

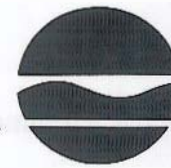
New York State Department of Environmental Conservation

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Joe Martens
Commissioner

November 15, 2013

To: Interested Parties and Stakeholders:

Re: Response to Public Comments on Application for Initial Water Withdrawal Permit
DEC #2-6304-0002400054
Ravenswood Generating Station
38-54 Vernon Blvd, Queens County

This letter responds to the public comments received by the New York State Department of Environmental Conservation (NYSDEC) on the above-referenced Initial Water Withdrawal Permit application for the Ravenswood Generating Station located at 38-54 Vernon Blvd, Queens NY. The Department offers these responses because of the public interest in the recently-revised water withdrawal regulations and in the statutorily required "Initial Permits" that are being issued under the revised regulations.

Many public comments were received on the above-referenced Initial Permit application. The comments are available from the Department on request. The public comments have been compiled and are presented below along with the Department's responses.

Comment I

The Ravenswood Initial Permit application fails to provide information on upstream water withdrawals, safe yield analyses, and passby flow calculations

Response I

The Department determined that the application was complete on August 1, 2013 after technical review. Some of the items called for in the regulations governing water withdrawal permit application (6 NYCRR § 601.10) are not applicable to the withdrawal. Information on rainfall, safe yield, river flow, contributing watershed size, passby analysis or other upstream water withdrawals, is not germane to the Ravenswood Project as the East River is not, in fact, a river but rather a strait between Long Island Sound and Lower New York Harbor. Information on tidal flows, and intake structure designs was provided in the application.

Comment 2

Ravenswood Fails to Provide an Adequate Watershed Map

Response 2

The maps submitted with this application are considered to be adequate for this project.

Comment 3

DEC should reclassify the as a Type I action because the withdrawal is over 2 Million Gallons per day.

Response 3

As provided by ECL §15-1501.9 the Department has no discretion but to issue “initial permits” for the amount of the water withdrawals for users that were in operation and properly reported their withdrawals to the Department as of February 15, 2012. ECL

Under these circumstances, the issuance of the water withdrawal permit here is covered by the Type II category for ministerial actions set out in section 617.5(c)(19) of the Department’s SEQR regulations. “Ministerial action” is defined [under the SEQR regulations] as “an action performed upon a given state of facts in a prescribed manner imposed by law without the exercise of any judgment or discretion as to the propriety of the act...” Here, above and beyond the amount of the permitted withdrawal (which is prescribed by statute), the Legislature has restricted the Department’s discretion to the standard form permit and the imposition of sound water conservation measures.. Generally, an action may be deemed ministerial, if it could not have been approved or denied on the basis of SEQR’s broader environmental concerns. The fact that the withdrawal is for an amount that exceeds the Type I threshold does not remove it from the Type II classification..Items on the Type II list under 617.5(c) provide exemptions from SEQR irrespective of whether the action is also present on the Type I list unless they contain a limitation that the action cannot “meet or exceed any threshold on the Type I list”.

Comment 4

The revised notice recognizes that the project is in fact located in a Coastal Management area and is subject to the Waterfront Revitalization and Coastal Resources Act. Now that this is recognized, it would seem that the DEC’s consideration of Ravenswood’s application for a water withdrawal permit is premature and should not be undertaken until the NYS Department of State and New York City have ruled on the project’s consistency with the relevant State and City coastal management policies, including Policy 18:

Response 4

The Coastal Management Program only applies to Type 1 and Unlisted Actions under SEQR. Type II actions do not require a Coastal Consistency Certification. As a consequence, no coordination with the Department of State is required. It must be recalled the Ravenswood water

withdrawal is not new and as such is not presenting any new impacts to the environment. The Department's action in issuing an initial permit for the withdrawal is mandated by state statute for the existing and reported withdrawals that were previously unregulated.

Comment 5

DEC should not create a class of 'initial permits'.

