



CWM CHEMICAL SERVICES, LLC

1550 Balmer Road
Model City, NY 14107
(716) 286-1550
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July 8, 2013

Ms. Kathleen Buckler
U.S. Army Corp of Engineers
1776 Niagara Street
Buffalo, New York 14207-3199

Mr. David Denk
NYSDEC
270 Michigan Avenue, Region 9
Buffalo, New York 14203-2999

Re: Section 404/401 and Article 24 Permit Application – Residuals Management Unit No. 2

Dear Ms. Buckler/Mr. Denk:

CWM has developed plans for construction of a new landfill, designated Residuals Management Unit No. 2 (RMU-2) at our Model City Facility. RMU-2 will provide replacement land disposal capacity once the capacity of the existing active landfill at the site is exhausted. Construction for RMU-2 is scheduled to begin during 2014 or 2015.

In order to determine the potential impacts to State and Federal wetlands within the area impacted by this project, CWM hired **edr** Companies (EDR) to perform wetlands delineation. In 2002 and 2009, EDR determined that the proposed area of RMU-2 and relocated facilities does not impact any NYSDEC-regulated wetlands and contains less than 2 acres of federal wetlands, all of which may be considered jurisdictional waters of the United States pending verification by USACE. EDR updated the RMU-2 wetlands delineation in April 2011 and July 2012 to include areas within the RMU-2 development area that were not included in the previous delineations. Again, EDR concluded that the RMU-2 project would have no impact to state wetlands and impact less than 2 acres of federal wetlands, pending confirmation by the USACE.

A jurisdictional determination was received from the USACE on September 13, 2011. The USACE jurisdictional determination indicated that approximately 2.5 acres of jurisdictional wetlands are located within the RMU-2 development area. The wetlands were identified and delineated based on the presence of hydrophytic vegetation, hydric soils and indicators of wetland hydrology.

The area proposed for the RMU-2 site is approximately 43.5 acres, plus additional acreage for Fac Pond 5 and associated facilities, with approximately 2.5 acres of federal wetlands that would be impacted due to construction and operations. The wetlands delineated by EDR and the USACE consist of man-made roadside ditches and isolated pockets of wetland areas which provide limited function and value (primarily stormwater detention and flood storage). The limited function and value is due to the small size, shallow depth and seasonal inundation/saturation of these delineated wetlands. The wetlands on site provide no aesthetic, recreational, or educational value and appear to have little, if any, groundwater recharge or discharge function. The wetlands have little beneficial effect on water quality and do not provide spawning areas for fish, waterfowl habitat or shoreline erosion control. The wetlands also provide limited value for wildlife due to the lack of habitat diversity, water level fluctuations and adjacent land development.

Ms. K. Buckler/Mr. D. Denk

U.S. Army Corp of Engineers/NYSDEC

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During the detailed design of the site grading plan for a New Drum Management Building as part of the RMU-2 project, a supplemental wetlands delineation was performed in the proposed area by EDR in July 2012. The supplemental delineation indicated that a wetland on the north side of the development area extends beyond the delineated area and outside of the study area into an NYSDEC-protected wetland (RV-8).

On November 7, 2012, CWM subsequently requested a jurisdictional determination from the NYSDEC that no state freshwater wetlands would be impacted by the construction of RMU-2, including the New Drum Management Building area. Based on a field delineation by an NYSDEC wetlands biologist, the NYSDEC determined that a portion of the new Drum Management Building Development will be in the 100-adjacent area of a state freshwater wetland (RV-8). Additionally, the NYSDEC issued a determination on February 4, 2013 that no other state freshwater wetlands or 100-adjacent areas are in the RMU-2 development area.

To mitigate for the unavoidable permanent loss of wetlands within the Project area, CWM is proposing the creation of a 4.3-acre successional wetland on a 21-acre parcel of land owned by CWM immediately west of the Fac Ponds 1 & 2. This parcel is currently dominated by successional deciduous forest, but also includes areas of disturbed land used for topsoil stockpiles, successional old field, and approximately 5 acres of forested and emergent wetland communities. The successional wetlands to be created on-site will be designed to succeed from scrub-shrub into forested wetlands. This represents a mitigation ratio of approximately 1.7 to 1 (mitigation to impact) for direct impacts to wetlands/streams.

CWM shall place a perpetual deed restriction, in the form of a conservation easement, on the mitigation site to protect the compensatory wetland mitigation area and adjacent uplands in perpetuity and guarantee its preservation. The conservation easement will protect a total of 15.94 acres.

The mitigation of impacts to the 100-foot adjacent area for development of the New Drum Management Building will be accomplished by the construction and maintenance of a vegetated buffer between the buildings operational area and the New York State Freshwater Wetland RV-8.

CWM would greatly appreciate an expeditious review of the attached information and permit issuance to enable CWM to meet the construction schedule stated above. Applications for other state and federal permits required for RMU-2 were previously submitted by CWM, to the NYSDEC and the USEPA and are currently under review.

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

Ms. K. Buckler/Mr. D. Denk

U.S. Army Corp of Engineers/NYSDEC

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"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
Attachment

cc: M. Passuite - NYSDEC/Region 9
C. Rosenberg - NYSDEC/Region 9
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

Joint Application for Permit

Submitted to the Buffalo District Office of the US Army Corps of Engineers
and Region 9 of the New York State Department of Environmental Conservation

for the

Residuals Management Unit 2

Town of Porter, Niagara County, New York

Prepared for:



CWM Chemical Services, LLC
1550 Balmer Road
Model City, New York 14107

Prepared by:



edr Companies
274 North Goodman Street
Rochester, New York 14607

July 2013

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JOINT APPLICATION FORM

For Permits/Determinations to undertake activities affecting streams, waterways, waterbodies, wetlands, coastal areas and sources of water supply.



New York
State

You must separately apply for and obtain separate Permits/Determinations from each involved agency prior to proceeding with work. Please read all instructions.

