

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF YATES

In the Matter of the Application of the SIERRA CLUB,  
SENECA LAKE GUARDIAN INC.; COMMITTEE TO  
PRESERVE THE FINGER LAKES INC.; PETER BECRAFT;  
CARY BECAFT; MICHAEL D. BLACK; LINDA BRACHT;  
PHIL BRACHT; ABI BUDDINGTON; WINTON  
BUDDINGTON; BETH CAIN; LYNNE CRANE; CAROLYN  
FIRST; LORI FISCHLINE; JOHN GHIDIU; BARBARA  
GRAY; NEAL HOLTZMAN; KIM HOLTZMAN; NICOLE  
LAGRECA; CHRISTINE LANNI; JOHN LANNI; FAITH  
LEWIS; TOM LEWIS; CAROLYN MCALLISTER; GARY  
MCINTEE; EILEEN MORELAND; DAVE MURRAY; LEAH  
MURRAY; ADAM PARKER; STEPHANIE PARKER;  
STEVAN RAMIREZ; EILEEN SCHMIDLIN; ED  
SCHMIDLIN,

*Petitioners,*

For a Judgment Pursuant to CPLR Article 78 of the New York  
Civil Practice Laws and Rules

-vs-

TOWN OF TORREY; TORREY PLANNING BOARD; and  
GREENIDGE GENERATION LLC

*Respondents.*

Index No. \_\_\_\_\_

## VERIFIED PETITION

Petitioners, by their attorneys, LIPPES & LIPPES, Richard J. Lippes, of counsel,  
respectfully alleges as follows:

### I. INTRODUCTION

1. This proceeding challenges the Town of Torrey Planning Board [hereinafter cited as “Planning Board”] concerning their approval of the site plan allowing Greenidge Generation LLC [hereinafter cited as “Greenidge”] to construct and operate a bitcoin data mining operation. It is alleged that such approval violated various state laws, including the New York State

Environmental Quality Review Act, Environmental Conservation Law § 8-0101 [hereinafter cited as “SEQRA”] and § 239-M of the General Municipal Law.

## II. PARTIES

2. Petitioner Sierra Club is a national grassroots not-for-profit conservation corporation formed in 1982 under the laws of the State of California. Its purposes include practicing and promoting the responsible use of the earth’s eco systems and resources, and protecting and restoring the quality of the natural and human environment, including the waters of the United States. Indeed, the protection of the nation’s surface water is a key aspect of the Sierra Club’s work. The Sierra Club has approximately 540,000 members nationwide, with approximately 54,000 members in New York State including members in Yates County that will be adversely affected by the bitcoin data mining operation. These members use and enjoy Seneca Lake whose conservation, aesthetic and recreational interests are injured by the environmental damage that will be caused by Greenidge.

3. Seneca Lake Guardian Inc. is a New York State not-for-profit corporation and it is dedicated to preserving and protecting the health of the Finger Lakes, its residents and visitors, its rural community character, and its agricultural and tourist related business through public education, citizen participation, engagement with decision makers, and the protection and conservation of each of the Finger Lakes, including Seneca Lake. Seneca Lake Guardian has members who will be adversely affected by the Greenidge bitcoin data mining project.

4. The Committee to Preserve the Finger Lakes Inc., was incorporated as a New York State not-for-profit corporation in 2017, and is committed to preserving the natural beauty and purity of the water of the Finger Lakes region of New York State. Its scenic and majestic landscape makes the region worth preserving for future generations, while tourism and

agricultural are the well established foundations of its economy. The Committee promotes the regions' preservation by identifying environmental and economic threats and informing and educating the general public, municipal officials and government regulators. The Committee has members who will be adversely affected by the Greenidge bitcoin data mining project.

5. Cary and Peter Becraft have a home in the Village of Dresden at 58 Cornelia Street. They experience noise from operations at the Greenidge plant and are concerned that the new operations in the new buildings will substantially increase the noise levels they experience. The Town of Torrey public beach is a short distance north of the main discharge outfall for the Generating Station on the Keuka Outlet very near where the Outlet discharges into Seneca Lake. They are concerned that increased discharges of warmed water from the Generating Station could raise the surface temperature of the lake and increase the likelihood of harmful algae blooms (HABs) in the vicinity of the public beach and expose them to increased risks of breathing droplets of water with toxic algae into their lungs and absorbing toxic algae through their skin when they swim in lake water. HABs were confirmed in close proximity to the Town of Torrey public beach in 2017, 2018, and 2019. Peter and Cary are members of the Committee to Preserve the Finger Lakes.

6. Michael Black has a home in the Town of Dundee at 5139 Elm Road. He has frontage on the lake shore, a dock in the lake, and uses his shore front and dock to swim and boat in the lake. His everyday use and enjoyment of Seneca Lake is diminished and their health may be harmed by contamination or other harmful changes to the water he uses for all home uses (including drinking, bathing, laundry, brushing teeth), swimming, kayaking, canoeing, fishing and other water sports caused by substantially increased operations at the Greenidge Generating Station to power the new bitcoin mining operations. He boils his drinking water and runs it

through a Brita filter. His animals swim and drink from the lake. He has lived in his home since 1971. Everything Michael does revolves around the lake including making art from rocks he collects. He is an avid fisherman. He used to catch sixty to one hundred lake trout a year from his dock and in the last three years he has only caught four total lake trout from his dock. He used to see rock bass and perch swimming off his dock and that is no longer the case. He is concerned about what is happening to the fish. He is concerned that increased discharges of warmed water from the Generating Station could raise the surface temperature of the lake and be impacting the fish populations in addition to increasing the likelihood of harmful algae blooms (HABs) and exposing him to increased risks of breathing droplets of water with toxic algae into their lungs and absorbing toxic algae through his skin when he and his dogs swim in lake water. Michael is a member of the Sierra Club.

