



**CWM CHEMICAL SERVICES, LLC**

1550 Balmer Road  
Model City, NY 14107  
716 286 1550  
716 286 0211 Fax

October 22, 2013

Mr. David Denk  
NYSDEC  
270 Michigan Avenue, Region 9  
Buffalo, New York 14203

Re: Section 404/401 and Article 24 Permit Application – Residuals Management Unit No. 2  
Response to NYSDEC email comments dated October 16, 2013

Dear Mr. Denk:

On July 8, 2013, CWM Chemical Services, LLC (CWM) submitted a Section 401/401 Joint Application including New York State Article 24 Application for impacts associated with the development of a new landfill, designated Residuals Management Unit No. 2 (RMU-2) at our Model City Facility. In an email dated October 16, 2013, the New York State Department of Environmental Conservation (NYSEC) provided comments on potential impacts to the 100-foot adjacent area to State Freshwater Wetland RV-1.

Attached please find CWM's response to these comments.

If you have any questions, please contact myself at (716) 286-0246 or Mr. Jonathan Rizzo at (716) 286-0354.

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision according to a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Sincerely,  
CWM CHEMICAL SERVICES, LLC

Jill A. Banaszak  
Technical Manager  
Model City Facility

JPR/JAB/jpr  
Attachments

cc: K. Buckler - USACE  
C. Rosenberg - NYSDEC/Region 9

Mr. David Denk

NYSDEC

October 22, 2013

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B. Rostami - NYSDEC/Region 9  
J. Strickland - NYSDEC/Region 9  
M. Cruden - NYSDEC/Albany, NY  
G. Burke - NYSDEC/Albany, NY  
M. Mortefolio - NYSDEC/Albany, NY  
On-site Monitors- NYSDEC/ Model City, NY  
A. Park - USEPA/Region II  
P. Flax - USEPA/Region II  
N. Azzam - USEPA/Region II  
J. Devald - NCHD/Lockport, NY  
M. Mahar - CWM/Model City, NY  
J. Rizzo - CWM/Model City, NY  
S. Rydzyk - CWM/Model City, NY  
J. Hecklau - EDR/Syracuse, NY  
EMD Subject File  
Q & A

**ENCLOSURE 1**

**CWM Response to NYSDEC email comments dated October 16, 2013**

**CWM RESPONSE TO COMMENTS**  
**SECTION 401/404 AND ARTICLE 24/PART 633**  
**JOINT APPLICATION**  
**JULY 2013 SUBMITTAL**  
**(NYSDEC email comments dated October 16, 2013)**

*NYSDEC Comment No. 1*

*The revisions made to the Building footprint following my November 2012 site inspection (which extended the Wetland RV-8 boundary a few hundred feet south), are helpful. However, before I can be comfortable accepting that CWM minimized impacts to the adjacent area at this location (and therefore potential risks of impacts to Wetland RV-8), I need more details demonstrating that CWM down-sized the footprint of the Building and shifted it southward (away from Wetland RV-8) to the greatest degree practicable. I saw nothing in the Sept 25, 2013 letter to the Corps (or other project material) that specifically addressed that.*

**CWM Response:**

The size and location of the new DMB were selected for various reasons including; market analysis, amount of onsite open area available for development, no federal wetlands or state freshwater wetlands within the footprint of the building development area, and requirement for containing stormwater from operational areas. The location is an open field with an access road and active landfill RMU-1 located to the west, wooded areas located to the north, east, and southeast, and stormwater management features located to the south. The new DMB location was originally designed based on wetlands delineation performed by EDR in 2009. EDR concluded that there were no federal wetlands directly in the proposed footprint and that state freshwater wetland RV-8 was located approximately 500-feet to the north-northeast. See attached drawing for original grading plan design dated December 7, 2011. Additional design criteria included the requirement that stormwater from operational areas must be directed to a permitted/constructed stormwater management point (SMP09), could not disturb wetlands (federal or state), and could not disturb a compensatory flood storage area. The DMB design submitted in June 2012 met these criteria.

Based on comments on the Draft Environmental Impact Statement (DEIS), the NYSDEC indicated that CWM should request a jurisdictional determination from a NYSDEC wetlands biologist that no state freshwater wetlands would be affected. During a site visit on November 6, 2012, the state biologist expanded State freshwater wetland (RV-8) to be within the originally designed footprint of the building, driveway, and parking areas.

