

At I.A.S. Part 34 of the Supreme Court, State of New York Held in and for the County of Queens, at the Supreme Court, 25-10 Court Square, Courtroom 304 Long Island City, New York, 11101 on the 25 day of November 2014.

Present: HON. ROBERT J. MCDONALD

SUPREME COURT OF THE STATE OF NEW YORK X
COUNTY OF QUEENS :
In the Matter of the Application of :
SIERRA CLUB and the HUDSON RIVER :
FISHERMEN'S ASSOCIATION NEW JERSEY :
CHAPTER, INC., :
Petitioners, :
For a Judgment Pursuant to Article 78 of the :
Civil Practice Laws and Rules :
-against- :
JOSEPH MARTENS, COMMISSIONER, :
NEW YORK STATE DEPARTMENT OF :
ENVIRONMENTAL CONSERVATION, :
Respondent, :
T.C. RAVENSWOOD L.L.C., :
Necessary Party. X

Index No. 2949-14
PETITIONERS
PROPOSED JUDGMENT

FILED & RECORDED
DEC 10 2014
COUNTY CLERK
QUEENS COUNTY

WHEREAS, petitioners SIERRA CLUB and HUDSON RIVER FISHERMAN'S ASSOCIATION, NEW JERSEY CHAPTER, INC., filed a notice of petition and verified petition pursuant to CPLR Article 78 on February 26, 2014, and served and filed in support of the petition a memorandum of law dated March 21, 2014, the affirmation of Rachel Treichler in support of the memorandum of law, with exhibits, sworn to on March 21, 2014, the affidavit of Roger Downs, with exhibits, sworn to on March 21, 2014, the affidavit of Gilbert Hawkins, with exhibits, sworn to on March 21, 2014; and

WHEREAS, respondent JOSEPH MARTENS, COMMISSIONER, NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION ("DEC"), opposed the petition by serving and filing a verified answer dated April 24, 2014, memorandum of law dated April 24, 2014, and an administrative record certified on March 13, 2014, and served and filed in support of the verified answer the affidavit of Roy A. Jacobson, Jr., with exhibits, sworn to on April 24, 2014, and the affidavit of Kent P. Sanders, with exhibits, sworn to on April 24, 2014; and

WHEREAS, necessary party TRANS CANADA RAVENSWOOD LLC, opposed the petition by serving and filing a notice of motion to dismiss dated April 24, 2014, and a memorandum of law dated April 24, 2014, and served and filed the affirmation of Yvonne E. Hennessey, Esq., with exhibits, sworn to on April 24, 2014 and the affidavit of Daniel O'Donnell, with exhibits, sworn to on April 23, 2014, in support of the motion to dismiss; and

WHEREAS, petitioners SIERRA CLUB and HUDSON RIVER FISHERMAN'S ASSOCIATION, NEW JERSEY CHAPTER, INC., filed in support of the petition a reply memorandum of law dated May 8, 2014, and the affirmation of Rachel Treichler in support of the reply memorandum of law, with exhibits, sworn to on May 8, 2014; and

WHEREAS, the Court, upon consideration of all the pleadings filed, issued a decision dated October 1, 2014, a copy of which is attached hereto and incorporated herein, denying the petition; and

WHEREAS, the Court, upon consideration of all the papers filed with respect to Necessary Party TRANS CANADA RAVENSWOOD LLC's motion to dismiss, issued a decision dated October 2, 2014, a copy of which is attached hereto and incorporated herein.

wherein it found, based upon the October 1, 2014 decision rendered on the petition, that the "branch of the motion which is deemed to be for summary judgment is granted;" and

NOW, THEREFORE, it is hereby

ADJUDGED that the verified petition is denied and the proceeding is dismissed on the merits according to the decision dated October 1, 2014 and the decision dated October 2, 2014, with no restitution, damages or costs awarded to either side.

DATED: Long Island City, New York
November 25, 2014



Honorable Robert J. McDonald, J.S.C.

Judgment entered this 10th day
of DECEMBER, 2014


CLERK OF COURT

FILED & RECORDED

DEC 10 2014

COUNTY CLERK
QUEENS COUNTY

ENTERED
1:20 AM/PM
DEC 10 2014
COUNTY CLERK
COUNTY OF QUEENS