7. Linda and Phil Bracht reside in the Town of Torrey at 1294 Arrowhead Beach Road. They have frontage on the lake shore, a dock in the lake, and use their shore front and dock to swim and boat in the lake. Their everyday use and enjoyment of Seneca Lake is diminished and their health may be harmed by contamination or other harmful changes to the water they use for all home activities (including drinking, bathing, laundry, brushing teeth (they have a shore well)), swimming, kayaking, fishing and other water sports caused by substantially increased operations at the Greenidge Generating Station to power the new bitcoin mining operations. Their home is located a little distance north of the main discharge outfall for the Generating Station on the Keuka Outlet near where the Outlet discharges into Seneca Lake. They are concerned that increased discharges of warmed water from the Generating Station could raise the surface temperature of the lake in their area of the lake, impacting the fish populations and increasing the likelihood of harmful algae blooms (HABs) in the vicinity of her

swimming and boating area and expose their guests and themselves to increased risks of breathing droplets of water with toxic algae into their lungs and absorbing toxic algae through their skin when they swim in lake water. HABs were confirmed in their general location in 2017, 2018, and 2019. Linda and Phil are members of the Committee to Preserve the Finger Lakes.

8. Abi and Winton Buddington have a vacation home in the Village of Dresden at 81 Charles Street. They have frontage on the lake shore, a dock in the lake, and use their shore front and dock to swim, boat and fish in the lake. They have had noticed fewer fish around their dock while they do not fish, those who do have reported seeing fewer fish in the last few years. Their everyday use and enjoyment of Seneca Lake is diminished and their health may be harmed by contamination or other harmful changes to the water they use for swimming and other water sports caused by substantially increased operations at the Greenidge Generating Station to power the new bitcoin mining operations. Their home is located a short distance north of the main discharge outfall for the Generating Station on the Keuka Outlet very near where the Outlet discharges into Seneca Lake. They are concerned that increased discharges of warmed water from the Generating Station could raise the surface temperature of the lake in their area of the lake and increase the likelihood of harmful algae blooms (HABs) in the vicinity of their swimming and boating area and expose them to increased risks of breathing droplets of water with toxic algae into their lungs and absorbing toxic algae through their skin when they swim in lake water. In 2017, a HABs outbreak was confirmed on their shoreline. HABs were confirmed in their general location in 2017, 2018, and 2019. They also experience noise from operations at the Greenidge plant and are concerned that the new operations in the new buildings will substantially increase the noise levels they experience. Abi is the secretary of the Committee to



Preserve the Finger Lakes and a member of the Sierra Club and Seneca Lake Guardian. Winton is a member of all three organizations.

9. Beth Cain has a vacation home in the Town of Torrey at 1275 Arrowhead Beach Road. She has frontage on the lake shore, a dock in the lake, and uses her shore front and dock to swim and boat in the lake. She also has a dog that swims and drinks from the lake. Her everyday use and enjoyment of Seneca Lake is diminished and her health may be harmed by contamination or other harmful changes to the water they use for all home activities (including drinking, bathing, laundry, brushing teeth), swimming, kayaking, fishing and other water sports caused by substantially increased operations at the Greenidge Generating Station to power the new bitcoin mining operations. Over the past years she has noticed a marked difference in the number of fish and types of fish she sees in the lake. She has noticed this off her dock, in her kayak, and in her motorboat. She also kayaks in the Keuka Outlet and has experienced the water temperatures to be so warm that it is often uncomfortable for her to put her hand in the water. Her home is located a little distance north of the main discharge outfall for the Generating Station on the Keuka Outlet near where the Outlet discharges into Seneca Lake. She is concerned that increased discharges of warmed water from the Generating Station could raise the surface temperature of the lake in their area of the lake, impacting the fish populations and increasing the likelihood of harmful algae blooms (HABs) in the vicinity of her swimming and boating area and expose her guests and her to increased risks of breathing droplets of water with toxic algae into their lungs and absorbing toxic algae through their skin when they swim in lake water. HABs were confirmed in her general location in 2017, 2018, and 2019. Beth is a member of the Seneca Lake Guardian and Committee to Preserve the Finger Lakes.

10. Lynn Crane has a vacation home in the Village of Dresden at 80 Charles Street. She has frontage on the lake shore, a dock in the lake, and uses her shore front and dock to swim and boat in the lake. She and her family and friends use her home often. Their everyday use and enjoyment of Seneca Lake is diminished and their health may be harmed by contamination or other harmful changes to the water they use for swimming and other water sports caused by substantially increased operations at the Greenidge Generating Station to power the new bitcoin mining operations. Her home is located a short distance north of the main discharge outfall for the Generating Station on the Keuka Outlet very near where the Outlet discharges into Seneca Lake. She is concerned that increased discharges of warmed water from the Generating Station could raise the surface temperature of the lake in their area of the lake and increase the likelihood of harmful algae blooms (HABs) in the vicinity of their swimming and boating area and expose them to increased risks of breathing droplets of water with toxic algae into their lungs and absorbing toxic algae through their skin when they swim in lake water. HABs were confirmed in her general location in 2017, 2018, and 2019. She also experiences noise from operations at the Greenidge plant and is concerned that the new operations in the new buildings will substantially increase the noise levels she experiences.