US Army Corps of
Engineers (USACE)

APPLICATIONS TO 1. NYS Department of Environmental Conservation Check all permits that apply: ☐ Stream Disturbance ☐ Excavation and Fill in Navigable Waters ☐ Docks, Moorings or Platforms ☐ Dams and Impoundment Structures ☒ 401 Water Quality Certification ☒ Freshwater Wetlands ☐ Tidal Wetlands ☐ Coastal Erosion Management ☐ Wild, Scenic and Recreational Rivers ☐ Water Supply ☐ Long Island Well ☐ Aquatic Vegetation Control ☐ Aquatic Insect Control ☐ Fish Control ☐ Incidental Take of Endangered/Threatened Species ☒ I am sending this application to this agency.	2. US Army Corps of Engineers Check all permits that apply: ☒ Section 404 Clean Water Act ☐ Section 10 Rivers and Harbors Act ☐ Nationwide Permit(s) - Identify Number(s): _____ _____ Preconstruction Notification - ☐ Y / ☐ N ☒ I am sending this application to this agency.	3. NYS Office of General Services Check all permits that apply: ☐ State Owned Lands Under Water ☐ Utility Easement (pipelines, conduits, cables, etc.) ☐ Docks, Moorings or Platforms ☐ I am sending this application to this agency.	4. NYS Department of State Check if this applies: ☐ Coastal Consistency Concurrence ☐ I am sending this application to this agency.
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5. Name of Applicant (use full name) CWM Chemical Services, LLC		Applicant must be: ☒ Owner ☒ Operator ☐ Lessee (check all that apply)
Mailing Address 1550 Balmer Road		
Post Office City Model City		
State NY Zip Code 14107		
Telephone (daytime) 716-286-0241	Email mmahar@wm.com	

6. Name of Facility or Property Owner (if different than Applicant) N/A	
Mailing Address	
Post Office City	
State Zip Code	
Telephone (daytime)	Email

7. Contact/Agent Name	
Company Name	
Mailing Address	
Post Office City	
State Zip Code	
Telephone (daytime)	
Email	

8. Project / Facility Name Residuals Management Unit 2		Property Tax Map Section / Block / Lot Number 61.00-2-1 60.00-3-9.2	
Project Location - Provide directions and distances to roads, bridges and bodies of waters: See Figures 1 and 2 in Appendix A.			
Street Address, if applicable 1550 Balmer Road		Post Office City Youngstown	State Zip Code NY 14174
Town / Village / City Town of Porter		County Niagara	
Name of USGS Quadrangle Map Ransomville		Stream/Water Body Name Twelvemile Creek	
Location Coordinates: Enter NYTMs in kilometers, OR Latitude/Longitude			
NYTM-E	NYTM-N	Latitude 43°13'26.4"	Longitude -78°58'28.6"

For Agency Use Only

DEC Application Number:

USACE Number:

JOINT APPLICATION FORM - PAGE 2 OF 2

Submit this completed page as part of your Application.

- 9. Project Description and Purpose:** Provide a complete narrative description of the proposed work and its purpose. Attach additional page(s) if necessary. Include: description of current site conditions and how the site will be modified by the proposed project; structures and fill materials to be installed; type and quantity of materials to be used (i.e., square ft of coverage and cubic yds of fill material and/or structures below ordinary/mean high water) area of excavation or dredging, volumes of material to be removed and location of dredged material disposal or use; work methods and type of equipment to be used; pollution control methods and mitigation activities proposed to compensate for resource impacts; and where applicable, the phasing of activities. **ATTACH PLANS ON SEPARATE PAGES.**

See attached narrative.

Proposed Use: ☐ Private ☐ Public ☒ Commercial Proposed Start Date: 2014 Estimated Completion Date: 2019

Has Work Begun on Project? ☐ Yes ☒ No If Yes, explain.

Will Project Occupy Federal, State or Municipal Land? ☐ Yes ☒ No If Yes, please specify.

- 10. List Previous Permit / Application Numbers (if any) and Dates:**

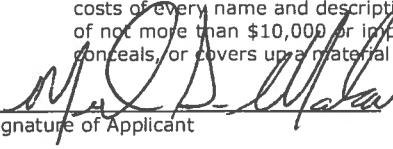
92-986-78 (2/24/1993), 2000-01534(0) (8/30/2000), 2000-1524 (3) (2/21/2003), 2000-01534(6) (submitted 11/18/2003 and 7/6/2009)

- 11. Will this project require additional Federal, State, or Local Permits including zoning changes?** ☒ Yes ☐ No If yes, please list:

TSCA Authorization, 6 NYCRR Part 210, 6 NYCRR Part 373, 6 NYCRR Part 361, 6 NYCRR Part 750, Town of Porter Building Permit, Town of Porter Special Use Permit, Town of Porter Site Plan Approval

- 12. Signatures.** If applicant is not the owner, both must sign the application.

I hereby affirm that information provided on this form and all attachments submitted herewith is true to the best of my knowledge and belief. False statements made herein are punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law. Further, the applicant accepts full responsibility for all damage, direct or indirect, of whatever nature, and by whomever suffered, arising out of the project described herein and agrees to indemnify and save harmless the State from suits, actions, damages and costs of every name and description resulting from said project. In addition, Federal Law, 18 U.S.C., Section 1001 provides for a fine of not more than \$10,000 or imprisonment for not more than 5 years, or both where an applicant knowingly and willingly falsifies, conceals, or covers up a material fact; or knowingly makes or uses a false, fictitious or fraudulent statement.

	Michael D. Mahar	District Manager	7/08/2013
Signature of Applicant	Printed Name	Title	Date
Signature of Owner	Printed Name	Title	Date
Signature of Agent	Printed Name	Title	Date

For Agency Use Only**DETERMINATION OF NO PERMIT REQUIRED**

Agency Project Number _____
 _____ has determined that No Permit is required from this Agency for the project described in this application.
 (Agency Name)

Agency Representative: Name (printed) _____ Title _____
 Signature _____ Date _____

Joint Application Information

1.0 OVERVIEW AND PROJECT PURPOSE

CWM Chemical Services, LLC (CWM or the Applicant) is proposing a 43.5-acre expansion of the existing CWM Model City Hazardous Waste Management Facility (Model City Facility), located in the Town of Porter, Niagara County, New York (see Appendix A, Figure 1). This expansion is needed in order to allow continued disposal of hazardous and industrial nonhazardous waste at the Model City Facility because the currently active landfill (Residuals Management Unit 1, or RMU-1), the only commercial land disposal facility in the northeast United States, is approaching full capacity. The proposed expansion will occur within a currently developed/disturbed portion of the Model City Facility, and will be designated Residuals Management Unit 2 (RMU-2). Structures that are currently located in the proposed RMU-2 project area will be relocated within the Model City Facility.

