

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

Western New York Youth Climate Council, et al.,

Petitioners,

v.

Index No. 808662/2024

New York State Department of Transportation, et al.,

Respondents.

East Side Parkways Coalition, et al,

Petitioners,

v.

Index No. 808702/2024

New York State Department of Transportation, et al.,

Respondents.

Gwendolyn Harris and James Ragland,

Petitioners,

v.

Index No. 808703/2024

Marie Therese Dominguez, in her official capacity as
Commissioner of the New York State Department of
Transportation, et al.

Respondents

East Side Parkways Coalition, et al,

Plaintiffs,

v.

Index No. 808572/2024

New York State Department of Transportation, et al.,

Defendants.

STIPULATED SCHEDULING ORDER

RECITALS:

A. The following proceedings and action were filed in June 2024:

	Caption	Initial Filing Date	Index No.
The Removal Action: an action based on alleged violations of the New York State Constitution, and the Public Trust Doctrine	East Side Parkways Coalition, Terrence Robinson, Marcia E. Ladiana, Zion Richardson, Tendaji Ya' Ukuu, David Richardson, Joshua Patton, Emere Nieves, Solomon Myree Sr., Darrle Medina, Bernadette M. Ladiana, Saibo Kebbeh, Xavier C. James, Beverly Howard, Tiffany Grace Hill, Bobbie Hicks, Elisa Alex Gilbert, Charlene Fuqua'-Miles, Floyd Echols-Beckham, Eleanor Echols-Beckham, Kim Chaney, Scott Brewer, Wayne Blassingame, Dennice Barr, Patrick A. Cray Sr., Kenneth Johnson, Leslie Gardner, Ronald Silman, Fayah Winner, Valencia Scales, Nolan Scales, Shawn Martin, Linda Anderson, Pagan Fraiser, Eve Shippens, Andre R. Betts II, Cheryl Griffin, Cynthia R. Barber, June R. Thompson, Vickie Peyton, Laureen Nichols, Freddie Mills, Claudia N. Bigham, Matthew D. Chase, Terry Ann Patterson, Kimberly Smiley, Denise B. Wilson-Shannon, Joyce Wilson, Heather Craig, Tara Martin, Stephen Rutherford, Ulysses Green, Melissa Virelle, Loma Peterson, Charles E. Washington, Shirley Hough, Sharon L. Mack, Justin Colvin, Justin Stachowski, Cheryl D. Harris, and Ursula Y. Goodloe, v.	6/13/2024	808572/2024

	New York State Department of Transportation, Marie Therese Dominguez, in her official capacity as Commissioner of New York State Department of Transportation, and Stephanie Winkelhake, P.E., in her official capacity as Chief Engineer of the New York State Department of Transportation, the State of New York, and the City of Buffalo.		
The Climate Proceeding: An Article 78 Special Proceeding	Western New York Youth Climate Council, Coalition for Economic Justice, and Citizens for Regional Transit, v. New York State Department of Transportation, Marie Therese Dominguez, in her Official Capacity as Commissioner of the New York State Department of Transportation, and Stephanie Winkelhake, P.E., in her Official Capacity as New York State Department of Transportation Chief Engineer.	6/14/2024	808662/2024
The EIS Proceeding: An Article 78 Special Proceeding	East Side Parkways Coalition, Zion Richardson, David Richardson, Joshua Patton, Emere Nieves, Marcia E. Ladiana, Bernadette M. Madiana, Xavier C. James, Tiffany Grace Hill, Bobbie Hicks, Elisa Alex Gilbert, Charlene Fuqua' Miles, Scott Brewer, Wayne Blassingame, Dennice Barr, Patrick A. Cray Sr., Kenneth Johnson, Leslie Gardner, Ronald Silman, Fayah Winner, Valencia Scales, Nolan Scales, Shawn Martin, Linda Anderson, Pagan Fraiser, Eve Shippens, Andre R. Betts II, Cheryl Griffin, Cynthia R. Barber, June R. Thompson, Vicky Peyton, Laureen Nichols, Freddie Mills, Claudia N. Bigham, Matthew D. Chase, Terry	6/14/2024	808702/2024