11. Carolyn First has a vacation home in the Village of Dresden at 1297 Arrowhead Beach Road. She has frontage on the lake shore, a dock in the lake, and uses her shore front and dock to swim, boat and fish in the lake. She and her family and friends use her home regularly. Their everyday use and enjoyment of Seneca Lake is diminished and their health may be harmed by contamination or other harmful changes to the water they use for swimming and other water sports caused by substantially increased operations at the Greenidge Generating Station to power the new bitcoin mining operations. Her home is located a short distance north of the main

discharge outfall for the Generating Station on the Keuka Outlet very near where the Outlet discharges into Seneca Lake. She is concerned that increased discharges of warmed water from the Generating Station could raise the surface temperature of the lake in their area of the lake and increase the likelihood of harmful algae blooms (HABs) in the vicinity of their swimming and boating area and expose her guests, her animals, and herself to increased risks of breathing droplets of water with toxic algae into their lungs and absorbing toxic algae through their skin when they swim in lake water. HABs were confirmed in her general location in 2017, 2018, and 2019. She also experiences noise from operations at the Greenidge plant and is concerned that the new operations in the new buildings will substantially increase the noise levels she experiences.

12. Lori Fischline has a vacation home in the Village of Dresden at 75 Charles Street. She has frontage on the lake shore, a dock in the lake, and uses her shore front and dock to swim, boat and fish in the lake. She and her family, friends and guests use the home regularly. They fish regularly and have noticed over the past few years fewer and fewer fish around their dock. There were very few trout in particular and the bass were only around for a short period. Their everyday use and enjoyment of Seneca Lake is diminished and their health may be harmed by contamination or other harmful changes to the water they use for swimming and other water sports caused by substantially increased operations at the Greenidge Generating Station to power the new bitcoin mining operations. Her home is located a very short distance north of the main discharge outfall for the Generating Station on the Keuka Outlet very near where the Outlet discharges into Seneca Lake. She is concerned that increased discharges of warmed water from the Generating Station could raise the surface temperature of the lake in their area of the lake and increase the likelihood of harmful algae blooms (HABs) in the vicinity of their swimming and



boating area and expose her family, guests and herself to increased risks of breathing droplets of water with toxic algae into their lungs and absorbing toxic algae through their skin when they swim in lake water. HABs were confirmed in her general location in 2017, 2018, and 2019. She kayaks with her kids up the Keuka Outlet and this year they had to pick up kayaks and walk past the water discharge area. She noticed at the discharge area large amounts of a foam/oil like substance sitting on top of the water on a regular basis. For her and her family, what used to be a beautiful area they liked to explore was instead an area of sludge, algae, insects, dead fish and foul smells. They have noticed the outlet water temperatures to be much warmer than usual. She also experiences noise from operations at the Greenidge plant and is concerned that the new operations in the new buildings will substantially increase the noise levels they experience. She is a member of the Committee to Preserve the Finger Lakes.

13. John Ghidui has a home in the Town of Torrey at 1201 Anthony Beach Road. He has frontage on the lake shore, a dock in the lake, and uses his shore front and dock to swim and boat in the lake. His everyday use and enjoyment of Seneca Lake is diminished and his health may be harmed by contamination or other harmful changes to the water he uses for all home activities (including drinking, bathing, laundry, brushing teeth), swimming, kayaking, fishing and other water sports caused by substantially increased operations at the Greenidge Generating Station to power the new bitcoin mining operations. Over the past few years he has noticed a marked difference in the number of fish he sees in the lake. In the summer he has an outdoor shower which he uses daily fed by lake water with no filtration. His family visits regularly on the weekends and they have two dogs that also swim in the lake. His home is located a little distance north of the main discharge outfall for the Generating Station on the Keuka Outlet very near where the Outlet discharges into Seneca Lake. He is concerned that increased discharges of

warmed water from the Generating Station could raise the surface temperature of the lake in their area of the lake and increase the likelihood of harmful algae blooms (HABs) in the vicinity of their swimming and boating area and expose them to increased risks of breathing droplets of water with toxic algae into their lungs and absorbing toxic algae through their skin when they swim in lake water. HABs were confirmed in close to his home in 2018 and 2019. John is a member of the Seneca Lake Guardian and the Committee to Preserve the Finger Lakes.

14. Barbara Gray has a home in the Town of Torrey at 2007 Perry Point Road. She has frontage on the lake shore, a dock in the lake, and she uses her shore front and dock to swim and boat in the lake. Her everyday use and enjoyment of Seneca Lake is diminished and her health may be harmed by contamination or other harmful changes to the water she uses for all home activities (including drinking, bathing, laundry, brushing teeth), swimming, kayaking, fishing and other water sports caused by substantially increased operations at the Greenidge Generating Station to power the new bitcoin mining operations. Her home is located south of the main discharge outfall for the Generating Station on the Keuka Outlet near where the Outlet discharges into Seneca Lake. She is concerned that increased discharges of warmed water from the Generating Station could raise the surface temperature of the lake in their area of the lake, impacting the fish populations and increasing the likelihood of harmful algae blooms (HABs) in the vicinity of their swimming and boating area and expose her guests and herself to increased risks of breathing droplets of water with toxic algae into their lungs and absorbing toxic algae through their skin when they swim in lake water. HABs have been confirmed on Perry Point in 2018 and 2019. She is also very concerned they will experience constant noise from operations at the Greenidge plant once the expansion of operations in the new buildings takes place.

