

State Environmental Quality Review
FINDINGS STATEMENT

Pursuant to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law and 6 NYCRR Part 617, the NYS Department of Environmental Conservation as lead agency, makes the following findings.

Name of Action: **South Pier Improvement Project**
 at the Gowanus Generating station
 100 MW Simple-Cycle Power Plant

Description of Action: Astoria Generating Company, LP (Applicant) to install one (1) General Electric LMS100 combustion turbine/electric generator set at the existing 542 megawatt (MW) Gowanus Generating Station (GGS) as part of the SPIP project.

This project will consist of two distinct components: the installation of one (1) General Electric LMS 100 combustion turbine/electric generator 100 MW peaking unit, and the implementation of a GGS facility emissions restriction or cap strategy. The emissions restriction or cap strategy involves modifying the facility's existing Title V operating permit by establishing a cap on emissions from the 32 existing combustion turbine/generators, and on emissions from the proposed new LMS100 turbine so that the project will not result in significant net emissions increases at the GGS facility, will not trigger New Source Review (NSR) permitting rules, and will be below the thresholds for both the Prevention of Significant Deterioration (PSD) and nonattainment New Source Review (NSR) rules.

The LMS100 combustion turbine/electric generator set will operate as a simple cycle unit, and will be fueled by either natural gas or ultra low sulfur diesel (0.0015%) as a backup fuel. The Applicant proposes to install an oxidation catalyst system to reduce emissions of carbon monoxide (CO) and volatile organic compounds (VOCs), and a water injection system along with Selective Catalytic Reduction (SCR) to control formation of nitrogen oxides (NOx) and associated emissions. Emissions from the combustion turbine will exhaust through a single 100-foot stack. Natural gas will be supplied by the existing gas supply line that serves the GGS facility, and ultra low sulfur diesel will be supplied by the existing fuel storage barges. Other on-site equipment will include a natural gas compressor, a trailer mounted portable water de-mineralization system, a demineralized water storage tank, fire water storage tank, an aqueous ammonia storage tank, and associated balance-of-plant systems and facilities.

The new combustion turbine will be electrically connected into the adjacent Con Edison Gowanus Substation which is the same substation to which the existing GGS facility is already connected. The GGS has a functioning gas transmission and distribution system interconnect with sufficient capacity for the new turbine. No new electric and gas transmission infrastructure is required to construct and operate the Project. ULSD supply will be provided by barge delivery to the existing storage facilities located at the GGS.

Location: The proposed project will be built on approximately 2.75 acres on the South Pier at the GGS facility. The facility is located at 29th street and 2nd Avenue, Kings County, Brooklyn, New York, and the South Pier is approximately 200 feet north of the GGS entrance bounded to the north, west and south by Gowanus Bay.

Agency Jurisdiction(s): The following are the NYSDEC permit approvals that are involved with this action:

DEC Project No.	Applicant	NYSDEC Permits Applied For
2-6102-00116/00021	Astoria Generating Company, LLC 18-01 20 th Avenue Long Island City, NY 11105-4271	Title V Air Permit, Title IV Acid Rain Permit

Date Final EIS Accepted: On September 16, 2009, the New York State Department of Environmental Conservation (NYSDEC), the Lead Agency for the SEQR Review of this action, accepted the Final Environmental Impact Statement (FEIS) for the action.

Facts and Conclusions in the EIS Relied Upon to Support the Decision:

Introduction: As lead agency, the New York State Department of Environmental Conservation (NYSDEC) must consider the relevant environmental impacts, facts and conclusions disclosed in the final EIS in its SEQR Findings Statement, and then certify that consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable.

In developing this SEQR Findings Statement, NYSDEC has reviewed the following sources of information:

- Final Scope Document, accepted April 30, 2008 by NYSDEC as SEQR Lead Agency.
- Draft Environmental Impact Statement (DEIS), accepted March 9, 2009 by NYSDEC as SEQR Lead Agency.
- Final Environmental Impact Statement (FEIS), accepted September 16, 2009 by NYSDEC as SEQR Lead Agency.
- New York Natural Heritage Program letter dated 7/10/2009 indicating there are no records of known occurrences of rare or state-listed animals, plants, significant natural communities or other significant habitats on or in the immediate vicinity of the site.
- NYS Office of Parks, Recreation and Historic Preservation's (OPRHP) 6/24/2008 letter in which OPRHP determined the project will have no adverse impact upon archeological resources and will have no adverse impact on historical/cultural resources provided a construction protection plan is put in place for all historic structures within 90 feet of the proposed construction.

- Astoria Generating Company, LLC's Application for a modification of the facility's Title V and Title IV Air Permits for emission sources at the proposed facility. This application includes application forms and supporting documentation, including the Air Quality Monitoring Analysis.
- Modeled Short Term Impacts of SO₂, PM10 & PM2.5 from USPG Gowanus and Narrows Facilities Performed by Impact Assessment and Meteorology Section Division of Air Resources, NYSDEC, July 2, 2009
- ESS Group, Inc. consultants memo dated July 9, 2009 addressing modeling analysis of impacts during start up and shut down conditions for oil and gas burning.
- Astoria Generating Company, LLC's action plan committing to permit restrictions which is incorporated into the Title V permit for Gowanus Generating Station.
- Astoria Generating Company, LLC's action plan committing to permit restrictions for the Narrows Generating Station which will be incorporated into the Title V permit for Narrows Generating Station.
- *The New Waterfront Revitalization Program* dated September 2002, which describes New York City's policies for development and use of the waterfront.
- Coastal Consistency Certification made by NYSDEC dated October 2, 2009 which indicates the SPIP will not substantially hinder the achievement of any coastal policy or purpose, and whenever practicable, will advance coastal policies.

The NYSDEC finds that the project has been designed, and where necessary, revised, to avoid, minimize, and mitigate adverse environmental impacts in the areas where NYSDEC has jurisdiction. The following facts and conclusions are provided in support of NYSDEC's issuance of a positive SEQR Findings Statement.

1. Air Resources

a. Potential Impacts

The GGS currently consists of 32 combustion turbines which are mounted on four barges which fire distillate fuel oil and natural gas. Each unit is rated at 299 Million British Thermal Units (MMBtu) per hour. Sixteen of the combustion turbine/electric generating sets fire fuel oil only and are identified as Emission Unit G-W0005 in the existing GGS Title V Operating Permit. Sixteen of the combustion turbine/electric generating sets fire natural gas and fuel oil and are identified as Emission Unit G-W0006 in the GGS Title V Operating Permit. Each of the 32 units has a starter diesel rated at 600 horsepower. The Title V Operating Permit Modification will combine the existing 32 combustion turbines and the LMS100 under the envelope of one emission unit. By combining all emission sources at the GGS under one emission unit, the facility will be able to maintain maximum operational flexibility while restricting facility-wide emissions below the caps identified below in tons per year (TPY).