Therefore, CWM redesigned the location of the building and redesigned the driveways, parking areas, grading plan, and stormwater management features. A parking area was originally located on the south side of the building. For the redesign, the parking area was shifted to the southwest corner of the building. Additionally, the landscape area south of the office portion of the building was reduced in size. Consequently, the north to south footprint dimension of the building and paved areas was reduced by approximately 52 feet. Additionally, the south boundary of the building footprint/paved area was shifted approximately 62 feet to the south. The building and paved area footprint was moved as far south as practicable without filling federal wetlands and the compensatory flood storage area for 12-mile creek.

The building design update included that a redesign of the stormwater management features to manage water from the operational areas of the new DMB. The new features of the redesign included the addition of six stormwater catch basins/drop inlets and revising the slope of the paved surface to drain to the catch basins/drop inlets. Stormwater from the new DMB roof and the operational areas will be directed to the catch basins/drop inlets and directed to SMP09 and then managed in accordance with Attachment M of the Sitewide Part 373 Permit and the Site's State

**CWM RESPONSE TO COMMENTS**  
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Pollutant Discharge Elimination System (SPDES) Discharge Permit. Drainage from operational areas of the new DMB area will not drain to State Freshwater Wetland RV-8 or the federally regulated wetlands with the exception of the wetlands in SMP09. As can be seen on Attached Drawing C-3 the paved areas slope towards the catch basins/drop inlets and do not slope towards the Freshwater Wetland RV-8.

During construction of the new DMB appropriate sediment and erosion control measures will be implemented to avoid discharges to the Freshwater Wetland RV-8 and the federal wetlands. Details of the sediment and erosion control measures to be implemented will be provided in a Stormwater Pollution Prevention Plan (SWPPP) prepared for the RMU-2 and Drum Management Building construction projects.

The current DMB design will not impact freshwater wetland RV-8, however, the 100-foot adjacent area will be impacted. The 100-foot adjacent area that will be impacted includes mostly open field areas. The location of the DMB cannot be further moved to the south because to do so would directly impact a federal jurisdictional wetland, a compensatory flood storage area for Twelve Mile Creek, and stormwater management point No. 9 (SMP09). See attached drawing for a revised grading plan design with a revision date of October 22, 2013.

*NYSDEC Comment No. 2*

*It is essential that CWM maximize the buffer width at this location, especially considering the nature of this facility. For example, I believe there are real concerns about the potential risk for discharge into the wetland when the "Drum Building Fuels Transfer Ramp" along the north side of the building is <50 feet from the Wetland RV-8 boundary, as shown on the revised grading plan. CWM needs to clearly explain how will those risks be minimized.*

**CWM Response:**

The Drum Building Fuels Transfer Ramp will be a Part 373 Permitted Container Storage Area. the design of the Fuels Transfer Ramp is provided on Drawing C-5 included in Attachment D of the Part 373 Permit Modification Application/Request for RMU-2 (August 2013). The Part 373 Permit Modification Application/Request also includes regulation required secondary containment calculations. Secondary containment will be provided by a sloped concrete ramp. An approved sealant, (e.g., CHEMTEC One) will be applied to the concrete area of the ramp. This ramp will be used to transfer compatible liquids from drums inside the new DMB to bulk tankers located on the ramp. The ramp is sized to accommodate two tankers to also allow the transfer from tanker to tanker. The dock area will be covered with a roof, to minimize stormwater accumulations and to provide protection for personnel during inclement weather. Any spills that may occur in the fuels ramp will be contained by the secondary containment. The ramp is inspected daily and during transfer operations. Any potential spills within the secondary containment of the ramp will be cleaned up immediately in accordance with the Part 373 Permit. Any accumulations of stormwater within the secondary containment of the ramp must also be removed within 24 hours of the end of a storm event in accordance with the Part 373 Permit. Therefore, there is minimal or no risks of liquids from the fuels transfer ramp to enter Wetland RV-8 or the stormwater management system.

**CWM RESPONSE TO COMMENTS  
SECTION 401/404 AND ARTICLE 24/PART 633  
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*NYSDEC Comment No. 3*

*I was glad to see comments in the email regarding on-site plantings to help compensate for the loss of buffer. Please prepare a detailed mitigation plan for our review. In addition to tree and shrub plantings, that plan should consider berm construction or other measures to protect Wetland RV-8 from spills or other runoff.*

**CWM Response:**

CWM proposes that disturbed areas of the 100-adjacent area to Wetland RV-8 that are outside the footprint of the building and paved areas be replanted with vegetation acceptable to the NYSDEC wetlands biologist. As additional mitigation measures, CWM will propose plantings in open field portions of the 100-adjacent area to RV-8. A preliminary planting schedule prepared by EDR is attached.