15. Kim and Neal Holtzman have a home in the Town of Torrey at 2007 Perry Point Road. They have frontage on the lake shore, a dock in the lake, and they use their shore front and dock to swim and boat in the lake. Their everyday use and enjoyment of Seneca Lake is diminished and their health may be harmed by contamination or other harmful changes to the water they use for all home activities (including drinking, bathing, laundry, brushing teeth), swimming, kayaking, fishing and other water sports caused by substantially increased operations at the Greenidge Generating Station to power the new bitcoin mining operations. Their home is located south of the main discharge outfall for the Generating Station on the Keuka Outlet near where the Outlet discharges into Seneca Lake. They are concerned that increased discharges of warmed water from the Generating Station could raise the surface temperature of the lake in their area of the lake, impacting the fish populations and increasing the likelihood of harmful algae blooms (HABs) in the vicinity of their swimming and boating area and expose their guests and themselves to increased risks of breathing droplets of water with toxic algae into their lungs and absorbing toxic algae through their skin when they swim in lake water. HABs have been confirmed on Perry Point in 2018 and 2019. They are also very concerned they will experience constant noise from operations at the Greenidge plant once the expansion of operations in the new buildings takes place. Kim is a member of the Sierra Club and the Seneca Lake Guardian. Neal is a member of the Sierra Club, Seneca Lake Guardian and the Committee to Preserve the Finger Lakes.

16. Nicole LaGreca a vacation home in Lodi on the east side of Seneca Lake at 9640 Stowe Road. Nicole also owns a vacation rental home at 9644 Stowe Road as well as additional land at 9648 Stowe Road. In total the three parcels are over 5 acres with over 500 feet of lake frontage. These properties have docks, a boat house and all use lake water as the water source

for house water. Her guests and her everyday use and enjoyment of Seneca Lake is diminished and her guests and her health may be harmed by contamination or other harmful changes to the water they use for all home activities (including drinking, bathing, laundry, brushing teeth), swimming, kayaking, fishing and other water sports caused by substantially increased operations at the Greenidge Generating Station to power the new bitcoin mining operations. In addition she boats, swims and fishes in the lake. She has had HABs on or near her shoreline in 2018, 2019, and 2020. She is a member of the Sierra Club and Seneca Lake Guardian.

17. Christine and John Lanni have a home in the Town of Torrey at 1995 Perry Point Road. They have frontage on the lake shore, a dock in the lake, and they use their shore front and dock to swim and boat in the lake. Their everyday use and enjoyment of Seneca Lake is diminished and his health may be harmed by contamination or other harmful changes to the water they use for all home activities (including drinking, bathing, laundry, brushing teeth), swimming, kayaking, fishing and other water sports caused by substantially increased operations at the Greenidge Generating Station to power the new bitcoin mining operations. Their home is located south of the main discharge outfall for the Generating Station on the Keuka Outlet near where the Outlet discharges into Seneca Lake. They are concerned that increased discharges of warmed water from the Generating Station could raise the surface temperature of the lake in their area of the lake, impacting the fish populations and increasing the likelihood of harmful algae blooms (HABs) in the vicinity of their swimming and boating area and expose their guests and themselves to increased risks of breathing droplets of water with toxic algae into their lungs and absorbing toxic algae through their skin when they swim in lake water. HABs have been confirmed on Perry Point in 2018 and 2019. They are also very concerned they will experience

constant noise from operations at the Greenidge plant once the expansion of operations in the new buildings takes place.

18. Faith and Tom Lewis have a home in the Village of Dresden at 66 Cornelia Street. They experience noise from operations at the Greenidge plant and are concerned that the new operations in the new buildings will substantially increase the noise levels they experience. The Town of Torrey public beach is a short distance north of the main discharge outfall for the Generating Station on the Keuka Outlet very near where the Outlet discharges into Seneca Lake. They and their two children swim at the public beach. They are concerned that increased discharges of warmed water from the Generating Station could raise the surface temperature of the lake and increase the likelihood of harmful algae blooms (HABs) in the vicinity of the public beach and expose them to increased risks of breathing droplets of water with toxic algae into their lungs and absorbing toxic algae through their skin when they swim in lake water HABs were confirmed in close proximity to the Town of Torrey public beach in 2017, 2018, and 2019. Faith is a member of the Committee to Preserve the Finger Lakes.