RMU-2 is designed so that it would be constructed in phases (over numerous seasons) in an effort to minimize future construction and operation conflicts. The landfill is divided into six cells, each capable of functioning as an independent disposal unit with respect to leachate collection and pumping. Construction of the first cell is anticipated to commence in 2014.

The proposed location of RMU-2 currently includes the existing Emergency Response Garage, Drum Management Building, Full and Empty Trailer Parking Areas, Heavy Equipment and Facility Maintenance Building, Facultative (Fac) Ponds 3 and 8, various site roadways, surface-water drainage ditches and utilities. In addition to construction of the RMU-2 facility itself, the proposed Project consists of relocation of existing facilities, installation of new drainage ditches, culverts, access roads and ramps, closure of Fac Ponds 3 and 8, upgrade of Fac Pond 1/2, and construction of proposed Fac Pond 5. Areas that will be disturbed by these activities cumulatively total 71 acres, hereafter referred to as the Project Site.

edr Companies (edr) wetland biologists conducted on-site wetland and stream investigations at the Model City Facility during the Spring of 2009, 2011 and 2012. edr delineated all wetlands/waterbodies within both the Project Site and potential off-site and on-site wetland mitigation areas. Wetland delineations were conducted in accordance with the U.S. Army Corps of Engineers (USACE) approved methodology. A Wetland Delineation Report prepared for the Project Site was submitted to the USACE in June of 2009, a Supplemental Delineation Report was submitted to the USACE in April 2011, and a jurisdictional determination (JD) was issued by the USACE on September 13, 2011 (see Appendix B). An additional Supplemental Delineation Report was submitted to the USACE and NYSDEC in November 2012 (edr, July 2012) due to revisions to the project area limits. A Wetland Delineation Report for the currently proposed on-site wetland mitigation area is included in Appendix C.

The proposed Project requires excavation and development of large contiguous areas of land, which limits opportunities for minimizing/avoiding wetland impacts. However, most of the wetlands on-site are man-made drainage features which are characterized by surface water hydrology and/or vegetation that have been historically altered to such an extent that limited wetland functions and values have been retained. No previously undisturbed wetlands or wetlands providing significant ecological functions and values will be impacted by the proposed Project. Based upon Project design and engineering completed to date, construction activities will result in permanent loss of 2.567 acres of federally-jurisdictional wetlands. No temporary disturbance to wetlands or conversion of forested wetlands to other wetland communities will occur. No NYSDEC freshwater wetlands will be impacted; however a portion of the 100' Adjacent Area Buffer for NYSDEC Wetland RV-8 will be impacted due to the relocation of the Drum Management Building. Therefore, the Applicant is submitting this Joint Application for Permit to the USACE in accordance with the conditions of Nationwide Permit Program (NWP) and to the NYSDEC in accordance with Section 401 of the Clean Water Act and New York State Environmental Conservation Law (ECL) Article 24 (Freshwater Wetlands).

2.0 PROJECT SITE DESCRIPTION

The Model City Facility is situated along Balmer Road, 1.9 miles east of the intersection of Balmer Road and Creek Road (NYS Route 18) in the Towns of Porter and Lewiston, New York. The nearest population concentrations are the Village of Lewiston, approximately seven miles to the southwest; the Village of Youngstown, approximately three miles to the northwest and the Hamlet of Ransomville, approximately two miles to the east. The Model City Facility occupies approximately 710 acres, including 630 acres of land in the Town of Porter and 80 acres of land in the Town of Lewiston, however, all existing treatment, storage and disposal facilities are located within the Town of Porter. RMU-2 would also be located in the Town of Porter in an area of the Model City Facility immediately adjacent to the western edge of existing RMU-1 (see Appendix A, Figure 2).

The Project Site is located approximately four miles south of Lake Ontario and is within the Ontario Plain section of the Central Lowland physiographic province of New York. The Ontario Plain extends from the shore of Lake Ontario to the foot of the Niagara Escarpment. Elevation of this province within Niagara County ranges from 250 feet above mean sea level (amsl) along the lakeshore to 390 feet amsl located at the base of the Niagara Escarpment located in the Town of Lewiston, New York (NRCS, 1972). Topography within the Project Site is relatively level, and varies from approximately 310 feet amsl to approximately 325 feet amsl (Appendix A, Figure 3). Land uses in the vicinity of the Site include a municipal landfill, a United States National Guard training area, disturbed but undeveloped woodlands, rural residential areas and agricultural lands.

Existing plant communities were identified and characterized through interpretation of aerial photographs, reconnaissance-level field surveys, and wetland/stream delineation surveys. The Project Site consists largely of previously disturbed/developed land, and therefore lacks significant areas of natural vegetation. On-site vegetation can be characterized as maintained (regularly mowed) old-fields with interspersed patches of maintained lawn, deciduous forestland and shrubland vegetative communities. In addition, a number of small wetland communities exist on-site, including emergent, emergent/scrub-shrub, emergent/scrub-shrub/forested, and scrub-shrub forested wetlands. However, the majority of on-site water features are essentially drainage ditches that are part of the man-made stormwater management system (see additional discussion below).

NYSDEC stream mapping indicates that one Class C unprotected stream occurs within the Project Site. This stream is an unnamed tributary of Four mile Creek and occurs within the Oak Orchard-Twelvemile NYSDEC hydrologic unit (04130001), which is part of the Southwestern Lake Ontario drainage basin. Wetland delineations conducted on-site have determined that this mapped stream is in actuality a series of forested and emergent wetlands connected by drainage features, rather than the natural stream channel as indicated on NYSDEC mapping. Activities that would alter or disturb this stream, and/or hydrologically connected wetlands, require a permit from the USACE under

Section 404 of the Clean Water Act. NYSDEC does not regulate Class C streams, therefore a permit under Article 15 of the ECL is not required.