	<p>Ann Patterson, Kimberly Smiley, Denise B. Wilson-Shannon, Joyce Wilson, Heather Craig, Tara Martin, Stephen Rutherford, Ulysses Green, Melissa Virelle, Lorna Peterson, Charles E. Washington, Shirley Hough, Sharon L. Mack, Justin Colvin, Justin Stachowski, Cheryl D. Harris, Ursula Y. Goodloe,</p> <p>v.</p> <p>New York State Department of Transportation, Marie Therese Dominguez, in her Official Capacity as Commissioner of the New York State Department of Transportation, and Stephanie Winkelhake, P.E., in her Official Capacity as New York State Department of Transportation Chief Engineer.</p>		
<p>The Harris Proceeding: An Article 78 Special Proceeding</p>	<p>Gwendolyn Harris and James Ragland,</p> <p>v.</p> <p>Marie Therese Dominguez, in her official capacity as Commissioner of the New York State Department of Transportation, Francis P. Cirillo, in his official capacity as the Buffalo Regional Director of the New York State Department of Transportation, and Stephanie Winkelhake, in her official capacity as Chief Engineer of the New York State Department of Transportation.</p>	6/14/2024	808703/2024

B. The EIS Proceeding, Climate Proceeding, and the Harris Proceeding are special proceedings seeking similar relief, but invoking different analyses of laws and facts,

under Article 78 of the New York Civil Practice Law and Rules (the “Article 78 Proceedings”).

C. Almost all, but not all, of the plaintiffs in the Removal Action and the petitioners in the EIS Proceeding are the same.

D. The New York State Department of Transportation, its Commissioner, Marie Therese Dominguez (in her official capacity) and Chief Engineer, Stephanie Winkelhake, P.E. (in her official capacity) are defendants/respondents in the Removal Action and the Article 78 Proceedings.

E. The Article 78 Proceedings and the Removal Action have been assigned to the Hon. Emilio Colaiacovo.

F. Counsel for all parties in the Removal Action and the Article 78 Proceedings have conferred for the purposes of charting a procedure for the filing of further papers to promote judicial economy and to eliminate confusion or prejudice that might result in the absence of such a procedure.

The parties, through their respective attorneys, having appeared, and after appropriate discussion and due consideration; it is hereby **ORDERED** as follows:

1. The parties shall comply with the following schedule with respect to the Article 78 Proceedings:

a. Respondents shall file their responding or answering papers on or before August 23, 2024;

b. Respondents shall file one record of proceedings with the first Article 78 Proceedings in which it files answering papers, if any, and it may be incorporated by reference in the other Article 78 Proceedings and the Removal Action;

c. Petitioners' replies to respondents' answers, if any, in the Article 78 Proceedings shall be filed on or before September 6, 2024; should DOT move in whole or in part in response to one or more of the Article 78 Proceedings, Petitioners' opposition to the motion(s) shall be filed on or before September 20, 2024, and DOT's reply on the motion(s), if any, shall be filed on or before September 27, 2024;

d. The return date for the Article 78 Proceedings shall be October 11, 2024, *at 10:30 am* or such other date and at such time as the Court directs. The parties will appear for argument in person in Part 4, located at 92 Franklin Street, third floor, Buffalo, NY;

2. Defendants shall answer or otherwise respond to the Complaint in the Removal Action by August 23, 2024; should Defendants move in response to the Complaint, Plaintiffs' opposition to the motion(s) shall be filed on or before September 20, 2024, and Defendants' replies, if any, shall be filed on or before September 27, 2024. The return date for any such motion shall be October 11, 2024, *at 10:30 am* or such other date and at such time as the Court directs. The parties will appear for argument in person in Part 4, located at 92 Franklin Street, third floor, Buffalo, NY; and

3. The foregoing is not intended as a waiver of the right of any party to file any other paper or motion, or the right of any other party to object to same, and the parties shall confer about scheduling in such event.

Dated: Buffalo, New York
July 31, 2024

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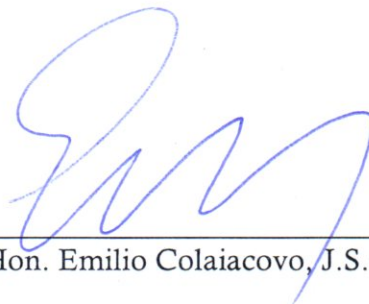
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SO ORDERED:

Dated: **AUG 01 2024**



Hon. Emilio Colaiacovo, J.S.C.