19. Carolyn McAllister lives permanently in the Village of Dresden at 78 Charles Street. She has frontage on the lake shore, a dock in the lake, and uses her shore front and dock to swim and boat in the lake. Her everyday use and enjoyment of Seneca Lake is diminished and their health may be harmed by contamination or other harmful changes to the water they use for swimming and other water sports caused by substantially increased operations at the Greenidge Generating Station to power the new bitcoin mining operations. Her home is located a short distance north of the main discharge outfall for the Generating Station on the Keuka Outlet very near where the Outlet discharges into Seneca Lake. She is concerned that increased discharges of warmed water from the Generating Station could raise the surface temperature of the lake in

their area of the lake and increase the likelihood of harmful algae blooms (HABs) in the vicinity of their swimming and boating area and expose her guests, her husband, and herself to increased risks of breathing droplets of water with toxic algae into their lungs and absorbing toxic algae through their skin when they swim in lake water. HABs were confirmed in her general location in 2017, 2018, and 2019. She also experiences noise from operations at the Greenidge plant and is concerned that the new operations in the new buildings will substantially increase the noise levels they experience. She is a member of the Sierra Club and the Committee to Preserve the Finger Lakes.

20. Gary McIntee has a home in the Town of Torrey at 1989 Perry Point Road. He has frontage on the lake shore, a dock in the lake, and uses his shore front and dock to swim and boat in the lake. His everyday use and enjoyment of Seneca Lake is diminished and his health may be harmed by contamination or other harmful changes to the water they use for all home activities (including drinking, bathing, laundry, brushing teeth), swimming, kayaking, fishing and other water sports caused by substantially increased operations at the Greenidge Generating Station to power the new bitcoin mining operations. His home is located south of the main discharge outfall for the Generating Station on the Keuka Outlet near where the Outlet discharges into Seneca Lake. He is concerned that increased discharges of warmed water from the Generating Station could raise the surface temperature of the lake in their area of the lake, impacting the fish populations and increasing the likelihood of harmful algae blooms (HABs) in the vicinity of his swimming and boating area and expose his guests and his to increased risks of breathing droplets of water with toxic algae into their lungs and absorbing toxic algae through their skin when they swim in lake water. HABs have been confirmed on Perry Point in 2018 and



2019. He is also very concerned he will experience constant noise from operations at the Greenidge plant once the expansion of operations in the new buildings takes place.

21. Eileen Moreland has a vacation home in the Town of Torrey at 1292 Arrowhead Beach Road. She has frontage on the lake shore, a dock in the lake, and uses her shore front and dock to swim and boat in the lake. Her everyday use and enjoyment of Seneca Lake is diminished and her health may be harmed by contamination or other harmful changes to the water they use for all home activities (including drinking, bathing, laundry, brushing teeth), swimming, kayaking, fishing and other water sports caused by substantially increased operations at the Greenidge Generating Station to power the new bitcoin mining operations. Her home is located a little distance north of the main discharge outfall for the Generating Station on the Keuka Outlet near where the Outlet discharges into Seneca Lake. She is concerned that increased discharges of warmed water from the Generating Station could raise the surface temperature of the lake in their area of the lake, impacting the fish populations and increasing the likelihood of harmful algae blooms (HABs) in the vicinity of her swimming and boating area and expose her guests and her to increased risks of breathing droplets of water with toxic algae into their lungs and absorbing toxic algae through their skin when they swim in lake water. HABs were confirmed in her general location in 2017, 2018, and 2019. Eileen is a member of the Sierra Club and the Committee to Preserve the Finger Lakes.

22. Leah and Dave Murray have a home in the Village of Dresden at 72 Cornelia Street. They experience noise from operations at the Greenidge plant and are concerned that the new operations in the new buildings will substantially increase the noise levels they experience. The Town of Torrey public beach is a short distance north of the main discharge outfall for the Generating Station on the Keuka Outlet very near where the Outlet discharges into Seneca Lake.

They and their two children and two dogs swim at the public beach. They are concerned that increased discharges of warmed water from the Generating Station could raise the surface temperature of the lake and increase the likelihood of harmful algae blooms (HABs) in the vicinity of the public beach and expose them to increased risks of breathing droplets of water with toxic algae into their lungs and absorbing toxic algae through their skin when they swim in lake water. HABs were confirmed in close proximity to the Town of Torrey Public Beach in 2017, 2018, and 2019. Leah is a member of the Sierra Club and the vice president of the Committee to Preserve the Finger Lakes.

23. Stephanie and Adam Parker have a home in the Village of Dresden at 70 Cornelia Street. They experience noise from operations at the Greenidge plant and are concerned that the new operations in the new buildings will substantially increase the noise levels they experience. The Town of Torrey public beach is a short distance north of the main discharge outfall for the Generating Station on the Keuka Outlet very near where the Outlet discharges into Seneca Lake. They and their three children swim at the public beach. They are concerned that increased discharges of warmed water from the Generating Station could raise the surface temperature of the lake and increase the likelihood of harmful algae blooms (HABs) in the vicinity of the public beach and expose them to increased risks of breathing droplets of water with toxic algae into their lungs and absorbing toxic algae through their skin when they swim in lake water. HABs were confirmed in close proximity to the Town of Torrey Public Beach in 2017, 2018, and 2019. Stephanie is a member of the Committee to Preserve the Finger Lakes.