Review of NYSDEC mapping indicates that there are no NYSDEC-mapped wetlands regulated under Article 24 located within the Project's limit of disturbance (see Appendix A (Figures) and Appendix D (Site Plans)). However, a portion of state regulated Wetland RV-8's 100 foot Adjacent Area Buffer is within the Project's limit of disturbance and will be permanently impacted as a result of project construction.

Review of NWI mapping indicates that multiple federally mapped wetlands occur in the surrounding area, three of which occur within the Project Site. Each of these wetlands are classified as PUBKHx (Palustrine, Unconsolidated Bottom, Artificially Flooded, Permanently Flooded, and Excavated) and correspond to Facultative Ponds, which are man-made reservoirs constructed to store treated waste water. One additional federally mapped wetland, identified as PFO1/4Bd (Palustrine, Forested, Broad-Leaved Deciduous, Forested, Needle-Leaved Evergreen, Saturated, and Partially Drained/Ditched) is located immediately adjacent to the Project Site.

As mentioned previously, edr wetland biologists conducted wetland and stream investigations on the Project Site during the Spring of 2009, 2011 and 2012. The 15 delineated wetland areas within the Project Site cumulatively totaled approximately 3.25 acres and were primarily emergent communities dominated by common reed and sedges, as well as a scrub-shrub communities dominated by silky dogwood and willows. Only three wetlands identified by edr personnel included forested communities. The wetlands were all characterized by hydric soils and clear indicators of wetland hydrology at the time of Site investigation. Eight of these areas are associated with stormwater management system (SPDES Permit # NY 0072061) and do not offer the structural or functional attributes inherent to natural waters of the U.S. The USACE has determined that the majority of these wetlands are jurisdictional Waters of the U.S., and that any filling of these wetlands would require a permit from the USACE under Section 404 of the Clean Water Act (see JD in Appendix B).

Even in the on-site wetland areas where the land appears relatively undisturbed, the natural surface water hydrology and/or vegetation have been altered to such an extent that limited wetland functions and values have been retained. Wetlands on the Project Site do not appear to perform many of the typical functions associated with high quality wetlands. They do not contribute significantly to groundwater recharge and discharge, habitat for waterfowl, or flood abatement. These wetlands also do not provide opportunities for recreation or education, have no economic value, and do not serve any functions in shoreline erosion control. The only functions the on-site wetlands provide are minimal stormwater detention, some water quality improvement and seasonal breeding habitat for certain amphibians that may occupy the Site.

The three on-site Facultative Ponds previously mentioned are not considered to be jurisdictional waters of the U.S. No data was collected for these areas, as they are considered engineered components of the working Model City Facility, and not jurisdictional waters of the U.S. (see JD in Appendix B).

3.0 PROJECT DESCRIPTION

The proposed RMU-2 facility totals 43.5 acres in size, providing additional hazardous and industrial non-hazardous waste landfill capacity to allow continued waste disposal at the Model City Facility. It is designed to be a secure waste residuals management unit employing state-of-the-art design and operating technology, incorporating primary and secondary liners and independent primary and secondary leachate collection and pumping systems. The liners incorporate compacted clay and synthetic components. The leachate collection systems consist of drainage nets, synthetic filters and granular material. The leachate pumping systems consist of submersible centrifugal pumps and discharge pipes with automatic or manual operation. RMU-2 would be constructed and operated in phases as disposal capacity is needed. The proposed location of the unit is on hydrogeologically suitable land that meets the requirements contained in 6 NYCRR Part 373-2.14 (b)(1)- (3).

Waste quantities to be accepted by RMU-2 are expected to be similar to those accepted in RMU-1; currently 10,000 to 15,000 tons per month. Considering separation berms, daily cover and access roads, the net waste capacity, as calculated in the *RMU-2 Engineering Report* is 3,934,000 cubic yards (ARCADIS, 2013). Based upon the current rate of waste receipts, the active life of the RMU-2 would be approximately 20 to 25 years. The design of RMU-2 is similar to past on-site landfills having double-composite liner systems, most notably, RMU-1. RMU-2 would be bounded by a perimeter berm to control stormwater runoff and runoff. RMU-2 would be divided into six cells with intercell berms constructed of compacted clay. The cells would be constructed on an as-needed basis to match the operational aspects of the facility based upon waste receipts. The floor of each cell would be sloped at a minimum of 1.0% (post-settlement) towards the cell centerline and ultimately to a leachate collection sump. Along the perimeter of RMU-2, the top of final cover grades would extend from the perimeter anchor trench at a 3(horizontal):1(vertical) slope to a grade break occurring at an elevation ranging from approximately 420 feet amsl to 432 feet amsl and then at 5% to 440 feet amsl (approximately 120 feet above existing surface grades). The RMU-2 design incorporates NYSDEC-required safety factors for stability under static and seismic conditions.

The proposed service area of RMU-2 is expected to be similar to that of RMU-1. The majority of the waste accepted would originate from the northeast, mid-Atlantic and central regions of the United States (most areas east of the Mississippi River). Some waste may also be received from Canada and Puerto Rico. The majority of the waste is expected to be generated from environmental site remediation efforts and industrial treatment processes creating residual wastes. Only hazardous wastes, waste treatment residuals that meet USEPA and NYSDEC Land Disposal Restrictions, Corrective Action Management Unit-eligible wastes and industrial non-hazardous wastes would be accepted for disposal in RMU-2. CWM does not accept municipal solid wastes at the Model City Facility.

Site preparation for RMU-2 would include:

1. Relocation of existing Model City Facilities and operational areas, such as the Stabilization and Full Trailer Parking Areas, Emergency Response Garage, Drum Management Building and the Heavy Equipment/Facility Maintenance Building from within the proposed RMU-2 footprint to new locations within the Model City Facility.
2. Minor clearing and grubbing of existing vegetation and stripping of topsoil; topsoil would be stockpiled at another location on the CWM property.
3. Installation of temporary and permanent drainage ditches and culverts.
4. Construction of perimeter drainage swales for control of surface runoff and runoff.
5. Construction of access ramps and roads at the perimeter to facilitate waste filling activities.
6. Abandonment of groundwater monitoring wells and piezometers within the footprint of RMU-2.
7. Removal and relocation of existing utilities and communications services.
8. Closure of Fac Ponds 3 and 8.
9. Upgrade to Fac Pond 1/2.
10. Construction of new Fac Pond 5.