The proposed project consists of the installation of one (1) General Electric LMS 100 combustion turbine/electric generator 100 MW peaking unit, and the implementation of a

GGs facility emissions restriction or cap strategy. The principal components of the SPIP consist of the one LMS100, a combustion air intercooler, a fin fan cooler, a natural gas compressor, a step up transformer, a trailer-mounted portable water demineralization system, a de-mineralized water storage tank, fire water storage tank, an aqueous ammonia storage tank, an exhaust stack, and utility interconnection. The electric generator is directly connected to the shaft of the LMS100. The LMS100 exhaust exits through a stack after passing through the emission control technologies (i.e., Selective Catalytic Reduction [SCR] and CO Catalyst). The LMS100 will have the following state-of-the-art emission control technologies to significantly limit potential emissions: water injection to reduce the formation of NOX within the gas turbine, SCR to further reduce NOX, and a CO oxidation catalyst to minimize CO and VOC emissions. Emissions of SO₂ and PM will be controlled through the primary use of natural gas and ULSD for back up. Natural gas will be utilized as the primary fuel with ULSD as a backup fuel. The LMS100 exhaust will pass through emission control devices before being vented to the atmosphere through a new stack, approximately 100 feet tall with an inside diameter of 13 feet 6 inches.

The GGS facility will have the potential to emit the following amounts of air contaminants on an annual basis: Carbon Monoxide (CO), 60.19 tons per year (TPY), Sulfur Dioxide (SO₂) 7.62 TPY, Particulate Matter 2.5 microns or less (PM_{2.5}) 29.25 TPY, Particulate Matter (PM₁₀) 29.25 TPY, Nitrogen Oxides (NOx), 441.74 TPY, Volatile Organic Compounds (VOC) 10.85 TPY, lead (Pb) 0.01 TPY, and Carbon Dioxide (CO₂) 637,460 TPY. CO₂ was calculated using AP 42 Table 3.1 emission factors taking PM_{2.5} as the controlling pollutant.

The applicant has proposed a two-part permitting and emission reduction strategy in order to reduce actual net emissions from the GGS and the nearby Narrows Generating Station (NGS) collectively called the Sunset Park facilities in the FEIS. The combination of new and existing units at both facilities will emit approximately 49% fewer criteria air pollutants on a total annual basis.(see table 3.4.5.1-2 on page 62 of the FEIS)

The first part of the strategy is the installation of the new, highly efficient LMS100 combustion turbine with add-on emission controls, and limiting its emissions through enforceable permit limits. The potential emissions from the LMS100 will be “netted” to be below New Source Review (NSR)/Prevention of Significant Deterioration (PSD) Net Emission Increase Threshold Levels (also known as NSR/PSD emission threshold levels). Netting is the implementation of emissions reductions to existing units and then subtracting these reductions from a new emission source for determining net project emissions. This strategy allows the LMS100 installation to be considered a minor modification not subject to NSR.

Since the Project will be located in an area that is classified as non-attainment for ozone, it would typically be subject to New Source Review for Nonattainment Areas and Ozone Transport regions (NNSR)- 6 NYCRR Subpart 231-2 - for NOx and VOC, which are ozone precursors. However, the emissions restriction or cap strategy involves modifying the GGS facility's existing Title V operating permit by establishing a cap on emissions from the 32 existing combustion turbine/generators, and on emissions from the proposed new LMS100 turbine so that the project will not result in significant net emissions increases at the GGS facility, will not trigger New Source Review (NSR) permitting rules, and will be below the thresholds for both the Prevention of Significant Deterioration (PSD) and nonattainment New Source Review (NSR) rules. The Project's emissions of PM₁₀ are below EPA's major

source threshold of 10 TPY for the PM_{2.5} no-attainment area of Long Island (see table 3.4.4.3-2 below from page 60 of the FEIS).

Table 3.4.4.3-2 Regulatory Netting to Offset NSR/PSD Applicability

Pollutant	LMS100 Emissions (TPY)	Reduced GGS Baseline Emissions (Emissions for Netting) (TPY)	Resultant Net Emissions at Modified GGS (TPY)	NSR/PSD Emission Threshold Levels (TPY)
NO _x	13.94	427.80	-413.86	25/40
NO ₂ (as NO _x)	13.94	427.80	-413.86	40
CO	21.23	38.96	-17.73	100
SO ₂	3.36	-93.17	-89.81	40
PM	19.26	9.99	9.27	25
PM ₁₀	19.26	9.99	9.27	15
PM _{2.5}	19.26	9.99	9.27	10
VOC	6.32	4.53	1.79	25
Pb	0.005	0.004	0.001	0.6
H ₂ SO ₄	0.07	-	0.07	7

However, the first part of this emissions reduction strategy will result in slight increases in PM_{2.5} and VOC (9.27 and 1.79 tons per year, respectively). While this increase is below the NSR/PSD emission threshold levels, the Applicant has made a commitment to the community that it would reduce all criteria pollutants, particularly PM_{2.5} which has been noted as an important community concern. Therefore, in addition to the regulatory-driven reductions described in Section 3.4.4.3 of the FEIS, the Applicant has committed to voluntarily reduce emissions from the NGS facility to guarantee a net reduction in emissions to the community. This is the second part of the strategy which will be accomplished through a separate application to the NYSDEC for a Title V Permit modification for the NGS facility.

The Applicant proposes to limit the NGS emissions to approximately 50% of the baseline emissions in a similar fashion to that of the GGS reductions. This will result in a reduction in PM_{2.5}/10 beyond just netting (described above on page 4 as the first part of the strategy) to zero ("net neutral"), and result in further significant emissions reductions for each of the other pollutants.

The final step of the Community-Based emission reduction process is to compare the net emissions from the SPIP (comprised of the NGS and GGS emission reductions and the LMS 100 emission increases) to historic actual baseline emissions for the AGC's existing Sunset Park facilities. This is shown in Table 3.4.5.1-2 below taken from page 62 of the FEIS.

