and lakes provide many of the same ecological benefits, including as areas for fish and amphibian nurseries, erosion control, habitat for rare species, and opportunities for recreation and aesthetic appreciation.

135. Denies the allegations in ¶ 135.

136. Denies the allegations in ¶ 136.

137. Denies the allegations in ¶ 137.

138. Denies the allegations in ¶ 138.

Petitioners' Second Cause of Action

139. DEC reiterates its responses to the allegations in ¶¶ 1 through 139 as if fully set forth herein.

140. Denies the allegations in ¶ 140.

141. The allegations in ¶ 141 contain legal argument to which no response is required but to the extent a response is required, denies the allegations and refers to SAPA for its complete text, context, meaning, and legal effect.

142. Denies the allegations in ¶ 142 and refers to DEC's Regulatory Impact Statement, contained in the Certified Administrative Record, as the best evidence of its contents.

143. Denies the allegations in ¶ 143.

144. Denies the allegations in ¶ 144 but affirmatively states that DEC assessed the potential direct costs from the rulemaking as required by SAPA, including application fees, cost associated with a third-party wetland delineation, and third-party consulting fees for large or complex projects.

145. Denies the allegations in ¶ 145.

146. Denies the allegations in ¶ 146; affirmatively states that DEC held numerous opportunities for public input throughout the rule promulgation process, including a 71-day public comment period and three public hearings following the notice of proposed rulemaking, and prior to that reached out to the regulated community through public presentations and solicited feedback through an advanced notice of rulemaking.

147. Denies the allegations in ¶ 147.

Petitioners' Third Cause of Action

148. DEC reiterates its responses to the allegations in ¶¶ 1 through 147 as if fully set forth herein.

149. Denies the allegations in ¶ 149 and refers to the Due Process Clauses of the New York State Constitution (article I, section 6) and the United States Constitution (the Fourteenth Amendment) for their complete texts, contexts, meaning, and legal effects.

150. Denies the allegations in ¶ 150.

151. Denies the allegations in ¶ 151.

152. Denies the allegations in ¶ 152.

153. Denies the allegations in ¶ 153.

Petitioners' Fourth Cause of Action

154. DEC reiterates its responses to the allegations in ¶¶ 1 through 154 as if fully set forth herein.

155. Denies the allegations in ¶ 155 and refers to ECL 24-0107(9)(k), (e) for their complete texts, contexts, meanings, and legal effects.

156. Denies the allegations in ¶ 156.

157. Denies the allegations in ¶ 157.

158. The allegations in ¶ 158 contain legal conclusions to which no response is necessary but to the extent a response is required, denies those allegations and refers to 6 NYCRR 664.6(k) for its complete text, context, meaning, and legal effect.

159. Denies the allegations in ¶ 159 and refers the Court to 6 NYCRR 664.6(e).

160. Denies the allegations in ¶ 160.

161. Denies the allegations in ¶ 161.

162. Denies the allegations in ¶ 162 and affirmatively states that each of the classification criteria adopted in 6 NYCRR part 664, including for Class I wetlands, is based on the enumerated wetland values set forth in ECL 24-0105.

163. Denies the allegations in ¶ 163; refers to 6 NYCRR 664.5(a) for its complete text, context, meaning, and legal effect; and affirmatively states that DEC is bound by its own regulations, which it must interpret rationally.

164. Denies the allegations in ¶ 164.

Petitioners' Fifth Cause of Action

165. DEC reiterates its responses to the allegations in ¶¶ 1 through 164 as if fully set forth herein.

166. The allegations in ¶ 166 contain legal conclusions to which no response is necessary but to the extent a response is required, admits the allegations and refers to 6 NYCRR 617.2(b)(2) and (3) for their complete texts, contexts, meanings, and legal effects.

167. As to the truth of the allegations in ¶ 167, denies that 6 NYCRR 617.4(b)(1) is germane, and refers the Court to it for its complete text, context, meaning, and legal effect.

168. Denies the allegations in ¶ 168.

169. As to the truth of the allegations in ¶ 169, refers to 6 NYCRR 617.4 for its complete text, context, meaning, and legal effect and otherwise denies the allegations in ¶ 169.

170. Admits that DEC did not classify the rule promulgation as a Type I action and otherwise denies the allegations in ¶ 170.

171. Denies the allegations in ¶ 171.

172. Denies the allegations in ¶ 172.

173. The allegations in ¶ 173 contain legal conclusions to which no response is required, denies the allegations if a response is required, and refers to 6 NYCRR 617.7(b) for its complete text, context, meaning, and legal effect.

174. Denies the allegations in ¶ 174.

175. Admits that DEC completed an environmental assessment and otherwise denies the allegations in ¶ 175.

176. Denies the allegations in ¶ 176.

177. Denies the allegations in ¶ 177.

178. Denies the allegations in ¶ 178.

179. Denies the allegations in ¶ 179.

180. Denies the allegations in ¶ 180.

181. Denies the allegations in ¶ 181.

182. Denies the allegations in ¶ 182.

183. Denies any allegations not specifically responded to and all legal argument and conclusions.

WHEREFORE, DEC respectfully requests an order and judgment

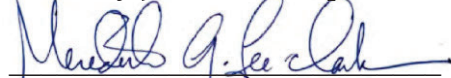
A. Dismissing the petition and complaint in its entirety; and

B. Granting DEC such further relief as the Court deems just and

equitable, together with costs and disbursements.

Dated: July 22, 2025
Albany, New York

LETITIA JAMES
Attorney General
State of New York
Attorney for State Respondents

By: 

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VERIFICATION AND CERTIFICATION

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

ROBERT J. O'CONNOR, being duly sworn, deposes and says:

I am a SENIOR ATTORNEY at respondent NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, whose principal place of business is located in Albany, New York, and I am fully familiar with the facts of these proceedings. The source of my information is the records and documents contained in the Department's files and my personal knowledge regarding this matter.

I have read the foregoing Verified Answer and the attached Certified Return and know the contents to be true to the best of my knowledge except as to matters stated to be alleged upon information and belief, and as to those matters, I believe them to be true.

I make this verification and certification pursuant to the provisions of CPLR 2105, 3020(d)(2), and 7804(d). Pursuant to CPLR 2106, I affirm this 21st day of July, 2025, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.



Robert J. O'Connor