Construction will include installation of the landfill sub-base, base (comprised of a primary and secondary liner system and a primary and secondary leachate collection system), perimeter berms, intercell berms, modification of adjacent existing perimeter berms, and installation of a low-permeability cutoff wall.

The relocated Drum Management Building will require site grading for the construction of the building and its associated infrastructure. The facility will include a Covered Truck Loading and Unloading Ramp, Covered Drum Building Fuels Transfer Ramp, Fuels Pumping Area, Transformer Flush Area, Fuels Pumping Area, Bladder Tank Area and Fire Protection, Drum Management Area, Office Area, and associated asphalt paved parking and access drives/work area. Additional structures associated with the Drum Management Building are concrete walk ways and retaining walls along the covered ramps, as well as several steel bollards.

Once operational, approved daily cover materials, as defined by 6 NYCRR370.2(b)(39), would be sufficiently applied to cover all areas of exposed waste at the end of each day of operation. With respect to the final cover system for RMU-2, final cover consists of the following components (in descending order):

- 6 inches of vegetated topsoil;
- 18 inches of general soil fill;
- A layer of geocomposite;
- A 40-mil textured HDPE geomembrane;

- A GCL layer that provides a maximum equivalent hydraulic conductivity equal to or less than 2 feet of compacted clay with a hydraulic conductivity of 1×10^{-7} cm/sec; and
- 6 inches of general soil fill to be used as a grading layer.

The final cover slope is designed as 3 (horizontal):1 (vertical) with a minimum top slope of 5% that allows for gravity drainage of stormwater under post-settlement conditions.

The design philosophy behind the double-composite liner system proposed for RMU-2 is to provide an additional measure of environmental protection against contaminant migration by providing leachate collection above and between the liners. The primary leachate collection system above the top liner is intended to minimize the amount of leachate on the liner system and to remove liquids. The secondary leachate collection system is intended to collect and remove any liquids infiltrating into the space between the liners from the landfill or from the groundwater, as well as to provide for long-term minimization of migration of hazardous constituents through the closed unit. USEPA regulations require a composite liner system of “synthetic and compacted clay components” for only the lower liner. The design for RMU-2 has provided an additional environmental safeguard by incorporating the composite approach for both the primary and secondary leachate collection systems. Collected leachate would be sampled and analyzed for hazardous waste constituents and processed at Model City Facility’s existing wastewater treatment plant.

With respect to surface water, during construction, surface water would be directed to the Model City Facility’s existing surface-water collection system, which is monitored for hazardous constituents according to the Model City Facility’s *Surface-Water Sampling and Analysis Plan included as Attachment M of CWM’s 6 NYCRR Part 373 Sitewide Permit* and discharged in accordance with the individual SPDES Permit. During operation of RMU-2, precipitation entering the cells would be collected in the leachate collection system and sampled/analyzed/processed at the Model City Facility’s existing wastewater treatment plant. All surface-water runoff from the final cover system would be directed to the existing stormwater management system and retention basins.

4.0 JURISDICTIONAL IMPACTS

The proposed Project requires excavation and development of large contiguous areas of land, which limits opportunities for minimizing/avoiding wetland impacts. No wetlands providing significant ecological functions and values will be impacted by the proposed Project. Impacts to wetlands and other Waters of the U.S. anticipated to result from Project activities are described below.

4.1 Temporary Wetland/Stream Impacts

No temporary impacts to wetlands or streams will result from construction of the proposed Project.

4.2 Permanent Wetland/Stream Impacts

The Project Site boundary is also the limit of disturbance for the proposed Project. As a result, all jurisdictional wetland areas within the Project Site, totaling 2.567 acres, will either be permanently filled or excavated during Project construction. These impacts are summarized in Table 1 and depicted in Figure 4.

Table 1. Permanent Impacts to Wetlands and Streams

Wetland ID	Community Type	Permanent Impact (Square Feet)	Permanent Impact (Acres)	Permanent Adjacent Area Impact (Square feet)	Figure 4 Sheet Reference
G	PEM	17,052.5	0.391	--	1
	Drainage	793.4	0.018		
H	PEM	1,596.3	0.037	--	1
I	PEM	1,406.9	0.032	--	2
	Drainage	3,017.3	0.069		
J	PFO	19,779.1	0.454	--	3 and 4
	PEM Drainage	15,599.8	0.358		
K	PEM	14,630.4	0.336	--	2 and 3
	Drainage	11,384.3	0.261		
M	PFO	11,627.3	0.267	--	4 and 5
	PSS	1,560.6	0.036		
	PEM	1,887.3	0.043		
	Drainage	12,341.2	0.283		
N	PEM	46.4	0.001	--	6
	Drainage	702.1	0.016		
O	PFO	615.0	0.014	--	5
	PSS	531.7	0.012		
	Drainage	360.1	0.008		
Drum Wetland	PFO	--	--	32,171	7
Total: 111,808 Square Feet (2.567 Acres)					
Community Type (Acres) - PFO: 0.734 , PSS: 0.048, PEM: 0.84, PEM Drainage: 0.358, Drainage: 0.587					

Notes: PSS = Palustrine Scrub-Shrub Wetland; PEM = Palustrine Scrub-Shrub Wetland; PFO = Palustrine Forested Wetland.

A full description of these wetland community types is provided in the 2009 Wetland Delineation Report and the 2011 and 2012 Supplemental Delineation Reports.

4.3 Conversion of Forested Wetland to Non-forested Wetland Types

No conversion of forested wetlands to other non-forested wetland communities will occur as a result of construction of the proposed RMU-2 facility. All proposed impacts involve the placement of fill or culverts within on-site wetlands and drainages.

4.4 Summary of Impacts

In summary, based on Project design and engineering completed to date, construction activities will result in permanent loss of 2.567 acres of federally-jurisdictional wetlands and 0.74 acre of NYSDEC 100-foot adjacent area buffer. No temporary disturbance to wetlands or conversion of forested wetlands to other wetland communities will occur. No NYSDEC protected streams or freshwater wetlands will be impacted.