Table 3.4.5.1-2 Community-based Netting for SPIP to Result in Net Negative Emissions

Pollutant	Potential LMS100 Emissions (TPY)	Reduced Actual GGS and NGS Baseline Emissions (Emissions for Netting) (TPY)	Resultant Net Emissions for SPIP (modified GGS and NGS) (TPY)	Percent Reduction from Baseline
NO _x	13.94	-972.20	-958.26	49%
NO ₂ (as NO _x)	13.94	-972.20	-958.26	49%
CO	21.23	-121.02	-99.79	41%
SO ₂	3.36	-99.64	-189.00 ₁	95%
PM	19.26	-22.96	-3.70	8%
PM ₁₀	19.26	-22.96	-3.70	8%
PM _{2.5}	19.26	-22.96	-3.70	8%
Pb	0.005	-0.007	-0.002	16%
VOC	6.32	-7.12	-0.80	6%
Total Reduction of All Criteria Pollutants from Baseline				49%
Notes: 1 = The conversion of existing units to ULSD resulted in further net SO ₂ emission reductions due to the SPIP. Please see Appendix B for detailed emission calculations. 2 = SPIP will result in 11.03 tons per year of NH ₃ emissions resulting from operation of NO _x control equipment.				

The construction and operation of the SPIP will be subject to federal, state and city air regulations that will be implemented through permits applied for by AGC:

- NYSDEC Title V Permit Modification. 6 NYCRR 201-6.
- Acid Rain Permit (Title IV). 6 NYCRR 201-6.
- Clean Air Interstate Rule (CAIR). 6 NYCRR Parts 243, 244, and 245
- NSR for New and Modified Facilities. 6 New York Codes, Rules and Regulations (NYCRR) 231.
- NOX Budget Program. 6 NYCRR 204.
- Reasonably Available Control Technology (RACT) For Oxides of Nitrogen (NOX). 6 NYCRR 227-2.
- Acid Deposition Reduction (ADR) NOX Budget Trading Program. 6 NYCRR 237
- ADR SO₂ Budget Trading Program. 6 NYCRR 238.
- CO₂ Budget Trading Program. 6 NYCRR 242.
- Primary and Secondary National Ambient Air Quality Standards (NAAQS). 40 Code of Federal Regulations (CFR) 50.

- Air Quality Standards. 6 NYCRR 257.
- Standards of Performance for New Stationary Sources - Subpart KKKK – Standards of Performance for Stationary Combustion Turbines. 40 CFR 60.
- NYC DEP Stationary Combustion Installation Permit.

In order to ensure that air quality standards are attained and maintained, these Federal and State regulations have been established to require a rigorous preconstruction review of projects for new or modified major stationary sources of air pollution.

b. Discussion and Findings

- (1) It is NYSDEC's determination that the air contaminant emissions that will be emitted by the this facility will be controlled to the maximum extent practicable under current state and federal air pollution control regulations. The NYSDEC has also made the determination that the air contaminant emissions to be emitted from this facility will not result in a significant adverse impact on public health or the environment.
- (2) Atmospheric dispersion modeling was performed in accordance with USEPA modeling guidelines to calculate maximum air quality impacts from the Facility. The worst case turbine operating scenario, was modeled assuming simultaneous operation of auxiliary equipment, and in accordance with an EPA and NYSDEC approved modeling protocol. The results of this modeling show that calculated Facility impacts are predicted to be below EPA-defined PSD Significant Impact Levels (SILs), and the concentrations from the Project, when added to the background concentrations, will not result in any violations of the NAAQS. Since the maximum modeled impacts are less than the SILs, the Project will have no area of significant impact and does not have the potential to affect compliance with NAAQS, New York Ambient Air Quality Standards (NYAAQS) or PSD increments.
- (3) However, in order to address the public's concerns within the SEQR context of the existing community levels of PM_{2.5}, NYSDEC Division of Air Resources staff has undertaken a modeling analysis of both AGC facilities in Sunset park (GGS and NGS facilities). The details of the modeling approach and the results are provided in chapter B, Responsiveness Summary, of the FEIS. It should be noted that the modeling specifically addressed the issue of peak PM_{2.5} emission impacts during the summer months, when the units can operate simultaneously, and the modeling also looked at operations the rest of the year. The modeling was based on worst case simultaneous operation of all of the 16 and 32 turbines at Narrows (NGS) and Gowanus (GGS), respectively, while burning oil and emitting at the maximum allowable permitted levels. Impacts were also calculated for SO₂ and PM₁₀.

The results of the modeling indicate that there are limited areas right next to the facility fence lines, over water bodies, and on neighboring industrial sites, where the standards for SO₂ and PM_{2.5} could be exceeded, while impacts in the surrounding community due the existing facilities are well below all standards. This analysis also

incorporates the contribution of area wide regional background levels. The modeling results are also deemed conservative due to the actual levels of the sulfur content of the oil being used at the facilities, as well as due to the basis of the particulate emissions assumed in the impact calculations.

- (4) In order to resolve the projected exceedences of the standards, AGC has committed to permit restrictions in an action plan which is incorporated into the Title V permit for the GGS. Similar actions were discussed between NYSDEC and AGC for the Narrows facility, and AGC has also committed to permit restrictions in an action plan for the Narrows facility. It is important to note that a significant step on the part of AGC is the commitment to start receiving the ultra low sulfur fuel (15ppm sulfur) in deliveries at the GGS and NGS facilities immediately after the permit for the GGS is issued instead of waiting until the new LMS 100 unit is operational.
- (5) The Applicant has also committed to additional reductions in annual emissions levels which will assure corresponding reductions in annual impacts. The netting analysis in the GGS permit application indicates that emissions of NO_x, CO, SO₂ and lead will be reduced from the GGS facility by capping at certain levels, as presented in Section 4.5.2 and Table 4.5.2-5 in the FEIS.

For example, PM_{2.5} emissions from the new LSM 100 unit would be 19.26 t/y; however, the project sponsor has included an ~9.99 t/yr reduction in PM_{2.5} from existing equipment at Gowanus. The net increase in PM_{2.5} emissions, therefore, are projected to be 9.27 t/y, which is less than the de minimis EPA emission level of 10 t/yr for a major modification. The "capping" of PM_{2.5} emissions on the older, less efficient equipment will be enforced by the same NYSDEC permit that establishes conditions for the new unit.

In addition, emission reductions at the Narrows facility will be implemented to balance out a 9.27 TPY increase in PM_{2.5} emissions associated with the addition of the new unit and "capping" of existing electric generation equipment at the GGS. All of these emission reductions are defined on an annual basis and no unit specific data is provided on how these reductions would occur. Thus, no additional modeling on an annual basis was undertaken by NYSDEC staff. However, since ambient concentrations are linearly related to emissions, the reduced emissions are expected to result in corresponding reduced impacts at levels proportional to emission reductions. It is also clear from the modeling of short term impacts that the necessary additional steps to alleviate the standards exceedences (the action plan) will result in further reduced ambient impacts.

