



CWM Chemical Services, LLC - June 6, 2014

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**CWM CHEMICAL SERVICES, L.L.C.
STATE OF NEW YORK
FACILITY SITING BOARD**

and the

**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
NOTICE OF JOINT PUBLIC STATEMENT HEARING
NOTICE OF EXTENSION OF PUBLIC COMMENT PERIOD**

Date: June 6, 2014

Applicant: CWM Chemical Services, L.L.C. (1550 Balmer Road, PO Box 200, Model City, New York 14107) (CWM), proposes to construct and operate a new landfill and other units to store, treat and dispose of hazardous and industrial non-hazardous waste at the company's existing facility located in the Towns of Porter and Lewiston, Niagara County. The proposed landfill would be designated as Residuals Management Unit - Two (RMU-2). The proposed RMU-2 landfill and other units are intended for the disposal and management of hazardous and industrial non-hazardous wastes at CWM's existing facility.

CWM has filed the following applications for the proposed RMU-2 landfill project:

- Part 361 Hazardous Waste Facility Siting Application (Environmental Conservation Law [ECL] Article 27, Title 11);
- Part 373 Hazardous Waste Management Permit Modification Application (ECL Article 27, Title 9) (DEC Permit Application No. 9-2934-00022/00225);
- Part 663 State Freshwater Wetlands Permit Application (ECL Article 24, Title 7) (DEC Permit Application No. 9-2934-00022/00231);
- Section 608.9 Water Quality Certification Application (Section 401 of the federal Clean Water Act) (DEC Permit Application No. 9-2934-00022/00232); and
- Part 750 State Pollution Discharge Elimination System (SPDES) Permit Modification Application (ECL Article 17, Title 8) (DEC Permit Application No. 9-2934-00022/00049).

[A Notice of Complete Application](#) was published in the Department's Environmental Notice Bulletin on May 7, 2014.

Facility Description and Proposed Action: CWM owns and operates a commercial facility for the treatment, storage and disposal of hazardous and industrial non-hazardous wastes at a 710-acre site in the Towns of Lewiston and Porter, Niagara County, New York. The existing facility is located on Balmer Road about 1.9 miles east of its intersection with State Route 18 near Youngstown, NY.

CWM proposes to construct and operate a new landfill (RMU-2) that would occupy approximately 43.5

acres and would be located within the central portion of its existing facility. It has a designed capacity of approximately 4,030,700 cubic yards for the disposal of hazardous and industrial non-hazardous wastes. The proposed RMU-2 landfill would be divided into six (6) cells. Each cell would be designed with a double, composite liner system consisting of natural and synthetic materials with primary and secondary systems for leachate collection and removal. Upon reaching capacity, RMU-2 would be closed using a composite final cover to be maintained by CWM during the landfill's post-closure period. CWM's application states that RMU-2 has been designed to fulfill all regulatory requirements outlined at 6 NYCRR 373-2.14. In addition to the RMU-2 landfill, CWM proposes to construct and operate the following waste management units at its existing facility as part of the proposed RMU-2 landfill project:

- Facultative "Fac" Pond 5 surface impoundment for the storage of approximately 24.7 million gallons of treated wastewater;
- A New Drum Management Building (DMB) for the storage of containerized waste (e.g., 55-gallon drums);
- Two New Trailer Parking Areas for the storage of waste in bulk containers (e.g., roll-offs and cargo tanks);
- Two New Tank Loading Areas for the storage of liquid waste from tanks in bulk containers (e.g., cargo tanks); and
- A New Tank for the storage of liquid waste associated with the operation of new Fac Pond 5.

The project also involves the closure, over time, of a number of existing waste management units at the facility to facilitate the construction of the proposed RMU-2 landfill. The proposal would impact an area within the 100-foot adjacent area of a State Freshwater Wetland designated as RV-8.

