

SHORT FORM ORDER

NEW YORK SUPREME COURT : QUEENS COUNTY

P R E S E N T.: HON. ROBERT J. McDONALD  
Justice

IAS PART 34

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SIERRA CLUB  
85 Second Street, 2<sup>nd</sup> Floor San  
Francisco, California 94105

Index No.: 2949/14

Motion Date: 5/9/14

HUDSON RIVER FISHERMAN'S ASSOCIATION,  
NEW JERSEY CHAPTER, INC.  
P.O. Box 421  
Cresskill, New Jersey 07626

Motion No.: 92

Motion Seq.: 2

Petitioners,

For a Judgment Pursuant to Article 78  
of the Civil Practice Law and Rules,

- against -

JOSEPH MARTENS, COMMISSIONER, NEW YORK  
STATE DEPARTMENT OF ENVIRONMENTAL  
CONSERVATION  
625 Broadway Albany, NY 12233-1011,

Respondents,

TRANS CANADA RAVENSWOOD LLC  
38-54 Vernon Boulevard  
Long Island City, NY 11101,

Necessary Party.

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The following papers numbered 1 to 8 read on this motion by  
respondent Trans Canada Ravenswood, LLC for an order pursuant  
to CPLR 404, 406. 7804(f), and 3211(a) dismissing the petition

Papers  
Numbered

**FILED**


OCT 20 2014

COUNTY CLERK  
QUEENS COUNTY

Notice of Motion - Affidavits - Exhibits	1-3
Answering Affidavits - Exhibits	4-6
Reply Affidavits      Memoranda of Law	7-8

Upon the foregoing papers it is ordered that those branches of the motion which are for an order dismissing the petition on procedural grounds are denied. The court notes that petitioner Sierra Club and petitioner Hudson River Fishermen's Association have standing to maintain this Article 78 proceeding. (See, *Save the Pine Bush, Inc. v. Common Council of City of Albany*, 13 NY3d 297; *Protect the Adirondacks Inc. v. Adirondack Park Agency*, 121 AD3d 63.) That branch of the motion which is deemed to be for summary judgment is granted. (See the memorandum rendered on the petition.) The court notes that "objections in point of law" referred to in CPLR 7804(f) are threshold objections of the kind listed in CPLR 3211(a) which can be dispositive of the case without reaching the merits. (See, *Matter of Hop-Wah v. Coughlin*, 118 AD2d 275, revd. on other grounds 69 NY2d 791; *Siegel*, New York Practice § 567, at 979 [4th ed.]). "CPLR article 78 proceedings are summary in nature (see CPLR 409 [b]; *Matter of Lakeshore Nursing Home v. Axelrod*, 181 A.D.2d 333, 340) and, thus, a motion for summary judgment addressed to the merits of the petition is unnecessary."

Dated: Long Island City, NY  
October 2, 2014

  
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ROBERT J. McDONALD  
J.S.C.

**FILED**  
OCT 20 2014  
COUNTY CLERK  
QUEENS COUNTY