- (6) The new unit qualifies as a minor source of PM_{2.5} since the increase is below the de minimis EPA emission level of 10 tons/year for a major modification. Thus, no offsetting of emissions is required and the permitting of the new unit is not contingent on the reductions at the Narrows facility. The new LMS 100 is also in accordance with NYSDEC Policy CP-33, Assessing and Mitigating Impacts of Fine Particulate Matter Emissions (NYSDEC, 2003) which concludes that "if primary PM₁₀ emissions from the project do not equal or exceed 15 TPY, then the PM_{2.5} impacts from the project shall be deemed insignificant and no further assessment shall be required under this policy.

- (7) It is important to note that the additional reductions in annual PM emissions at the NGS facility, which AGC has committed to in order to balance out the net increase of 9.27 TPY at GGS (due to the new LMS 100 unit and “capping” of existing equipment) and achieve a net increase of 0.00 TPY, are not required by the EPA and NYSDEC permitting process. For the reasons described above, the new LMS 100 unit qualifies as a minor source of PM_{2.5} since the increase is below the de minimis EPA emission level of 10 tons/year for a major modification. Thus, no offsetting of emissions is required and the permitting of the new unit is not contingent on the reductions at the Narrows facility.

However, AGC has committed to PM emission reductions with an understanding that these will be incorporated in a permit modification for the NGS facility. AGC has proposed to the Community a commitment letter to reiterate its plans to facilitate the NGS reductions. As an alternative, AGC has provided a draft MOU to the community groups outlining the same commitments.

- (8) NYSDEC determined that the proposed action is subject to DEC Commissioner Policy 29, *Environmental Justice and Permitting* (NYSDEC CP-29). As part of the SEQRA review of the project, the Applicant undertook an environmental justice analysis consistent with the methodologies required by NYSDEC CP-29. The results of the analysis revealed that construction and operation of the project would not result in any significant adverse and disproportionate effect on any environmental justice communities or communities of concern.
- (9) The conclusions reached from review of the engineering and air quality modeling analyses provided in the application materials indicate that the SPIP will: 1) not cause or contribute to a violation of the NAAQS or NYAQS for any pollutant; 2) not cause adverse impacts relative to soils, vegetation growth and visibility; 3) comply with all other applicable federal and state air quality regulatory requirements; and 4) have neither an adverse nor a disproportionate impact on communities with a significant percentage of low-income and/or minority populations.
- (10) In addition to the emission limits and control requirements previously mentioned, the air permit will also include operating restrictions; testing and compliance certification requirements; and reporting and record keeping requirements. In order to ensure compliance upon startup of the facility, an initial performance test is required for each emission source at the plant within 180 days of startup. Compliance records are required to be kept on site and submitted to the Department and US EPA each calendar year quarter.
- (11) NYSDEC believes that the air permits with the permit conditions, will serve to ensure that the facility will be operated in compliance with all relevant state and federal air pollution control regulations.

2. Geology, Soils Topography

a. Potential Impacts

The SPIP is proposed to be constructed on an existing industrial earthen pier which consists of compacted fill secured by a timber and steel sheet-piled bulkhead and rip-rap perimeter. Rip-rap is a permanent cover of rock used to stabilize shorelines and streambeds against water erosion. Information for this section is based on field observations in the vicinity of the SPIP site, and compiled from published federal and state geologic maps, reports and technical studies (as referenced herein and listed in Section 11.0).

A geotechnical evaluation was performed at the SPIP site by French & Parrello Associates, P.A. in November and December 2007. The geotechnical evaluation included an analysis of surface and subsurface soils and the bedrock conditions. The evaluation included thirteen test borings, eleven test pits, and laboratory testing of the selected soil samples. The geotechnical report is included as Appendix E.

Virtually all of the approximately 2.75 acres of the pier will be disturbed during SPIP construction. Potential impacts to soils due to construction include minor changes to soil drainage patterns through grading and mixing of soils, soil erosion, siltation and sedimentation into the Gowanus Bay, and the potential accidental release of oil or hazardous materials by heavy equipment.

b. Discussion and Findings

- (1) Potential impacts to geology, soils, and topography will be insignificant since the SPIP is proposed to be developed on an existing industrially zoned bulkheaded earthen pier. Construction will not require significant importing or exporting of soils from the site, and the site will remain level such that surface drainage patterns will not be substantially altered.
- (2) The surface of the SPIP site consists of a mixture of asphalt, concrete and gravel. There is virtually no topsoil or vegetation currently on the SPIP site. Following construction, approximately 5 to 10% of the SPIP site surface area will be vegetated, including both vegetation planted on the site surface along with vegetation grown on certain walls and on the roofs of new facility structures where practicable. Approximately 0.8 acres of land surface will be permanently occupied by SPIP site structures.
- (3) Physical alteration of the site will require less than 0.8 acres for installation of the equipment for the facility. The remaining areas will be either maintained for its existing use (i.e., the gas meter station), remain as open space, be maintained for maintenance access, or be conformed to be consistent with the proposed "environmentally sensitive" design program. This program includes a green living wall, and various areas of plantings. These vegetative improvements are essentially aesthetic in nature and do not require substantive physical alterations.

3. Water Resources - Water Supply, Wastewater and Storm Water Management

a. Potential Impacts

Potential impacts to surface waters due to construction and operation of the facility include soil erosion, siltation and sedimentation of the Gowanus Bay, and the potential accidental release of oil or hazardous materials by heavy equipment. There is no in-water construction planned at the SPIP site.

Potential impacts to groundwater due to construction and operation of the facility include the potential accidental release of oil or hazardous materials from mobile and stationary equipment

It is estimated that the SPIP site will require an additional approximately 25,000 gallons of municipal water per day (maximum flow rate of approximately 70 gallons per minute [gpm]) of water from the City municipal water supply system.

