

**New York State Department of Environmental Conservation  
Office of Hearings and Mediation Services, 1<sup>st</sup> Floor**

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Website: [www.dec.ny.gov](http://www.dec.ny.gov)



Joseph J. Martens  
Commissioner

**Sent via Email and Regular Mail**

October 3, 2014

Daniel M. Darragh, Esq.  
Cohen & Grigsby, PC  
625 Liberty Avenue  
Pittsburgh, Pennsylvania 15222-3152

David Stever, Esq.  
Assistant Regional Attorney  
NYSDEC Region 9  
270 Michigan Avenue  
Buffalo, New York 14203-2915

RE: 6 NYCRR Part 361 Hazardous Waste Facility Siting Application;  
6 NYCRR Part 373 Hazardous Waste Management Permit Modification  
Application, et al.

Dear Messrs. Darragh and Stever:

On May 7, 2014, Department staff referred the captioned permit applications to the Office of Hearings and Mediation Services (OHMS) to schedule an administrative hearing. With the hearing referral, Department staff provided hard copies of the application materials. A compact disk with electronic copies of the application materials, dated November 2013, was also provided. On the compact disk, the electronic copies of the application materials are presented in portable document format (PDF).

OHMS has posted the electronic PDF copies of the application materials on the Department's website at <http://www.dec.ny.gov/chemical/97767.html>. OHMS has assigned document numbers to the application materials, and other related documents, when they are posted on the website. For example, Volume I of II of the 6 NYCRR Part 373 –HWMF permit modification application is identified as OHMS Document No. 201469232-00002.

The software used to create and maintain the Department's website limits the size of each PDF document to 5 megabytes (MB). Consequently, Volume I of II of the application was divided into 4 parts, as noted in the title of the document on the webpage. The other documents were similarly divided. A spreadsheet of the application materials is enclosed. The spreadsheet identifies the documents, the dates and revisions to the documents, the individual OHMS document numbers, and the Department's webpage identification numbers.

With the hearing referral, Department staff provided a copy of the draft permit. OHMS has posted the documents associated with the draft permit on the Department's website at <http://www.dec.ny.gov/chemical/97778.html>. They are identified as OHMS Document Nos. 00009 to 00031, inclusive.

On the webpage (*i.e.*, DEC webpage ID 97778.html) with the draft permit, OHMS also lists the documents incorporated by reference into the draft permit. Some of the documents identified by OHMS Document Nos. 00040 to 00047, inclusive, are also part of the application materials. For example, OHMS Document No. 00043 (10 parts) is the Groundwater Sampling and Analysis Plan (GSAP), which is part of OHMS Document No. 00004. OHMS Document No. 00004 includes the complete text of the GSAP with some, but not all, of the associated tables, figures and appendices. OHMS Document No. 00043, however, appears to be a complete version of the GSAP.

I direct Applicant to review the documents listed in the enclosed spreadsheet with those posted on the Department's website to verify that all application materials and incorporated documents are available electronically. Depending on the outcome of the review, Applicant may need to supplement the electronic versions of the application materials, and portions of the hard copies. This review will also ensure that complete copies of the application materials and draft environmental impact statement (hard copy and electronic format) can be identified for the hearing record (*see* 6 NYCRR 624.12[b]) when the issues conference convenes.

I request that Department staff review the draft permit documents identified as OHMS Document Nos. 00009 through 00030 (6 NYCRR Part 373), and OHMS Document No. 00031 (6 NYCRR Part 663 [Freshwater Wetlands] and § 608.9 [Water Quality Certificate]) to verify that all the documents associated with the draft permit are available electronically, and in hard copy.

Finally, I direct Applicant to verify that the hard copy materials associated with this matter are complete at the following document review locations:

- Youngstown Free Library, 240 Lockport Street, Youngstown, NY
- Porter Town Hall, 3265 Creek Road, Youngstown, NY
- Ransomville Free Library, 3733 Ransomville Road, Ransomville, NY
- Lewiston Free Library, 305 South Eighth Street, Lewiston, NY

Applicant and Department staff should review the hard copies of the documents available for public review located at the Region 9 Office in Buffalo and the Division of Environmental Remediation at the Department's Central Offices in Albany to verify that the materials are complete.