24. Stevan Ramirez has a home in the Town of Torrey at 1293 Arrowhead Beach Road. He has frontage on the lake shore, a dock in the lake, and uses his shore front and dock to swim, boat, and jet ski in the lake. His everyday use and enjoyment of Seneca Lake is

diminished and his health may be harmed by contamination or other harmful changes to the water they use for all home activities (including drinking, bathing, laundry, brushing teeth), swimming, kayaking, fishing and other water sports caused by substantially increased operations at the Greenidge Generating Station to power the new bitcoin mining operations. His home is located a little distance north of the main discharge outfall for the Generating Station on the Keuka Outlet near where the Outlet discharges into Seneca Lake. He is concerned that increased discharges of warmed water from the Generating Station could raise the surface temperature of the lake in their area of the lake, impacting the fish populations and increasing the likelihood of harmful algae blooms (HABs) in the vicinity of his swimming and boating area and expose his guests and his to increased risks of breathing droplets of water with toxic algae into their lungs and absorbing toxic algae through their skin when they swim in lake water. HABs were confirmed in his general location in 2017, 2018, and 2019. Stevan is a member of the Committee to Preserve the Finger Lakes.

25. Eileen and Ed Schmidlin have a vacation home in the Town of Torrey at 1685 Long Point Beach Road. They have frontage on the lake shore, a dock in the lake, and use their shore front and dock to swim and boat in the lake. Their everyday use and enjoyment of Seneca Lake is diminished and their health may be harmed by contamination or other harmful changes to the water they use for all home activities (including drinking, bathing, laundry, brushing teeth), swimming, kayaking, fishing and other water sports caused by substantially increased operations at the Greenidge Generating Station to power the new bitcoin mining operations. Their home is located south the Generating Station on Long Point. She is concerned that increased discharges of warmed water from the Generating Station could raise the surface temperature of the lake, impacting the fish populations and increasing the likelihood of harmful

algae blooms (HABs) in the vicinity of her swimming and boating area and expose her guests and her to increased risks of breathing droplets of water with toxic algae into their lungs and absorbing toxic algae through their skin when they swim in lake water. HABs were confirmed in their general location in 2019.

26. Respondent Town of Torrey by the Town of Torrey Planning Board, is located at 56 Genesee Street, Village of Dresden, County of Yates and State of New York, is the agency responsible for approving the Greenidge bitcoin data mining project, and as such, is also responsible for compliance with both the procedures and substance of New York State Law including SEQRA and § 239-M of the General Municipal Law.

27. Respondent Greenidge Generation LLC, is the owner and developer of the bitcoin data mining project located at 590 Plant Road, Village of Dresden, County of Yates, State of New York, and as such is made a Respondent in the instant proceeding in order to effectuate the relief requested in this Petition.

### III. FACTS

28. Greenidge applied to the Town of Torrey Planning Board of approval of an onsite bitcoin mining data center at 590 Plant Road, in the Town of Torrey. The project includes installation of a data processing facility together with associated site improvements and will require the building of four new buildings. Each new building allows computer processing and networking equipment for data processing functions. Electrical equipment will be installed both overhead and underground including poles, transformers, and other associated equipment, that connects the data processing facility to the Greenidge generating facility, which is a power generating facility which previously was approved the New York State Department of Environmental Conservation to provide power generation into the New York State power grid,

but will now use all of its generating capacity for the huge electrical generating needs of the bitcoin data mining operation. A storm water management system that will have to be installed was also approved as part of the project.

29. Greenidge sought approval of this project through two separate but interdependent approval applications, thus segmenting their request for approval of the bit coin data mining facility. They first requested approval for a data center, without mentioning that it would for bitcoin mining, to be housed entirely in the existing generating facility. Once this project was approved, they then applied for the additional approval to construct the four buildings to provide for additional computer capacity so that the maximum amount of electrical generation from the Greenidge Generation facility as approved by the Department of Environmental Conservation, would be used exclusively for the huge electrical needs of the 24/7 bitcoin data mining facilities.

30. The first proposal submitted by Greenidge for a data mining facility, whereby all of the data facility would be housed in the already existing Greenidge Generation facility. On October 14, 2019, in Part III of the Environmental Assessment Form, the project was designated as a Type I project pursuant to the SEQRA regulations. (See Exhibit "A", attached hereto).

31. However, when the second project application was considered, whereby the Greenidge Generation facility also would be housed in four new buildings, the project was designated as an "unlisted action" pursuant to the SEQRA regulations.

32. At the Planning Board meeting of September 21, 2020, the Planning Board designated its self as the lead agency for SEQRA review purposes, issued a conditional Negative Declaration, and approved the project in three separate motions. (See Planning Board minutes attached hereto as Exhibit "B"). The 30 day reference requirement was not made to other agencies prior to this approval.

33. The data mining operation was proposed to run 24 hours a day, seven days a week for every day of the year.

34. Moreover, instead of the electric generation from the Greenidge facility going into the New York State power grid, 300,000 megawatt hours per year will be generated and all of such generation will be used by the bitcoin mining data facility.

35. Because the bitcoin mining data facility will require the generating facility to run at maximum capacity, a significant greater amount of water intake and super heated water discharge into the Keuka outfall, which drains into Seneca Lake, will be required.

36. In fact, 159,897,000 gallons of water will be withdrawn from Seneca Lake for cooling the generating facility, and 190,000,000 gallons of superheated water will be discharged every day in the Keuka Outlet and Seneca Lake.

37. The generating facility will cause both entrapment of fish from Seneca Lake, as well as entrainment of fish larvae from the lake, significantly reducing the fish population within the lake.