b. Discussion and Findings

- (1) A detailed Erosion Control and Storm Water Management Plan will be developed prior to the start of construction which will further specify measures to minimize potential erosion and siltation. In addition, prior to construction, the Applicant is required to obtain coverage under NYSDEC's Stormwater General Permit for Construction Activities which will ensure that siltation and sedimentation impacts will be minimized.
- (2) The GGS currently operates in accordance with a certified SPCC. This plan will be modified to account for the construction and operation of the SPIP site. Though construction and operation of the SPIP site will not require significant use of oil or hazardous materials, temporary use of heavy construction equipment could lead to accidental spills or releases of oil and hazardous materials. The risk of releases will be minimized through adherence to the SPCC. Specific mitigation measures will be included in the SPCC such as:
 - Equipment will be fueled or maintained (including washing) in specified areas, well away from surface water bodies.
 - Any releases of oil or hazardous materials will be remediated immediately upon detection in accordance with all applicable laws and regulations.
 - Waste will be disposed of properly and in accordance with all applicable laws and regulations.
- (3) Sanitary wastewater from the few additional employees associated with the SPIP site will be discharged to the municipal sanitary sewer system. The SPIP site will not discharge process wastewater during routine operations. Final design of floor drain systems may add a minimal, intermittent volume to the local wastewater system.
- (4) Water usage for the SPIP has been minimized during the plant design process. The LMS100 will be cooled using an intercooler with closed loop fin fan technology (see Section 1.1.1.5). This technology uses substantially less water than an evaporative cooling system (wet cooling tower). Furthermore, the SPIP will make use of collected rainfall as a resource conservation measure (See Section 10.0). It is estimated that

the SPIP site will require an additional approximately 25,000 gallons of municipal water per day (maximum flow rate of approximately 70 gallons per minute [gpm]) of water from the City municipal water supply system. This estimated additional water usage is expected to be easily accommodated by the municipal system and there will be no adverse impact with respect to water supply for the SPIP site.

- (5) The SPIP will not require modifications to existing or additional permanent fuel storage barges. The SPIP does not expect to have any additional fuel oil barge deliveries, than currently utilized at the existing facility. There is expected to be no significant impact on the recreational or education uses of the Gowanus Bay. AGC is aware of existing recreational activities in Gowanus Bay and has considered recreational activities, including those organized recreational groups such as the Gowanus Dredgers Canoe Club and the Urban Divers Estuary Conservancy. During construction there will be deliveries by barge to the SPIP site, but these deliveries will be during a relatively short construction period and will not impede the use of the Gowanus Bay by any user or recreational activity.

4. Ecological Resources - Terrestrial and Aquatic Ecology, Fish and Wildlife

a. Potential Impacts:

The SPIP is to be developed on a previously disturbed pier with an existing timber and steel sheet-piled bulkhead and rip-rap perimeter. Since no significant vegetation currently exists on the pier, no negative impacts to vegetation or rare plant species are anticipated during the construction and/or operation of the SPIP. In fact, the environmentally sensitive design considerations which have been incorporated into the project will result in a net increase in vegetation on the SPIP site.

Construction and operation related impacts to fish and wildlife will be minimal as a result of the construction of the SPIP site on an existing pier with a timber and steel sheet-piled bulkhead and rip-rap perimeter. There is no in-water construction planned at the SPIP site. As described in Section 3.3.1.2 of the FEIS, there is no significant fish and wildlife habitat at the SPIP site.

The shortnose sturgeon is federally listed as endangered and may be present in Kings County waters.

b. Discussion and Findings

- (1) There are no known occurrences of rare or state-listed animals, plants, significant natural communities or other significant habitats on or in the immediate vicinity of the site. No rare plants or unique plant communities will be impacted as a result of project construction and operation of the project.
- (2) Approximately 5 to 10% of the SPIP site will be planted with vegetation, including vegetation grown on certain walls and roofs of plant structures where practicable. Vegetation efforts will be performed by personnel familiar with local horticultural and turf establishment procedures. As such, the impacts to vegetation at the SPIP site are anticipated to be positive. Similar positive impacts may result from the additional

vegetation plantings following construction.

- (3) Potential silt and sediment runoff from construction and operational activities will be minimized by erosion and sedimentation control measures. Since no in-water work is anticipated, any impacts to aquatic organisms will be minimal.

5. Aesthetic and Visual Resources

a. Potential Impacts

Potential visual impacts from the SPIP site due to construction will be temporary and typical of construction activities along this active industrial waterfront. Construction of the SPIP site is anticipated to last for approximately nine months. Large crane(s) will be necessary for the movement of site materials and placement of SPIP components on the site. In addition, concrete mix trucks with extending arms will be utilized for pouring concrete foundations.

To address impacts associated with the SPIP, a visual study was conducted to evaluate the extent and assess potential visibility impacts associated with the SPIP site at resources determined to be potentially sensitive within a two-mile radius of the stack. Consistent with the methodology outlined in the final scoping document for the DEIS, a visual study area of approximately 12.5-square miles was evaluated. The boundaries of the visual study area are shown on Figure 3.5.1. of the FEIS.

The visual study included compilation of an inventory of aesthetic and visually sensitive resources, characterization of the overall landscape and setting within the study area, field reconnaissance and photographic documentation of significant resources, then assessment of potential views from those resources. This was accomplished through preliminary viewshed mapping, field verification of potential views, line-of-sight analyses and computerized visual simulations from selected representative locations. Visual impacts were then assessed within the context of the setting of the area.

The NYSDEC Visual Policy calls for identification of aesthetic resources which meet any of the 15 designated categories for resources of statewide significance within a project's visual study area. As indicated in Table 3.5.1.1-1 of the FEIS, the only categories of aesthetic resources in the Visual Policy that are within the two mile radial study area are aboveground historic architectural structures listed or eligible for listing on the State and NHRP (S/NRHP).

Key historic sites, structures and historic districts considered in the visual study are: The 29th street Pier, Bush terminal Complex, Gree-Wood Cemetery. Sunset Park Historic District, The Erie Basin, Red Hook, sunset Park, Owls Head Park and shore Road park, Red Hook Recreational Area, the BQE (Route I-278), Pier 4 ferry parking, local Roads, and the Staten Island ferry. The Red Hook Recreational Area, across Gowanus Bay from the site is the single location found in the visual study area that offered open panoramic views of the SPIP site.

b. Discussion and Findings

- (1) The SPIP site is zoned for industrial use, and is bordered on the landward sides by large industrial facilities. Twin silos and aggregate piles of the Lafarge Cement

Company, and the NYPA electric generating facility, containing two stacks, are located immediately north and northeast of the SPIP site. An existing, adjacent utility switchyard is located to the east of the SPIP site. The elevated BQE is located to the south and east beyond these facilities. Several warehouse buildings are located along the waterfront to the southwest, with the multi-story MDC building further to the southeast. A City-owned brick warehouse building is located just southwest of the SPIP site (see Photograph 5 in Appendix D). This building and its pier were constructed in the second half of the 20th century, after the demolition of the National Register of Historical Places- (NRHP) eligible 29th Street Pier. The extent of the former 29th Street Pier and redevelopment after the pier's demolition are shown on historic aerial photographs contained in Section 3.6. Due to the urban, heavily industrialized setting of the SPIP site, there is little vegetation in the immediate area

