

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

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Joseph J. Martens  
Commissioner

**Sent via Email and Regular Mail**

October 8, 2014

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RE: CWM Chemical Services, LLC  
Model City (RMU-1) Facility  
6 NYCRR Parts 201 and 201-5 Air State Facility Permit Application

Dear Messrs. Darragh and Stever:

On September 29, 2014, David Denk telephoned to advise me that Department staff had completed the review of the air state facility permit application filed by CWM in January 2014, and expected to issue the requested permit shortly. Staff inquired whether issuance of the permit required the approval of the Office of Hearings and Mediation Services (OHMS).

In mid-September 2014, Department staff provided OHMS with an electronic copy of the referenced permit application materials.

Based on my review of Department staff's May 5, 2014 Fact Sheet (at 5) concerning the proposed RMU-2 landfill and associated facilities, I understand the referenced permit application pertains to air emission sources at the existing Model City facility. I understand that Department staff advised CWM about the applicability of 6 NYCRR Subpart 201-5 to the existing Model City facility based on recent amendments to the regulations. Pursuant to the Uniform Procedures Act (ECL Article 70) and implementing regulations at 6 NYCRR Part 621, Department staff is obliged to process any permit application filed by CWM.

Department staff's May 7, 2014 Notice of Complete Application concerning the proposed RMU-2 landfill and associated facilities did not identify the referenced air permit application as part of Applicant's proposal currently pending before OHMS and the Facility Siting Board. Rather, the May 5, 2014 Fact Sheet (at 5-6) states that CWM would seek to modify any air state facility permit it may obtain for the existing Model City facility to incorporate air emission

sources from the proposed RMU-2 landfill and associated facilities provided CWM were to obtain all required approvals from the Department and the Facility Siting Board for the proposed project.

Based on the foregoing, the referenced air state facility permit application for the existing Model City facility is not currently before me, and Department staff should proceed on the application consistent with all applicable statutes and regulations.

With respect to the matter pending before OHMS and the Facility Siting Board concerning the proposed RMU-2 landfill and associate facilities, a consideration of any legal issues concerning the applicability of the Department's air regulations to Applicant's proposal will depend upon whether such issues are asserted in any forthcoming petition for party status.

I appreciate Department staff's update concerning developments at the Model City facility.

Very truly yours,

Daniel P. O'Connell  
Administrative Law Judge

cc: Joseph J. Martens  
Commissioner  
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David Denk

Via email only