### **III. VIOLATION OF 239-M OF THE GENERAL MUNICIPAL LAW**

38. Prior to approval of the bitcoin mining data facility, the Planning Board was required to make a reference to the County of Torrey Planning Committee, because such reference is required since the is project is located within 500 feet of the boundary of any city, village or town, or within 500 feet of the boundary of any existing or proposed county or state park or any other recreational area or a state highway (General Municipal Law § 239-M.3(a)(b)(i) and (ii)). The property at issue is within 500 feet of the boundary of the Village of Dresden and within 500 feet of the Keuka outlet trail recreational area, as well as 500 feet of the right-way of State Route 14.



39. In spite of the fact that such a reference was required prior to the approval of the instant project, the Planning Board failed to make such a reference which is a jurisdictional defect that requires the voiding of the Planning Board approval of the site plan, and requires that Greenidge be enjoined from any construction or operation of the facility until such time as §239-M is complied with.

#### IV. VIOLATION OF SEQRA

##### (a) ISSUING OF CONDITIONAL NEGATIVE DECLARATION WAS IMPROPER FOR THIS TYPE I PROJECT.

40. Pursuant to Part 617.7(d)(1) of the New York Code of Rules and Regulations, a conditional Negative Declaration can only be issued for an unlisted action, and cannot be issued for a Type I project.

41. As previously indicated, the initial application for approval of the data center within the generating facility was considered a Type I project by the applicant and Planning Board. However, in spite of the fact that the approved bitcoin data mining facility will require new construction of four buildings, a project larger in scope than the original project, apparently in order to avoid requiring an Environmental Impact Statement by issuing a conditional Negative Declaration, the Planning Board improperly determined that the project was an “unlisted action”.

42. Moreover, the regulations require that any project that will use 2 million gallons of water per day would be a Type I project. 617.4(b)(6)(ii). The instant bitcoin data mining project, in order to produce the electricity necessary for the project, will use 159,897,000 gallons of water per day.

43. Therefore, it was improper to issue a conditional Negative Declaration and in violation of the SEQRA regulations, and requires the voiding of the conditional Negative Declaration and concomitant approval of the site plan.

**(b) OTHER SEQRA VIOLATIONS**

44. Based upon review of the Environmental Assessment Forms and Town Board minutes, it is clear that the Planning Board did not identify all areas of environmental concern, or take a hard look at the identified areas of concern, or provide a reasoned elaboration for why a conditional Negative Declaration is appropriate, as required by the SEQRA regulations.

45. For example, the Environmental Assessment Form indicates that the project area is archeologically sensitive, as indicated by the New York State Office of Parks, Recreation and Historic Places.. However, there is no Phase I archeological report. Indeed, there is nothing more concerning the archeological sensitivity other than indicating that it exists.

46. Moreover, There was no mention at any time that just east of the facility is the Crooked Lake Outlet Historic District which is listed in the National Register of Historic Places.

47. While it is recognized that noise is a potentially a significant adverse environmental consequence of the project, and one of the conditions is that an acoustical study be done to assure that the project will not violate the Town of Torrey zoning ordinance as it relates to noise, rather than having the noise information prior to approving the project, the Planning Board deferred receiving this data until a study is conducted after approval. The deferral of identified potential significant adverse environmental consequences is not allowed by the SEQRA regulations.

48. Upon the advice of the Town of Torrey's attorney, the Planning Board decided that they did not have to identify or take a hard look at the issue of the need for additional water to cool the generating station and the discharge of super heated water into Seneca Lake.

49. Studies have been conducted concerning the entrapment, or fish kill as the water is drawn into the generating stations intake, and entrapment of fish larvae are also destroyed

through the water cooling system. Indeed, these studies indicate that there will be 6,200 fish entrapped per year, and 425,850 fish larvae entrained due to the need to run the generating station at its maximum level.

50. While the Torrey Planning Board determined that they did not have to identify or otherwise take a hard look at this issue, which will also create HABS along the shore of Seneca Lake, adversely affecting the Petitioners' use and enjoyment of the Lake as well as their health, the Planning Board determined that since the Greenidge Generation power plant will use no more than the amount of water allowed in their New York State permit, therefore, for purposes of the bitcoin data mining facility, these issues did not have to be reviewed pursuant to SEQRA.

51. However, SEQRA required that the Planning Board to make an independent review of the consequences of the water use, since SEQRA requires that all short-term, long-term, direct and indirect cumulative, and secondary effects be considered by the lead agency in doing their SEQRA review. (§ 617.7 (C)(2))

52. Finally, the Planning Board improperly deferred the information to be provided by the acoustical study to be done after approval was issued.

53. For all of the foregoing reasons, SEQRA has been violated and the site plan approval must be voided.

**FOR A FIRST CAUSE OF ACTION:**  
**VIOLATION OF SECTION 239-M OF THE GENERAL MUNICIPAL LAW**

54. The allegations contained in paragraph "1" through "51" inclusive are hereby realleged as more fully set forth herein.

55. As previously indicated, § 239-M of the General Municipal Law requires that a reference be made to the Yates County Planning Board prior to approval of the proposed project if the proposed real property of the proposed project is within 500 feet of the following:

- “(i) the boundary of any city, village or town; or
- (ii) the boundary of any existing or proposed county or state park or any other recreation area; or
- (iii) the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway....”

General Municipal Law § 239-M.3(a)(iv)(b).