- (2) The FEIS provides an assessment of the aesthetic and visual aspects of the SPIP and addresses the requirements of both the DPS and the NYSDEC expressed in PSL §§164(1)(a) and ©; 16 NYCRR §§1001.1(a) and 1001.3, and the NYSDEC Policy System guidance DEP-00-2 dated July 31, 2000 entitled Assessing and Mitigating Visual Impacts (the NYSDEC Visual Policy). The visual impact assessment was conducted in a manner consistent with the NYSDEC Visual Policy whereby a visual resource inventory was established, and the project's impacts and measures to mitigate these impacts were evaluated in the FEIS.
- (3) The Phase IA cultural resources survey, the visual simulations prepared for the Project indicate that the proposed SPIP facility and stack will be consistent in appearance and scale with existing and similar industrial and energy-related structures in the immediate vicinity. John Milner Associates (JMA) conducted the Phase 1A and concluded that the Project will not result in any adverse visual or other impacts to significant historical properties, including above ground historic architectural resources. Likewise, as indicated in correspondence received in June 2008, the NYS OPRHP states that the proposed project will not have a significant visual impact to surrounding historic resources and there are no archeological concerns (Appendix J). The closest historic property [Federal Building 1] is located approximately 540 feet SW from the perimeter of the project site and will not be affected by the project.
- (4) Although the SPIP site will be in full view from the Red Hook Recreational Area, the change in view is consistent with the setting in this industrial area, providing one more large built feature along a dynamic waterfront.
- (4) SPIP site structures have been designed to visually integrate the project with the surrounding landscape and serve multiple functions to the greatest extent possible. Compatible colors will be used for the stack, tanks, and site buildings to mitigate potential visual impacts. In addition, landscape and architectural treatments are being incorporated into the SPIP site design. Further discussion of mitigative design strategies are detailed in Section 10.0, Environmentally Sensitive Design Considerations, of the FEIS.

6. Historic, Cultural, and Archeological Resources

a. Potential Impacts

A Phase IA cultural resources survey was completed in the spring of 2008 by JMA. The survey was conducted in accordance with the New York Archaeological Council's Standards for Cultural Resources Investigations and the Curation of Archaeological Collections (1994) recommended for use by the OPRHP. JMA's report entitled South Pier Improvement Project, Phase IA Cultural Resources Survey, Brooklyn, New York is included in Appendix F. The report was submitted on May 15, 2008 to OPRHP for review and comment.

JMA's review of available records found no previously recorded Native American archeological sites located within the SPIP site, and no structures or properties presently listed, or determined eligible for listing, on the State and/or National Registers of Historic Places located on the SPIP site. However, there are 12 previously recorded archeological sites within a two-mile radius of the SPIP site (JMA, 2008). More than half of these sites are located on Governor's Island which is located approximately two miles northwest of the SPIP site. In addition, JMA notes 75 previously identified historic and/or architectural significant properties and/or historic districts located within two miles of the SPIP site.

b. Discussion and Findings

- (1) Based on the Phase 1A assessment, JMA concluded that the construction and operation of the SPIP site will not result in any adverse impacts to significant historical properties. Further, as stated in Section 3.5.3.2, OPRHP correspondence states that the proposed project will not have a significant visual impact to surrounding historic resources and there are no archeological concerns (Appendix J).
- (2) OPRHP determined that there are there are no archeological concerns for the proposed project, and it will not have a significant visual impact to surrounding historic resources and provided a construction protection plan is put in place for all historic structures within 90 feet of the proposed construction. The closest historic property (Federal Building 1) is located approximately 540 feet SW from the perimeter of the project.

7. Noise

a. Potential Impacts

The construction at the SPIP site will require the temporary use of heavy equipment that may be audible from off-site locations. Major sound-producing construction tasks at the SPIP site include pile driving, excavation, foundation work, steel erection, installation of facility equipment, and finishing work.

Tech Environmental evaluated potential adverse noise effects from the operation of the proposed SPIP in the surrounding community, and determined whether potential SPIP sound levels adhere to applicable regulatory requirements. The Tech Environmental study was conducted in a manner consistent with the NYSDEC Noise Policy: Assessing and Mitigating Noise Impacts Program, DEP-00-1. This study is included in Appendix C, Noise

Impact Study for the South Pier Improvement Project (Tech Environmental, 2008).

The sound from the existing GGS (four units operating as representative of normal operating conditions at the facility) was considered part of the baseline ambient sound levels for the SPIP site. The determination of baseline ambient sound levels in the vicinity of the SPIP site was determined as follows. First, actual ambient sound levels were measured at four receptor locations as identified in Table 3.7.1.2-1 and did not include sound from the existing GGS. Second, actual sound measurements were conducted near individual existing gas turbine units at the GGS. Third, acoustic modeling was performed to estimate the resultant baseline ambient sound levels at the receptor locations when four existing gas turbine units are operating. These existing GGS sound levels were added to the measured background to form the basis for the existing background.

Results of the operational phase unmitigated sound modeling analyses indicate that the noise levels at the south property line (Location #1) would be minimally above the City noise criteria. Operational noise levels at the other receptor locations would be in compliance with applicable noise criteria.

b. Discussion and Findings

- (1) Noise resulting from construction activities will be minimized to the maximum extent practicable. The following noise mitigation measures will be incorporated into the SPIP construction management protocols:
 - Construction activities that produce significant noise will generally be limited to daytime hours, properly designed engine enclosures and intake silencers will be required, regular equipment maintenance and lubrication will be required, and all exhaust systems will be maintained to ensure that they are in good working order.
- (2) The LMS100 unit will be equipped with high performance silencers for both the gas turbine air inlet and exhaust stack. In addition, the major components of the LMS100 will be contained in an enclosure. These “design-based” noise control measures were factored into the unmitigated operational modeling analyses.
- (3) In addition to design-based” noise control measures, mitigation measures include an acoustic enclosure or barrier wall for the Gas Compressor and Fin-Fan Cooler and the strategic placement of a sound barrier wall on the GGS property. As depicted in Appendix C, Figure 2, the sound barrier wall will begin in the vicinity of the demineralized water tank and run northwest along the edge of the SPIP site. Results of the operational sound modeling analyses indicate that with the additional mitigation measures described here, noise levels at the south property line (Location #1) will be fully compliant with all applicable noise criteria. Likewise, operational noise levels from the other monitoring locations will maintain compliance with respect to all applicable noise criteria.
- (4) Prior to the start of construction, a procedure for addressing any noise complaints received from residents will be prepared. Following the construction of the SPIP, a post construction noise monitoring plan will be prepared and implemented.

