

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of Application for a Hazardous
Waste Management Facility Permit Pursuant to Environmental Conservation Law
Article 27, Title 9, and Title 6 of the
Official Compilation of Codes, Rules and
Regulations of the State of New York,
Part 373 (Hazardous Waste Management
Facilities),

ORDER
OF
DISPOSITION

by (January 11, 2008)

EASTMAN KODAK COMPANY

NYSDEC Project No. 8-2614-00205/00104

PROCEEDINGS

Eastman Kodak Company (Kodak) applied for a hazardous waste management facility (HWMF) permit for its Kodak Park facility located in the City of Rochester and the Town of Greece in Monroe County, New York. The United States Environmental Protection Agency (USEPA) issued a RCRA¹ part B permit to Kodak in April 1986. Before this permit expired in April 1996, Kodak submitted an application for permit renewal and has been operating since then under this extended federal permit.

The above referenced HWMF permit application was deemed complete on February 20, 2004, and was initially the subject of public notice on February 25, 2004, and a comment period from February 25, 2004 through June 4, 2004. On January 10, 2007, a combined public hearing notice appeared in the Rochester Democrat and Chronicle newspaper and the Department's Environmental Notice Bulletin advertising a legislative hearing session on March 12, 2007 and an issues conference on March 13, 2007. Additionally, on January 10, 2007, notice of the hearing dates, times and location were broadcast twice on local radio station WHAM-AM. The legislative hearing and issues conference occurred as scheduled, at the Holiday Inn Airport, Rochester, New York.

No petitions for party status were received in response to the hearing notice.

The Legislative Hearing

Department Staff was represented at the legislative hearing by Regional Attorney Paul J. D'Amato (currently Region 8 Regional

¹ Resource Conservation and Recovery Act of 1976.

Director). He was accompanied by technical staff including Regional Permit Administrator Peter A. Lent. Kodak was represented by Nixon Peabody, LLC, Scott M. Turner, member, appearing with Jo Anne E. Gould, Esq., Kodak in-house counsel, and Kodak Vice President, Health, Safety and Environment for Kodak's Film Products Group, Scott M. Summers, P.E.

Kodak provided a brief description of the project and stated its intention to submit extensive comments requesting further revisions in the draft permit. During the past two years, Kodak explained, as Kodak is repositioning itself from film imaging technologies to digital imaging technologies, a substantial transformation has occurred at the Kodak Park facility.

Staff then summarized its position on the project and described the draft permit. The hearing was attended by several members of the public, but only one member of the public provided oral comment on the project. He spoke generally about the toxicity of hazardous wastes, arguing that the state should not issue such a permit if it will increase incidence of cancer and death in the community. The speaker also stated that independent accountability should be required to assure compliance with a HWMF permit such as this, not self-monitoring.

The Issues Conference

Department Staff was represented at the issues conference by Regional Attorney D'Amato and technical staff, including Regional Permit Administrator Lent. Kodak was represented by Nixon Peabody, LLC, Scott M. Turner, member, appearing with Jo Anne E. Gould, Esq., Kodak in-house counsel.

The issues conference was adjourned to April 12, 2007, for a telephone conference status report, to allow the Department Staff and Kodak to negotiate permit language in view of Kodak's reduced production of hazardous wastes, related to its transformation from chemical film imaging technologies to digital imaging technologies. Subsequent telephone status reports were convened as the parties progressed to resolution of disputed permit language (i.e., potential hearing issues).

By letter dated January 9, 2008, Kodak indicated its acceptance of the draft permit (as revised during negotiations with Department Staff) and withdrew its request for hearing in this matter.

ORDER OF DISPOSITION

Because no petitions for party status were received in this matter and Eastman Kodak Company has withdrawn its request for

hearing, no proposed issues for adjudication remain to be considered.

Therefore, this matter is hereby remanded to Department Staff for further processing and issuance of a HWMF permit to Eastman Kodak Company that is reflective of the current draft HWMF permit, consistent with this Order.



Albany, New York
January 11, 2008

Kevin J. Casutto
Administrative Law Judge

TO: Attached Service List

DISTRIBUTION LIST
Eastman Kodak Company
(HWMF Permit Application)
NYSDEC Case No. 8-2614-00205/00104
March 15, 2007

<p>Scott M. Turner, Esq. Nixon Peabody, LLC 1100 Clinton Square Rochester, New York 14604 Tel: 585-263-1612 FAX: 585-263-1600 E-mail: sturner@nixonpeabody.com</p>	<p>Paul J. D'Amato, Esq. Regional Attorney NYSDEC Region 8 6274 East Avon Road Avon, New York 14414-9519 Tel: 585-226-5368 FAX: 585-226-9485 E-mail: pjdamoto@gw.dec.state.ny.us</p>
<p>Kevin J. Casutto Administrative Law Judge NYSDEC Office of Hearings and Mediation Services 625 Broadway [1st Floor] Albany, NY 12233-1550 Tel: 518-402-9003 FAX: 518-402-9037 E-mail: kjasutt@gw.dec.state.ny.us</p>	
<p>E-Mail Only:</p>	
<p>Jo Ann E. Gould, Esq. Eastman Kodak Company 343 State Street Rochester, New York 14650-0217 Tel: 585-781-5534 FAX: 585-724-5515 E-mail: joann.gould@kodak.com</p>	<p>Peter A. Lent Regional Permit Administrator NYSDEC Region 8 6274 East Avon Road Avon, New York 14414-9519 Tel: 585-226-5390 FAX: 585-226-2830 E-mail: palent@gw.dec.state.ny.us</p>
<p>David A. Rice Health, Safety and Environment Eastman Kodak Company 1100 Ridgeway Avenue, Bldg 320 Rochester, New York 14652-6263 Tel: 585-477-1300 FAX: 585-722-3695 E-mail: david.a.rice@kodak.com</p>	