5.0 ALTERNATIVES ANALYSIS

The Applicant looked at the following alternatives to the proposed action in the Draft Environmental Impact Statement (DEIS) (Arcadis, 2013):

- No action;
- Action at a different location within the Model City Facility;
- Action at a different site;
- Different technological approach; and
- Design sub-alternatives.

These alternatives, along with the no action alternative, are described below.

5.1 No Action Alternative

Under the No Action Alternative, hazardous waste processing and disposal operations presently conducted at the Model City Facility would continue with no further commitments to modify the Model City Facility's existing capabilities. Implementation of this alternative would exhaust land disposal capacity at the Facility by approximately 2015 based on current waste receipt rates. While this alternative would eliminate all on-site wetland impacts, there are several drawbacks to this alternative. Some likely impacts of the No Action Alternative would include:

- Hazardous waste generated in NYS and requiring land disposal would need to be shipped out-of-state.
- Decreased competition in the waste land disposal market and added transportation costs will result in increased disposal costs to NYS companies, placing an additional economic burden on those companies.
- With increased transportation and disposal costs, there may be an increase in illegal disposal of hazardous wastes.
- Disposal at facilities outside of NYS would result in longer hauling distances, increased fuel consumption and larger greenhouse gas emissions.
- Denial could jeopardize New York's status as a RCRA-delegated state because of 40 CFR 271.4(f).
- The majority of economic benefits associated with the Model City Facility (over \$13 million per year to state and local economies through various taxes, fees and expenditures) would be eliminated or significantly reduced.

Furthermore, the No Action Alternative would fail to achieve the Project's purpose and need.

5.2 Action at a Different Location within the Model City Facility

Locating a new landfill and other hazardous waste units within the existing Model City Facility would be limited to the property that is currently zoned for such activity (i.e., M-3 zone in the Town of Porter). Existing M-3 areas are largely utilized by active and closed waste management units. The proposed location for RMU-2 represents the only feasible area within the central portion of the Model City Facility meeting the zoning requirements.

On October 10, 2001, the Town of Porter Town Board approved the rezoning of 75 acres of CWM's property east of RMU-1, known as the "Eastern Area," from zone M-2 to M-3. Although the Eastern Area could be used for RMU-2, this area is further from the site infrastructure and would result in increased wetland impacts, as well as increased visual impacts. Other disadvantages of this alternative include:

- Overall costs would be increased to the point of being significantly less economical;
- This alternative would require the need to relocate existing facilities more critical to Model City waste handling operations (e.g., aqueous waste treatment system, stabilization) to be closer to the new landfill location;
- The current land use of another area would need to be modified or rezoned, requiring the need to evaluate the potential environmental impacts associated with this land disposal facility, which, given the less developed/disturbed character of this land, would likely be greater than the Proposed Action; and
- Due to the smaller landfill size potentially necessitated by land or zoning restrictions, this alternative would not adequately address the projected deficit in regional hazardous waste disposal.

Use of other property at the Model City Facility for this project (i.e., property in the Town of Porter not currently zoned M-3 and all property in the Town of Lewiston) would require Siting Board approval to override current zoning restrictions. In addition, these areas are currently undeveloped and would have additional potential impacts, such as loss of vegetation and disturbance of wetlands. For the above reasons, action at a different location within the Model City Facility is not considered a reasonable alternative.

5.3 Action at a Different Site

Another alternative to the Proposed Action would be construction and operation of a hazardous and industrial non-hazardous waste landfill at a location other than the existing Model City Facility. The Model City Facility is the location of 11 hazardous and industrial non-hazardous waste landfills (10 closed landfills and the currently active RMU-1). The Model City Facility has invested millions of dollars in the infrastructure that is necessary to support and maintain a state-of-the-art hazardous waste treatment, storage and disposal facility. That infrastructure includes a

fully integrated wastewater treatment plant that is used to treat, among other things, the leachate from the active and closed landfills and a stabilization facility necessary to treat hazardous waste to Federal Land Disposal Restriction standards prior to land disposal. The existing facility also includes extensive groundwater, surface-water and air monitoring systems, with a well-developed database, an exhaustive hydrogeologic study of the site, a comprehensive on-site analytical laboratory and well established utilities and security systems. In addition, the Model City Facility has in place a well-qualified management team and well trained employees familiar with the operation of the facility.

Any alternative site would require duplication of the infrastructure systems, support and monitoring systems and the management and operating personnel described above. At the same time, closure and post-closure care at the current Model City Facility would be required. Any such alternative would thus be significantly more expensive, to the point of being cost prohibitive. Locating the proposed unit at a new location elsewhere in NYS or within Niagara County, but outside the boundaries of the existing CWM facility, would require development of a new site, increasing the type and magnitude of potential environmental impacts associated with a land disposal facility. The time required for permitting the facility would also be lengthier, causing an increased deficit in regional hazardous waste land disposal capacity.

Additionally, 6 NYCRR Part 617.14(f)(5) provides that the discussion of site alternatives “may be limited to parcels owned by, or under option to, a private applicant.” CWM does not own or have under option any other property in NYS of adequate size and appropriately zoned for hazardous waste facility siting. Although WMI, CWM’s parent company, does own other property in NYS, none of these properties are currently permitted or equipped for hazardous waste disposal, and historically, NYSDEC has been opposed to permitting hazardous waste disposal units at an existing solid waste disposal site. Also, CWM is not aware of any other company currently pursuing the development of commercial treatment, storage and disposal facilities within NYS. Since this alternative is largely theoretical, potential wetland impacts are unknown. However, given the size of the development footprint required for a new facility, it is unlikely that wetland impacts could be limited to the 2.567 acres anticipated on the currently proposed Project Site. For all of the above reasons, CWM does not believe that the “action at a different site alternative” is a reasonable alternative.

5.4 Different Technological Approach

As specified in the NYSDEC’s waste management hierarchy, alternatives to land disposal for the management of hazardous waste include (in order of preference):

- Reduction at the source (waste minimization).
- Recovery, recycling or reuse of wastes that continue to be generated.

- Detoxification, treatment or destruction of wastes that cannot be recycled or reused.