8. Traffic

a. Potential Impacts

Truck routes in the vicinity of the SPIP site range from expressways to local truck routes and principal streets. These routes include the following state and federally designated roadways: the BQE, Grand Central Parkway/I-278, Belt Parkway/State Route 27, Long Island Expressway/I-495, and Prospect Expressway. Sections 3.8.1.1 and 3.8.1.2 present the existing rules and restrictions regarding vehicle traffic in the City metropolitan area, the background traffic volume conditions, and preferred routes and commuting options for accessing the SPIP site.

The vehicular entrance to the GGS is located at 29th Street and 2nd Avenue, Brooklyn, New York. In addition to this entrance, AGC will utilize the waterfront access to the SPIP site to bring in as many components as practical via barge delivery. Approximately 10 to 15 barge trips will be required to deliver the mechanical components of the LMS100 to the SPIP site throughout the duration of construction.

Construction of the SPIP site is expected to take approximately 9 months. Equipment and construction materials will be delivered to the SPIP site via large trucks and specialty vehicles. Vehicles will utilize the three preferred OS/OW routes identified in Section 3.8.1.5 of the FEIS to the maximum extent practicable.

Over the course of construction, a total of approximately 75-100 vehicular trips will be required to deliver the mechanical components to the SPIP site. In addition, a total of approximately 100-150 vehicular trips will be required for structural materials such as steel, piping, wire and cladding. Concrete truck traffic is expected to peak between months 2 and 4 of construction and is likely to average approximately 5-10 concrete truck deliveries per day. Peak employment is anticipated to occur between months 3 and 8 of the construction period and will consist of a peak of 100-150 employees on site during any one quarter. At peak construction, the SPIP could generate as much as 75 vehicular roundtrips per day due to construction personnel.

The SPIP site will result in minimal additional traffic during normal operation. This would include the few new employees that may drive to work and the infrequent delivery of components and services to support the new equipment. The anticipated additional traffic is expected to average less than approximately 3-5 additional vehicles to the site a day.

Fuel oil for the existing facility is delivered by barges. Since natural gas will be utilized as the primary fuel with ULSD as a backup fuel, the LMS100 combustion turbine is not anticipated to increase future barge fuel oil deliveries to the GGS.

b. Discussion and Findings

- (1) No roadway modifications or improvements are indicated to be required to accommodate construction vehicle traffic. Since the level of anticipated traffic activity is indicated to be low enough to be easily absorbed by the existing local roadway network and large equipment and construction materials will be delivered to the SPIP site during non-rush hour or school hours, no impacts to the surrounding communities

and to the local transportation network is projected due to construction volumes alone.

- (2) If SPIP site construction schedule overlaps with the construction of the neighboring proposed Sims metal recycling project, AGC will coordinate with Sims to secure a local traffic director for both projects. The objective of the local traffic director will be to help with the flow of traffic and reduce potential traffic congestion along 2nd Avenue and other roads in the vicinity of the SPIP site. Further, if necessary to alleviate local street congestion or parking constraints, AGC will arrange for a part of its construction force to park off-site (at the existing NGS or elsewhere) and then transport construction workers via a bus to the SPIP site.

9. Socioeconomics

a. Potential Impacts

The existing GGS was built by Consolidated Edison Company of New York (ConEd) and has been operating within the community for approximately 30 years. In late 1999, the facility was sold by Con Edison and after several ownership changes was purchased by USPowerGen in 2006. The GGS and NGS currently employ 44 persons. In addition to staff payroll, a review of the local expenditures by AGC indicates that over \$8 million is spent annually by these facilities with local merchants, vendors, and contractors.

The SPIP is expected to have both direct and indirect positive economic effects, commencing during the construction phase and continuing throughout the economic life of the facility. In the short term, the benefits of project construction will include additional employment and income stemming from jobs in the various construction trades that will be required to build the SPIP. In the long term, the SPIP will provide an array of direct and indirect economic benefits. It will generate additional revenue for the city through additional tax payments based on the increased value of the facility.

b. Discussion and Findings

- (1) Construction of the SPIP is not expected to have any significant impact on area population. The SPIP construction will require up to approximately 150 temporary construction workers. This labor force will be made up largely of workers who reside within the City, including Brooklyn, and travel to job sites as the work requires facility.
- (2) The entire area of the SPIP and the majority of the surrounding area are zoned as a Manufacturing District, M3-1. The property is also currently in use as an electric generation facility. The applicant has confirmed that the SPIP site may be constructed "as-of-right" pursuant to Article IV of the Zoning Resolution since the area is properly zoned (M3-1) allowing electric power or steam generation plants as permitted uses. These conditions make it unlikely that surrounding industrial properties will decrease in value due to the construction and operation of the SPIP. It is possible that local industrial property values may actually increase due to the improved local infrastructure (power supply), lower community emissions and aesthetic improvements proposed by the SPIP.

10. Environmental Justice

a. Potential Impacts

NYSDEC determined that the proposed action is subject to DEC Commissioner Policy 29, *Environmental Justice and Permitting* (NYSDEC CP-29). As part of the SEQRA review of the project, the Applicant undertook an environmental justice analysis consistent with the methodologies required by NYSDEC CP-29. The FEIS includes a qualitative description of existing environmental burdens on the potential Environmental Justice area (PEJA), including a comparative assessment of asthma, cancer, heart disease, and mortality rates in Sunset Park compared to Brooklyn and the City, and an evaluation of potential additional burden due to any significant adverse environmental impact as a result of the SPIP. The results of the analysis revealed that construction and operation of the project would not result in any significant adverse and disproportionate effect on any environmental justice communities or communities of concern.

b. Discussion and Findings

- (1) An enhanced Public participation plan was prepared and implemented in accordance with NYSDEC Commissioner issued Commissioner Policy CP-29 providing guidance for incorporating Environmental Justice (EJ) concerns into NYSDEC's permitting process. The plan contained commitments for the Applicant to undertake significant public outreach and preparation of a public contact list, widely disseminate information, prepare fact sheets, hold public meetings, take comments continually throughout the SEQRA review process, and provide periodic progress reports summarizing public outreach activities to date, project status, and responses to questions and comments received. All project documents are available through the project website and at public repositories in local libraries and the CB7 office, and comments were encouraged to be provided at public meetings, by mail, through the website, or via the established hotline.
- (2) A comparative assessment of asthma, cancer and mortality rates in Sunset Park as compared to other locations within the metropolitan City area. Specifically, information regarding available asthma hospitalization, cancer, heart disease, and mortality rates across 3 geographic size classes; 1) Sunset Park, 2) Brooklyn overall, and 3) the City was reviewed. This approach has allowed for comparisons to be made between local and more regional health patterns. Studies reviewed include the Community Health Profile for Sunset Park and Northwest Brooklyn by the City Department of Health and Mental Hygiene (NYC DOHMH, 2006a and 2006b) which were based on health-related data from New York State Department of Health Statewide Planning and Research Cooperative System, the City Community Health Survey 2002-03-04, and the NYC DOHMH Bureau of Vital Statistics. The Community Health Profile studies utilized a methodology similar to that employed in the Report of the Health Outcome Data Work Group (NYSDEC & NYSDOH 2006).
- (3) It is not anticipated that the SPIP will contribute any additional environmental burden on the local PEJA. As demonstrated by the analysis of potential air contaminants to be emitted by the SPIP contained in Section 3.1 of the FEIS, the project will not contribute to the community's air pollution burden. In fact, it will decrease the annual