Landfill Siting Process: ECL 27-1105 requires the Governor to constitute a Facility Siting Board for CWM's proposed RMU-2 landfill project that would consist of the head officials from five (5) State agencies, including NYSDEC, and three (3) ad hoc members appointed by the Governor. Two of the ad hoc members must be residents of the county in which the facility would be located. Once constituted, the Facility Siting Board will review CWM's application for a Certificate of Environmental Safety and Public Necessity (Siting Certificate) and may participate in the public hearing process for CWM's permit applications. At the conclusion of the public hearing process, the Facility Siting Board must render a decision whether to issue the Siting Certificate, issue the Siting Certificate with conditions and stipulations, or deny the Siting Certificate. The Facility Siting Board's decision will be based on CWM's application materials, the hearing record, the siting criteria in Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR) § 361.7, and the October 2010 "NYS Hazardous Waste Facility Siting Plan."

Permitting Process: Pursuant to 6 NYCRR 621.7(b)(7), NYSDEC staff has tentatively decided to issue the requested Part 373 Permit Modification and has prepared a draft Part 373 Permit Modification. The draft Permit Modification would allow for the construction and operation of CWM's proposed RMU-2 landfill and the other proposed waste storage and treatment units. The draft Permit Modification includes conditions to insure that all units would be constructed and operated in an environmentally safe manner and in compliance with all applicable 6 NYCRR Part 373 hazardous waste management regulations.

In addition, NYSDEC staff has prepared draft permits related to the permit applications filed by CWM pursuant to ECL Article 24 and 6 NYCRR Part 663 for a freshwater wetlands, and 6 NYCRR 608.9 for a Water Quality Certification.

SEQRA Status: ECL Article 8 and 6 NYCRR Part 617 require the proposed RMU-2 landfill project to undergo a State Environmental Quality Review (SEQR) process in conjunction with the review of the permit applications. In its role as Lead Agency under SEQR, NYSDEC determined the proposed RMU-2 landfill project to be a Type I Action as described under 6 NYCRR 617.4, and issued a Positive Declaration in accordance with 6 NYCRR 617.7 on October 12, 2005. Accordingly, CWM has submitted a Draft Environmental Impact Statement (DEIS) that evaluates potential environmental impacts associated with the proposed RMU-2 landfill and associated waste management units.

Public Comment Hearing: Public statement hearing sessions to receive unsworn comments from the public regarding the pending permit applications, the draft permits, and the DEIS will be held at 1:00 P.M. and 6:30 P.M. on July 16, 2014 at the Lewiston-Porter High School, 4061 Creek Road, Youngstown, NY 14174. A recess will be taken between the two hearing sessions.

ALL PERSONS, ORGANIZATIONS, CORPORATIONS, OR GOVERNMENT AGENCIES WHO MAY BE AFFECTED BY THE PROPOSAL ARE INVITED TO ATTEND THE HEARING AND TO SUBMIT ORAL OR WRITTEN COMMENTS. IT IS NOT NECESSARY TO FILE IN ADVANCE TO SPEAK AT THE HEARING. LENGTHY COMMENTS SHOULD BE SUBMITTED IN WRITING. EQUAL WEIGHT WILL BE GIVEN TO BOTH ORAL AND WRITTEN STATEMENTS. THE ADMINISTRATIVE LAW JUDGE (ALJ) MAY LIMIT THE TIME AVAILABLE FOR ORAL COMMENTS TO ENSURE THAT ALL PERSONS HAVE AN OPPORTUNITY TO BE HEARD. THE HEARING FACILITY IS REASONABLY ACCESSIBLE TO THE MOBILITY IMPAIRED.

Translator services shall be made available, at no charge, upon written request to the ALJ by July 3, 2014. All requests must be made to ALJ Daniel P. O'Connell, NYS Department of Environmental Conservation, Office of Hearings and Mediation Services, 625 Broadway, 1st Floor, Albany, New York, 12233-1550. (518) 402-9003. Interpreter services shall be made available to deaf persons, at no charge, upon written request to the ALJ at the address listed above by July 3, 2014.