Response 5

The comment is acknowledged. Initial permits were created by the amendments to New York's water withdrawal law. As cited above, under ECL § 15-1501.9, an initial permit "shall be issued" for existing withdrawals that were properly reported to the Department as of February 15, 2012.

Comment 6

Impacts on the Brooklyn-Queens Sole Source Aquifer Must Be Considered Possible impacts of the heavy withdrawals from the East River by the Ravenswood project right at the edge of the Brooklyn-Queens sole source aquifer must be considered in evaluating the environmental impacts of the project.

Response 6

The overwhelming majority of the water withdrawn is returned to the East River within minutes of the withdrawal and within 50 feet of the intakes. Impacts to the Brooklyn-Queens Aquifer are not anticipated.

Comment 7

Ravenswood Fails to Comply with Proper Water Conservation and Efficiency Measures The responses contained in the Water Conservation Program (WCP) form attached as Appendix B to the Ravenswood application show that Ravenswood's water conservation measures are inadequate in at least five respects.

Response 7

See the Response to Comment 8 below. A comprehensive water conservation plan suitable for this facility was developed pursuant to the facility's SPDES permit.

Comment 8

Fish Kill Issues Must Be Considered The issuance of a new type of permit to Ravenswood requires that a SEQRA review be done for this permit. Whatever understanding the parties may have reached with regard to the Ravenswood SPDES permit regarding environmental reviews, that understanding does not

encompass the issuance of a new type of permit that was not in existence at the time the understanding was reached.

Response 8

See the Response to Comment 2 above concerning SEQR. In 2007 the Department issued a Departmental Initiated Modification to require the Ravenswood Generating Station up to reduce entrainment mortality by 65% and impingement mortality by 79% from the full flow baseline of Ravenswood water withdrawal system pursuant to 6 NYCRR § 704.5 and § 316(b) of the federal Clean Water Act (CWA).

The applicant was also required to propose additional measures to further reduce impingement mortality, achieving a 90% reduction from full flow baseline. These levels of impact reduction meet the § 316(b) Phase II Best Technology Available (BTA) performance standards. This modification required numerous studies and evaluations of impacts and alternatives, was subject to SEQRA, and a Negative Declaration of Significance was issued. These permit requirements are binding on the applicant.

As noted in Appendix B of the 2012 SPDES permit for the facility, in determining BTA the Department considered the closed cycle cooling alternative:

“...after evaluating all of the available alternatives the New York State Department of Environmental Conservation determined that, in combination, the following technologies and operational measures listed here represent the best technologies available for minimizing adverse environmental impacts from the cooling water intake system. Implementation of these items was completed by early 2012...

...”

- a) Installation of variable speed pumps and ancillary equipment at Ravenswood Units 1, 2 and 3 that will allow for the reduction in cooling water use during periods of low electrical generation;
- b) Scheduling of a planned outage process that will require cooling water pumps to be shut down to reduce impingement and entrainment during periods of non electrical generation;
- c) Upgrades to the existing traveling intake screens at Ravenswood Units 1, 2 and 3 to allow for the continuous operation of all traveling intake screens and construction of low stress fish returns, to increase fish impingement survival;...”

Further, NYCRR Part 601.7(f) requires: Where the water withdrawal system listed in an initial permit application is associated with a project, facility, activity or use that is subject to a SPDES permit or another Department permit, the Department will review the initial permit application in coordination with the SPDES or other permit program, particularly with respect to any pending permit renewals.

Conditions requiring BTA for reducing fish impingement and entrainment and reduced water usage are incorporated in the station’s 2012 SPDES permit. The Department has considered

these SPDES permit requirements in its review of the Initial Permit Application for a Water Withdrawal Permit.

Thank you for taking the time to comment on this application. If you have any questions or need further information, please don't hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Kent P. Sanders". The signature is fluid and cursive, with a long horizontal stroke at the end.

Kent P. Sanders
Deputy Chief Permit Administrator
Division of Environmental Permit