Use of the above alternate technologies will serve to reduce the volumes of hazardous waste or reduce the concentration or mobility of hazardous constituents in the waste. However, it should be noted that each of the technologies produce waste streams and residues that still require additional management, including land disposal. After using the alternative technologies to the extent practical, land disposal of remaining wastes and residuals will always be necessary under current technological limitations. This being the case, application of these technological alternatives will not reduce the need for the RMU-2 or its potential wetland impacts.

5.5 Design Subalternatives

There are three basic categories of design subalternatives:

- Changes in materials;
- Changes in construction techniques; and
- Changes in operational techniques.

Although a number of design subalternatives within each of these categories have been evaluated, none of them would substantially change the footprint of the proposed facility or its potential wetland impacts.

6.0 AVOIDANCE, MINIMIZATION, AND MITIGATION

As previously mentioned, the proposed Project requires excavation of large contiguous areas of land, which limits opportunities for minimizing/avoiding wetland impacts. A Stormwater Pollution Prevention Plan (SWPPP) will be prepared for the Project and implementation of this plan will prevent indirect impacts to wetlands during Project construction. The Stormwater Pollution Prevention Plan for RMU-2 will be similar to the nature and scope of the current Stormwater Pollution Prevention Plan for RMU-1 at the facility.

To mitigate for the unavoidable permanent loss of wetlands within the Project Site, the Applicant proposes the construction of a 4.37-acre wetland on a 21-acre parcel of land owned by CWM immediately west of the Project Site. This parcel is within the boundary of the Model City Facility. It is a former soil storage area that is currently dominated by successional deciduous forest, but also includes areas of disturbed land, successional old field, and approximately 5 acres of forested and emergent wetland communities. A Conceptual Mitigation and Monitoring Plan has been prepared and is included in Appendix C.

7.0 COMPLIANCE WITH THE FEDERAL AND STATE ENDANGERED SPECIES ACTS

edr companies requested information concerning documented occurrences of endangered and threatened wildlife and plant species, from the New York Natural Heritage Program (NHP) in a letter dated June 28, 2012. A response letter from the NHP, dated July 3, 2012, indicated that there are no records of state-listed animals or plants, significant natural communities or other significant habitats on-site. Copies of these letters are provided in Appendix B.

Additionally, in July 2012 edr reviewed the U.S. Fish and Wildlife Services (USFWS) online database for any Federally-listed endangered and threatened species within Niagara County. Two species, the bald eagle (*Haliaeetus leucocephalus*) and the Eastern prairie-fringed orchid (*Platanthera leucophaea*) have been documented within Niagara County. A copy of the search results is provided in Appendix B. However, it is unlikely that Bald Eagles use the Project Site for foraging, roosting or nesting, due to the disturbed nature of the site. In addition, the presence of Bald Eagle (a state-listed threatened species) in the vicinity of the Project Site was not noted on the NHP letter. The occurrence of Eastern prairie-fringed orchid within Niagara County is noted by the USFWS as a historic record, without recent sightings. Furthermore, the Site lacks suitable habitat for this species and the NHP does not have record of this federally-listed threatened species in the vicinity of the Project Site. Therefore, the Project is not anticipated to have any impact on threatened or endangered wildlife or plant species.

8.0 COMPLIANCE WITH THE HISTORIC PRESERVATION ACT

In a letter dated June 22, 2012 to the New York State Office of Parks, Recreation, and Historic Preservation (OPRHP) State Historic Preservation Office (SHPO), ARCADIS requested a project review for potential effects upon properties listed on the National Register of Historic Places, as well as other cultural resources in accordance with Section 106 of the National Historic Preservation Act of 1966. The SHPO responded to this request in a letter dated June 29, 2012, indicating that the proposed Project will have No Effect upon cultural resources in or eligible for inclusion in the National Registers of Historic Places. Copies of the above referenced correspondence are provided in Appendix B.

9.0 COMPLIANCE WITH SEQRA

Pursuant to the requirements of New York State Environmental Quality Review Act (SEQRA), Section 617.7 Determining Significance, the NYSDEC, as Lead Agency, has requested a Draft Environmental Impact Statement (DEIS) be completed for this Project. ARCADIS, on behalf of the Applicant, completed a DEIS for the Project in April of 2003, which has subsequently been revised in August of 2009, March of 2012, and February 2013. A final revised DEIS is anticipated to be submitted in July 2013.

10.0 REFERENCES

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Cowardin, L. M., V. Carter, F. C. Golet, E. T. LaRoe. 1979. *Classification of wetlands and deepwater habitats of the United States*. U. S. Department of the Interior, Fish and Wildlife Service FWS/OBS-79/31. Washington, D.C.