Written Comments: The date to file written comments is hereby extended 60 days from July 7, 2014 as stated in the May 7, 2014 Notice of Complete Application to September 5, 2014. Written comments must be received by **September 5, 2014** to be considered.

All interested persons, organizations, corporations or government entities may submit written comments at the hearing or by mail no later than September 5, 2014, to Chief Administrative Law Judge James T. McClymonds, NYS Department of Environmental Conservation, Office of Hearings and Mediation, 625 Broadway, 1st Floor, Albany, NY 12233-5500. The following email address is also available: CWMRMU2@gw.dec.state.ny.us.

Document Availability: NYSDEC has prepared a Fact Sheet for CWM's proposed RMU-2 landfill project. This Fact Sheet is intended to provide the public with additional information on the existing CWM facility, CWM's proposed landfill project, the required applications, the Draft Permit documents, the required regulatory and public involvement process, document availability, and the applicable State laws and regulations. Hard copies of the NYSDEC Fact Sheet, all CWM applications, the DEIS and the Draft Permit documents are available for inspection at the following locations:

- NYSDEC, Division of Environmental Remediation, 625 Broadway, 12th Floor, Albany, NY 12233-7017 (contact person: Matt Mortefolio at (518) 402-9814);
- NYSDEC Region 9 Office, 270 Michigan Avenue, Buffalo, NY 14203-2915 (contact person: David Denk at (716) 851-7220);

- Youngstown Free Library, 240 Lockport Street, Youngstown, NY; and
- Porter Town Hall, 3265 Creek Road, Youngstown, NY.
- Electronic copies of CWM's applications and the CWM DEIS are available through the following web site:
- [CWM's website](http://modelcity.wm.com/) - <http://modelcity.wm.com/>
- Electronic copies of the NYSDEC Fact Sheet and Draft Permit documents are available through the following web site:
- [NYSDEC's website](http://www.dec.ny.gov/chemical/9075.html) - <http://www.dec.ny.gov/chemical/9075.html>
- [NYSDEC's FTP site](ftp://ftp.dec.state.ny.us/der/CMWpermitmod/) - <ftp://ftp.dec.state.ny.us/der/CMWpermitmod/>

Issues Conference: Pursuant to 6 NYCRR 624.4(b), a pre-adjudicatory issues conference will be held. The purpose of the issues conference is to determine party status for any person who has properly filed a petition (as indicated below) and to define the scope of issues, if any, that require adjudication with regard to the permit applications pending before the Department as well as the certificate requested from the Facility Siting Board. Please note that participation at the issues conference is limited to Department staff, applicant, and those persons requesting party status.

Filing for Party Status: Persons seeking to participate in the issues conference and any subsequent adjudicatory public hearing, if one is necessary, must file a petition (a written statement) explaining whether the request is for full party status or amicus status. For the required contents of petitions for full party status, see 6 NYCRR 624.5(b)(1) and (2). To determine whether an issue is substantive see 6 NYCRR 624.4(c)(2), and to determine whether an issue is significant, see 6 NYCRR 624.4(c)(3).

All filings for party status or amicus status must be received at the Department's Office of Hearings and Mediation Services by 4:00 P.M. on Tuesday, September 30, 2014. In addition to filing a petition with the ALJ, a copy of any petition must also be sent at the same time and in the same manner to counsel for Department staff (David Stever, Esq., Assistant Regional Attorney, NYSDEC Region 9, 270 Michigan Avenue, Buffalo, New York 14203), and CWM (Daniel M. Darragh, Esq., Cohen & Grigsby, PC, 625 Liberty Avenue, Pittsburgh, Pennsylvania 15222)

A notice of when the issues conference will be held will be issued separately and will set forth the date, time and place for the issues conference.

James T. McClymonds
Chief Administrative Law Judge

Albany, New York
June 6, 2014