Please provide the requested verification by no later than October 10, 2014. The verification must include copies (hard copy and electronic) of any missing documents or versions of existing documents that must be updated. Thank you for your attention to this matter.

Very truly yours,

/s/

Daniel P. O'Connell  
Administrative Law Judge

Enclosure

cc: Joseph J. Martens with enclosure  
Commissioner  
NYS Department of Environmental Conservation  
625 Broadway, 14<sup>th</sup> Floor  
Albany, NY 12233-1011

Paul D'Amato with enclosure  
Chair, Facility Siting Board  
NYSDEC Region 8  
6274 E. Avon-Lima Road  
Avon, NY 14414-9519

Abby Snyder with enclosure  
Regional Director  
NYSDEC Region 9  
270 Michigan Avenue  
Buffalo, New York 14203-2915

	Dates and Revisions	OHMS Doc. No. 201469232	<a href="http://www.dec.ny.gov/chemical/">http://www.dec.ny.gov/chemical/</a>	Notes
6 NYCRR Part 373 – Hazardous Waste Permit to Construct/Operate Hazardous Waste Management Facility (HWMF)/Modification Request to Sitewide Part 373 Permit [Permit ID 9-2934-00022/00097] Residual Management Unit 2	Vol. I of II April 2003 Revised August 2009 Revised January 2012 Revised November 2013	00002 (4 Parts)	97767.html	
6 NYCRR Part 373 – Hazardous Waste Permit to Construct/Operate Hazardous Waste Management Facility (HWMF)/Modification Request to Sitewide Part 373 Permit [Permit ID 9-2934-00022/00097] Residuals Management Unit 2	Vol. II of II April 2003 Revised August 2009 Revised January 2012 Revised November 2013	00003 (3 Parts)	97767.html	
6 NYCRR Part 373 Modification Request to Construct/Operate Sitewide Part 373 Permit [Permit ID 9-00022/00097] Reference Documents and Additional Documents Residuals Management Unit 2	August 2013 Revised November/December 2013	00004 (5 Parts)	97767.html	See Doc No. 00043 for a complete version of the Groundwater and Analysis Plan (GWSAP)
6 NYCRR Part 361 Permit Application Residuals Management Unit 2	April 2003 Revised August 2009 Revised September 2012 Revised February 2013 Revised July 2013 Revised November 2013	00005 (3Parts)	97767.html	
Draft Environmental Impact Statement Residuals Management Unit 2	April 2003 Revised March 2012 Revised February 2013 Revised July 2013 Revised November 2013	00006 (9 Parts)	97767.html	
Engineering Report Residuals Management Unit 2	April 2003 Revised August 2009 Revised February 2013 Revised June 2013 Revised November 2013	00007 (15 Parts)	97767.html	
Application Documents Secion 404 Clean Water Act Wetland Permit Application Article 24/Part 663 State Freshwater Wetlands Permit Application Secion 401/Part 608.9 Water Quality Certification Application Part 750 SPDES Permit Modification Application CWM Nationwide Regulatory Compliance Record Residuals Management Unit 2	July 2013- March 2014	00008 (7 Parts)	97767.html	

Proposed RMU-2 Landfill Draft Permit Modification 6 NYCRR Part 373 Hazardous Waste Management		00009 through 00030	97778.html	
Documents Incorporated by Reference (Inc Doc) into the Draft Permit		00040 00041 00042 00043 (10 Parts) 00044 00045 00046 00047 (2 Parts)	97778.html	See note concerning Doc. No. 00004
Draft Permit 6 NYCRR Part 663 Freshwater Wetland 6 NYCRR 608.9 Water Quality Certification		00031	97778.html	