The construction of the proposed new DMB may not occur until the construction of the third or fourth cell of RMU-2. At this time, the construction of the new DMB may not be occurring until greater than 5-years from the effective date of the permit modification for RMU-2. Therefore, the NYSDEC has indicated that for the Part 373 permitting of the new DMB they will require the submittal of final construction drawings before construction begins. CWM proposes that the NYSDEC Freshwater Wetland Permit contain a condition indicating that a Final Mitigation Plan be submitted to the NYSDEC and approved prior to construction of the new DMB.

*NYSDEC Comment No. 4*

*Please check on the accuracy of the Wetland RV-8 delineation boundary in relation to the topographic contours and building footprint shown on the revised (May 30, 2013) plan as it simply doesn't look right. I clearly recall the wetland configuration I inspected on November 6, 2012 and am sure the southern boundary did not extend uphill as much as 5 feet along the north side of the existing fill piles. I am afraid that the EDR flagging was placed at the south edge of the very thick shrub growth on the fill piles instead of at the toe of the fill piles where the wetland boundary truly ends. While that would normally not be a major concern for a project placed outside the wetland proper, it is fairly significant for a project built very close to the wetland boundary where the applicant needs to maximize remnant buffer. EDR and/or I may need to revisit this (potentially with another field inspection by EDR to refine the wetland boundary). Please first verify the shapefile accuracy.*

**CWM Response:**

CWM checked with design engineer for the new DMB (Great Lakes), the firm that performed a detailed survey of the area (Ensol, Inc.), and EDR for the accuracy of the RV-8 boundary. Apparently, the GPS shapefiles from EDR were not placed accurately on the design drawing prepared by Great Lakes due to software transfer issues. It was confirmed that the boundary of the RV-8 wetland boundary on new DMB drawing C-3 (dated May 30, 2013) is not accurate. Therefore, the boundary of RV-8 has been revised as shown on revised DMB Drawing C-3. Consequently, there is additional buffer area between the new DMB building development and Freshwater Wetland RV-8. CWM does not feel that it is necessary for further field verification at this time.

## **ATTACHMENT 1**

New Drum Building Design Drawing (dated December 7, 2011)  
Revised New Drum Building Design Drawing C-5 (dated May 30, 2013)  
Revised New Drum Building Design Drawing (dated October 22, 2013)



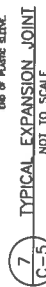






## **ATTACHMENT 2**

New Drum Building Design Drawing C-5 (dated June 11, 2013)



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### **ATTACHMENT 3**

EDR Companies Memorandum (October 18, 2013)  
Proposed Drum Management Building Planting



Environmental Design & Research,  
Landscape Architecture and Engineering, P.C.

## memorandum

**To:** Jonathan Rizzo  
**From:** James Pippin  
**Date:** October 18, 2013  
**Reference:** Drum Management Building Planting

**EDR Project No:** 09022

**Comments:**

In response to the New York State Department of Environmental Conservation's (NYSDEC) comment #3 in an e-mail dated October 16, 2013 in review of CWM's Joint Application for Permit for the RMU-2 project, please find below a planting schedule and conservation seed mixture that is proposed for the impacts to the NYSDEC Wetland RV-8, 100 foot adjacent area as a result of the development of the Drum Management Building.

NYSDEC WETLAND RV-8 BUFFER PLANTING				
BOTANICAL NAME	COMMON NAME	SIZE	ROOT	COMMENTS
<i>Salix nigra</i>	black willow	2.5"-3" Cal.	Ball & Burlap	Min. Spacing 30' o.c.
<i>Fraxinus pennsylvanica</i>	green ash	2.5"-3" Cal.	Ball & Burlap	Min. Spacing 30' o.c.
<i>Ulmus Americana, 'Princeton'</i>	American elm	2.5"-3" Cal.	Ball & Burlap	Min. Spacing 30' o.c.
<i>Cornus racemosa</i>	gray dogwood	8' Ht.	Ball & Burlap	Min. Spacing 8' o.c.

Seeding:

Ernst Native Right-of-Way Woods Mix with Annual Rye Grass  
ERNMX #: ERMX-132-1  
Seeding Rate: 30 lb. per acre

Ernst Conservation Seeds  
1-800-873-3321  
[www.ernstseed.com](http://www.ernstseed.com)

**Copies To:** Steve Rydzyk, CWM