

**STATE OF NEW YORK  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

---

In the Matter of the Application for  
Permits To Construct and Operate a Solid  
Waste Management Facility in  
Farmersville, Cattaraugus County, Known  
as the

**SOUTHERN TIER SOLID WASTE  
MANAGEMENT FACILITY,**

Pursuant to Articles 15, 17, 19, and 27  
of the Environmental Conservation Law  
("ECL"), and Parts 201 et seq., 263 et  
seq., 360, 608, and 663 of Title 6 of  
the Official Compilation of Codes, Rules  
and Regulations of the State of New York  
("6 NYCRR"),

- by -

**INTEGRATED WASTE SYSTEMS, INC.,**

Applicant.

---

Appearances of Counsel:

-- Duke, Holzman, Photiadis & Gresens LLP (Gregory P.  
Photiadis and Peter G. Ruppard of counsel), for applicant  
Integrated Waste Systems, Inc.

-- Steven C. Russo, Deputy Commissioner and General  
Counsel (Maureen Brady of counsel), for staff of the  
Department of Environmental Conservation

PROCEEDINGS

In January 2004, staff of the Department of  
Environmental Conservation (Department) referred the above  
referenced permit application to the Department's Office of  
Hearings and Mediation Service (OHMS) for the conduct of permit  
hearings pursuant to part 624 of title 6 of the Official  
Compilation of Codes, Rules and Regulations of the State of New

**ORDER OF DISPOSITION**

DEC Permit  
Application No.  
9-0438-00004/00014

York (6 NYCRR Part 624). An issues conference was convened on April 27 and 28, 2004, before Administrative Law Judge (ALJ) Kevin J. Casutto. Judge Casutto adjourned the issues conference to allow applicant Integrated Waste Systems, Inc. (IWS) to file applications for a freshwater wetlands permit and an individual SPDES permit for the project.

In a letter dated October 14, 2004, from IWS's counsel, Peter G. Ruppard of Duke, Holzman, Photiadis & Gresens LLP, to Judge Casutto, Mr. Ruppard reported that IWS had submitted a survey of a re-delineated wetland for the Department's review, and was awaiting further direction from staff as to how it should proceed on its wetlands permit application. Mr. Ruppard also indicated that IWS had deferred submitting its application for an individual SPDES permit pending further direction from staff on the wetlands issues.

Subsequently, Assistant Commissioner Louis A. Alexander issued a ruling dated October 25, 2005, denying a motion by project opponents seeking to reopen the Commissioner's 1996 post-conceptual review decision for the project. Since the 2005 ruling, OHMS has received no further communications from the parties to the proceeding concerning the project, and no status updates from IWS. However, OHMS had received press reports indicating that IWS no longer owns the project site.

Upon the departure of Judge Casutto from the Department, the undersigned Chief ALJ was assigned to the matter as the presiding ALJ. By letter dated December 22, 2011, I directed IWS to provide me with a status update for the project. Specifically, I directed IWS to indicate whether it still owns the project site, and whether it intended to proceed with the permit hearing proceeding. I directed IWS to file its report by close of business, Tuesday, January 31, 2012.

I also gave IWS notice that if it defaulted in filing a timely report, its application would be deemed abandoned, the hearing record would be closed, and the permit application would be denied without any further hearing (see State Administrative Procedure Act § 301[5]).

I have received no communications from IWS or its legal representatives in response to my December 22, 2011 letter.

RULING AND ORDER OF DISPOSITION

Applicant IWS has defaulted in responding to the ALJ's inquiry and has otherwise failed to prosecute this proceeding. Accordingly, IT IS HEREBY ORDERED THAT upon IWS's default, IWS's application for a freshwater wetlands permit and an individual SPDES permit for the proposed Southern Tier Solid Waste Management Facility is deemed abandoned, the hearing record in the above referenced matter is closed, and the permit application for a permit to construct and operate a solid waste management facility is denied without any further hearing based upon IWS's failure to prosecute (see State Administrative Procedure Act § 301[5]).

\_\_\_\_\_/s/\_\_\_\_\_  
James T. McClymonds  
Chief Administrative Law Judge

Dated: March 12, 2012  
Albany, New York