56. Since the Town Board did not make any reference to the Yates County Planning Board, which is a jurisdictional requirement prior to approval of the site plan, therefore, § 239-M has been violated.

**SECOND CAUSE OF ACTION:**  
**VIOLATION OF SEQRA**

57. The allegations contained in paragraph “1” through “54” inclusive are hereby realleged as more fully set forth herein.

58. The responsibilities of an agency pursuant to SEQRA are specified in the regulations promulgated pursuant to SEQRA, and are contained at 6 N.Y.C.R.R. § 617.

59. According to the regulations promulgated pursuant to SEQRA:

The basic purpose of SEQR is to incorporate the consideration of environmental factors into the existing planning, review and decision-making processes of state, regional and local government agencies at the earliest possible time. To accomplish this goal, SEQR requires that all agencies determine whether the actions they directly undertake, fund or approve may have a significant impact on the environment and, if it is determined that the action may have a significant adverse impact, prepare or request an environmental impact statement.

6 NYCRR §617.1(c).

60. Further, the regulations indicate that:

In adopting SEQR, it was the legislature’s intention that all agencies conduct their affairs with an awareness that they are stewards of the

air, water, land and living resources, and that they have an obligation to protect the environment for the use and enjoyment of this and all future generations.

6 NYCRR § 617.1(b)

61. The regulations contained at 6 NYCRR § 617.7 indicate that an EIS must be prepared if the proposed action “may include the potential for at least one significant adverse environmental impact.” 6 NYCRR § 617.7(a)(1) [emphasis added].

62. Conversely, to determine that an EIS will not be required for an action, “the lead agency must determine either that there will be no adverse environmental impacts or that the identified adverse environmental impacts will not be significant.” 6 NYCRR § 61.7.7(a)(2).

63. In determining whether there may be significant adverse environmental impacts, the regulations at 6 NYCRR § 617.7 list the following factors, among others, which if they exist, would require the preparation of an Environmental Impact Statement [hereinafter cited as “EIS”]:

- (i) a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels;...
- (ii) The removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species; or other significant adverse impacts to natural resources;
- ...
- (iv) The creation of a material conflict with a community’s current plans or goals as officially approved or adopted;
- (v) The impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character;
- (vi) a major change in the use of either the quantity or type of energy;



- (vii) the creation of a hazard to human health;
- (viii) A substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses;
- ...
- (xi) Changes in two or more elements of the environment, no one of which have a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment;"

6 NYCRR § 617.7(c)(1).

64. An EIS provides the lead agency with all of the appropriate information concerning the effects of the project. Moreover, in considering whether to prepare an EIS, the lead agency must consider not only issues involved with the specific action that the lead agency is being asked to take, but all potential significantly adverse consequences of the project including those issues or permits that may be issued by other agencies. Just as surely, the EIS provides the public with this information, allowing them to knowledgeably provide input and comment on the environmental review process.

65. The lead agency is required to apply a "hard look standard" in fulfilling its SEQRA responsibilities, which requires an agency to:

- (1) Identify all areas of environmental concern; and
- (2) Take a hard look at the environmental issues identified; and
- (3) Provide a reasoned elaboration for the decisions that are made, including whether or not to do an environmental impact statement.

66. As indicated, there were areas of environmental concern for which no hard look was taken, and other areas of concern that were not even identified. Finally, the Town of Torrey Planning Board did not do a reasoned elaboration for the issued conditioned Negative Declaration, but only issued a conclusory statement that while there may be significant adverse



environmental consequences, those consequences would be mitigated by the three conditions imposed. There was no further elaboration, explanation or information provided. (See, Exhibit "C").

**WHEREFORE**, it is respectfully requested that the Court void the site plan approval given by the Town of Torrey Planning Board, and issue an injunction against any construction or operation of the bitcoin data mining facility until such time as all the Planning Board of the Town of Torrey complies with all laws of the State of New York and Town of Torrey.

DATED: Buffalo, New York  
December 17, 2020

**LIPPES & LIPPES**



By:

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RICHARD J. LIPPES, ESQ., Of Counsel  
1109 Delaware Avenue  
Buffalo, New York 14209  
(716) 884-4800  
*Attorneys for Petitioners*

VERIFICATION

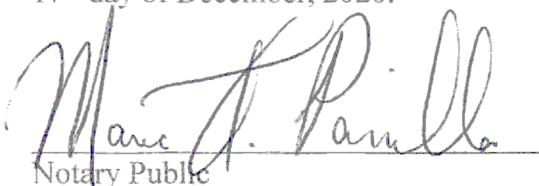
**RICHARD J. LIPPES, ESQ.**, being duly sworn, deposes and says:

He is the attorney for Petitioners in this proceeding in that the foregoing **VERIFIED PETITION** is true to its knowledge except as to matters therein stated upon information and belief and as to those matters, he believes them to be true. The grounds for his belief as to all matters not stated upon his knowledge are based upon his investigation of the facts and circumstances in this action, and the reason why the verification is not made by the Petitioners is that the Petitioners reside in a county other than the county where your deponent maintains his law office.



Richard J. Lippes

Sworn to before me, this  
17<sup>th</sup> day of December, 2020.

  
Notary Public

MARIA T. PARRILLA  
Notary Public, State of New York  
No. 01PA4891745  
Qualified in Erie County  
My Commission Expires May 4, 2023