actual emissions now coming from the AGC owned facilities and therefore will reduce the contribution of AGC on air quality components that may contribute to environmental and health impacts. By reducing operations of existing facilities by approximately 50% from baseline actuals, the SPIP will achieve an approximately 49% actual overall emission reduction from current conditions, while adding to the overall capacity and reliability of the local electrical grid.

- (4) In addition, conservative air quality screen modeling demonstrates that the impacts from emissions pollutants from the LMS100 turbine will be below Significant Impact Levels (SILs; see Section 3.4). Furthermore, the SPIP will supply greatly needed energy during peak periods thereby, increasing reliability and uninterrupted electrical generation service for area businesses, residences and the City of a whole.
- (3) The consequences of the SPIP include a reduction of existing emissions (Section 3.4), no significant noise levels (Section 3.7), de minimis increases in traffic levels associated with project operations (Section 3.8), and a visually sensitive design in order to integrate the SPIP with the surrounding landscape (Section 3.5). In addition, the SPIP will be consistent with significant findings and recommendations of the Draft 197-a Plan for Community Board 7 and will not impact the Sunset Park Greenway Project (Section 3.14). The SPIP site has been designed, structurally and visually, to ensure that construction and operation activities will accommodate and complement existing community plans and efforts.

10. Land Use and Zoning

a. Potential Impacts

The SPIP site is located along the western-most area of the Sunset Park neighborhood in Brooklyn, New York, within the existing GGS property, between the terminus of 29th Street and Gowanus Bay. Gowanus Bay represents the area at the confluence of the Gowanus Canal and the East River. The SPIP site is bordered by the Gowanus Bay to the north, west and south. This urban waterfront area is heavily developed and is dominated by industrial and commercial activities which historically have taken advantage of their access to the East River for waterborne shipping and receiving of goods.

The SPIP is proposed to be constructed on an existing industrial earthen pier in an M3-1 industrial zoned area, a designation representing the heaviest industrial zoning area promulgated by the City.

b. Discussion and Findings

- (1) It was confirmed that the project could be constructed “as-of-right” pursuant to Article IV of the Zoning Resolution since the area is properly zoned (M3-1) for electric power or steam generation plants (Permitted Use under Section 42-15 B of the Zoning Resolution; Use Group 18). Since the pier on which the SPIP will be located is part of an existing use as a power plant and water-dependant for fuel delivery, no special use permits are required under Article VI, Chapter 2, of the Zoning Resolution (Special Regulations Applying in Waterfront Areas). With the “as-of-right” designation, the SPIP need only obtain a ministerial building permit from the City Department of

Small Business Services which is charged with issuing such permits in certain waterfront areas.

11. Alternatives Analysis

a. Potential Impacts

The FEIS provides a description and evaluation of the range of reasonable alternatives to the SPIP. The following alternatives for the SPIP were described and evaluated: alternate project size, alternate project location, alternate project layout, alternate turbine size, alternate plant technologies (peaking vs. combined cycle, renewable), shutdown and removal of existing barge-mounted units, conversion of existing oil only units to dual fuel (gas/oil), and the “no action” alternative. The no action alternative, which is required for consideration under SEQRA, represents the environmental conditions that would exist if current land use and activities were to continue as is.

b. Discussion and Findings

- (1) The Applicant evaluated shutdown of the existing units and maintained that when the facility operates, usually only a few units operate at a time. The operation of all 32 units at Gowanus or all 16 units at Narrows is rare and has only happened 3 and 9 times respectively in 2007 each time for an average of approximately 2 hours. In 2006, all Gowanus and Narrows units ran 2 and 15 times respectively, also for an average of approximately 2 hours each time.

However, the FEIS indicates that peaking facilities like GGS earn the majority of its revenues from Capacity Payments and GGS also receives ancillary payments for black start and quick start ability. This is consistent with the role they play in the overall electric system. That is, they are paid to be available for peak use, to maintain reliability but do not run that often, and for black start of the grid system. Capacity Payments and payments for these additional ancillary services allow a peaker to be viable as a business even if it is used sparingly.

The proposed SPIP will install new more efficient and cleaner capacity at GGS while reducing emissions at GGS and NGS such that the total emissions from the modified facilities will be less than baseline actual emissions. In addition, the applicant has proposed a switch to ULSD which further reduces particulate matter. This approach has been discussed with the community in public meetings, with the NYSDEC and is explained in the FEIS. The alternative to remove one or more existing units even with the installation of the new LMS 100 turbine has been considered by the applicant to be economically unviable.

Project Number: 2-6102-00116/00021

Name of Action: South Pier Improvement Project**CERTIFICATION OF FINDINGS TO APPROVE/FUND/UNDERTAKE**

Having considered the Draft EIS and the Final EIS, and having considered the preceding written facts and conclusions relied upon to meet the requirements of 6 NYCRR 617.9, this Statement of Findings certifies that:

1. The requirements of 6NYCRR Part 617 have been met;
2. Consistent with the social, economic and other essential considerations from among the reasonable alternatives thereto, the action approved is one which minimizes or avoids adverse environmental effects to the maximum extent practicable; including effects disclosed in the environmental impact statement, and;
3. Consistent with social, economic and other essential considerations, to the maximum extent practicable, adverse environmental effects revealed in the environmental impact statement process will be minimized or avoided by incorporating as conditions to the decision those mitigative measures which were identified as practicable.
4. (and, if applicable) Consistent with the applicable policies of Article 42 of the Executive Law, as implemented by 19 NYCRR 600.5, this action will achieve a balance between the protection of the environment and the need to accommodate social and economic considerations.

The New York State Department of Environmental Conservation

Name of Agency

/s/

Signature of Responsible Official

Kevin Kispert

Name of Responsible Official

Environmental Analyst II

Title of Responsible Official

10/19/2009

Date

50 Circle Road, Stony Brook, New York 11790-3409

Address of Agency

cc: Other Involved agencies, interested parties, and the applicant: Refer to project service lists.