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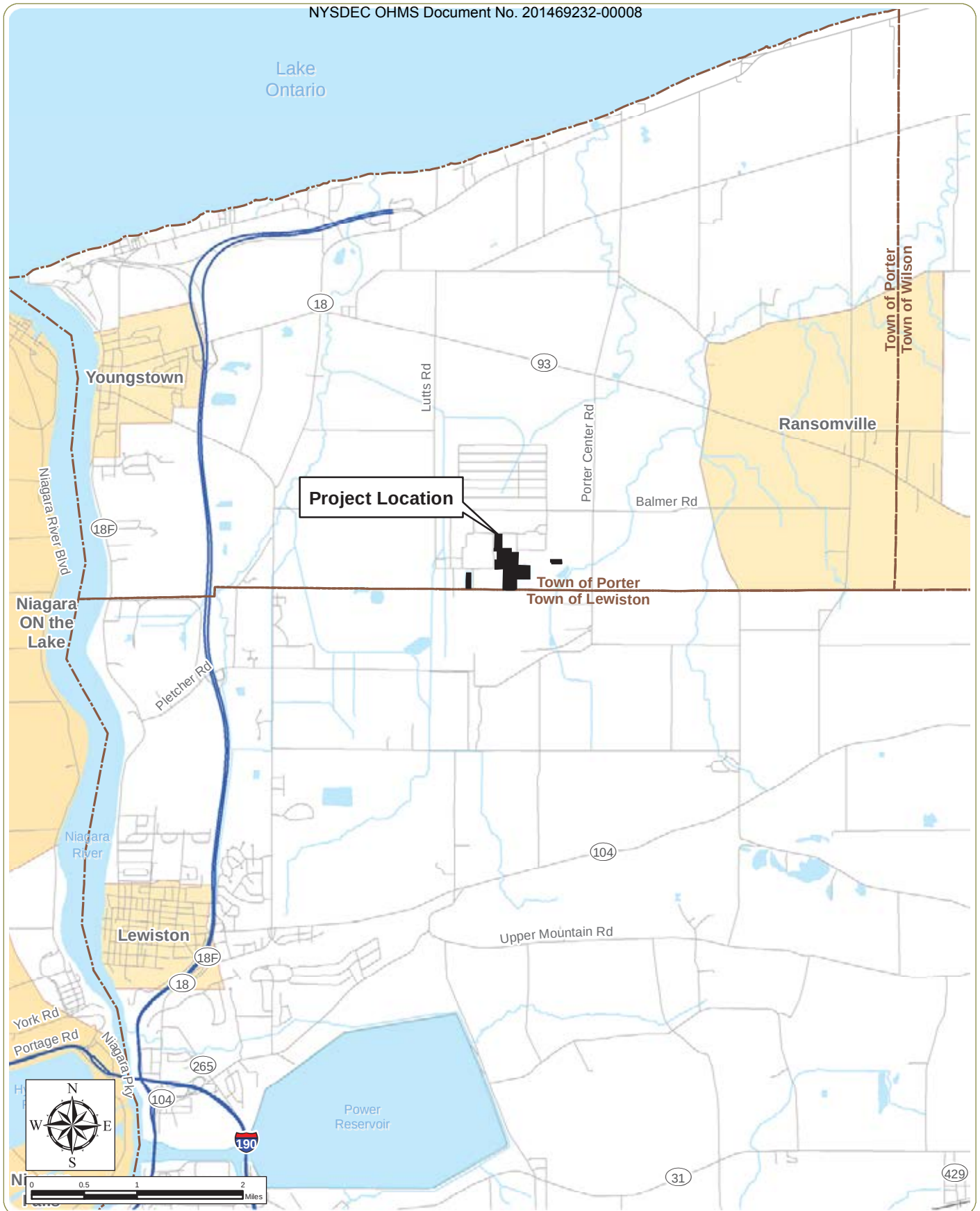
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APPENDIX A

Figures



Residuals Management Unit 2

Town of Porter, Niagara County

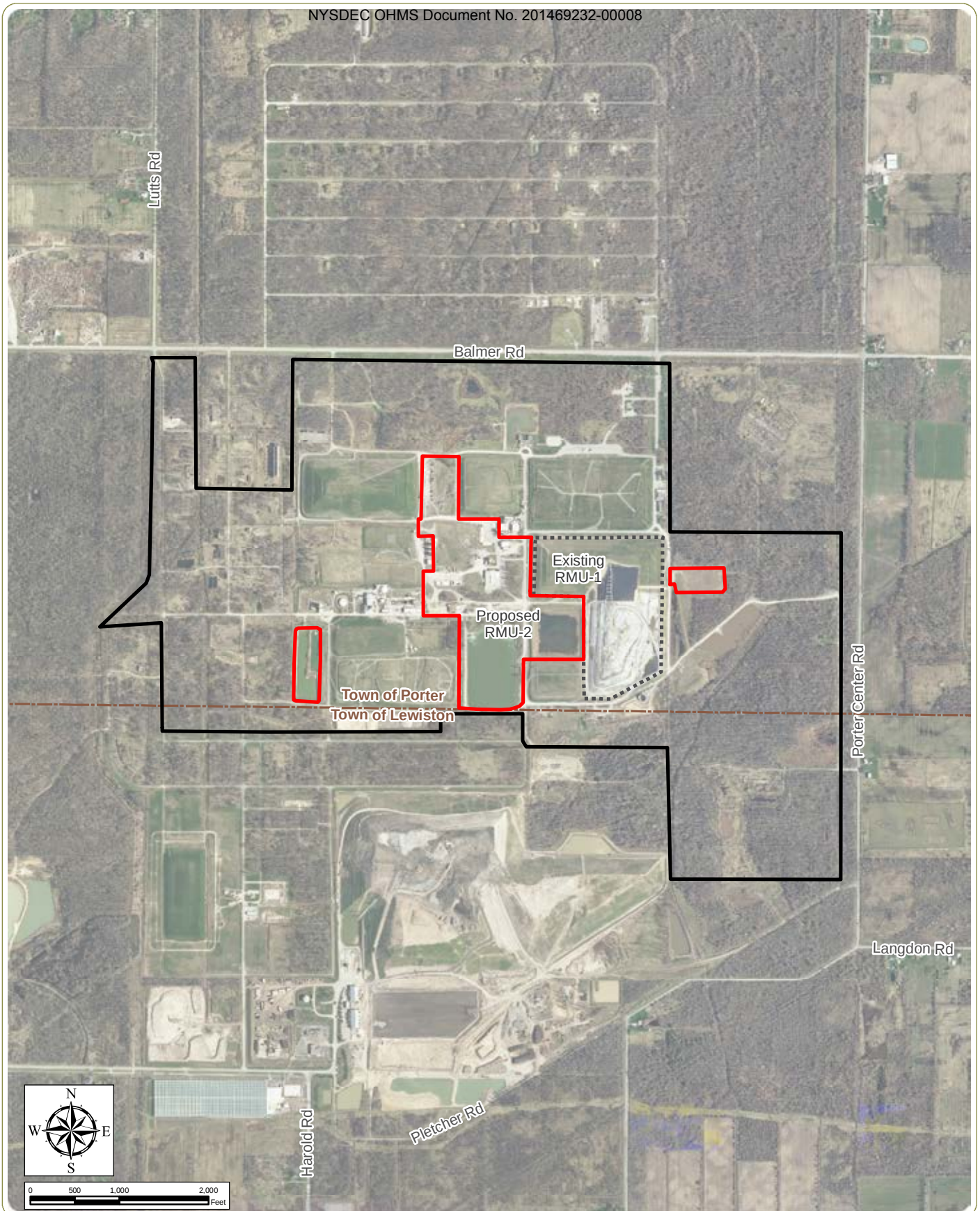
Joint Application for Permit

Figure 1: Regional Project Location

June 2013

Notes: Base Map: ESRI StreetMap North America, 2008.





Residuals Management Unit 2

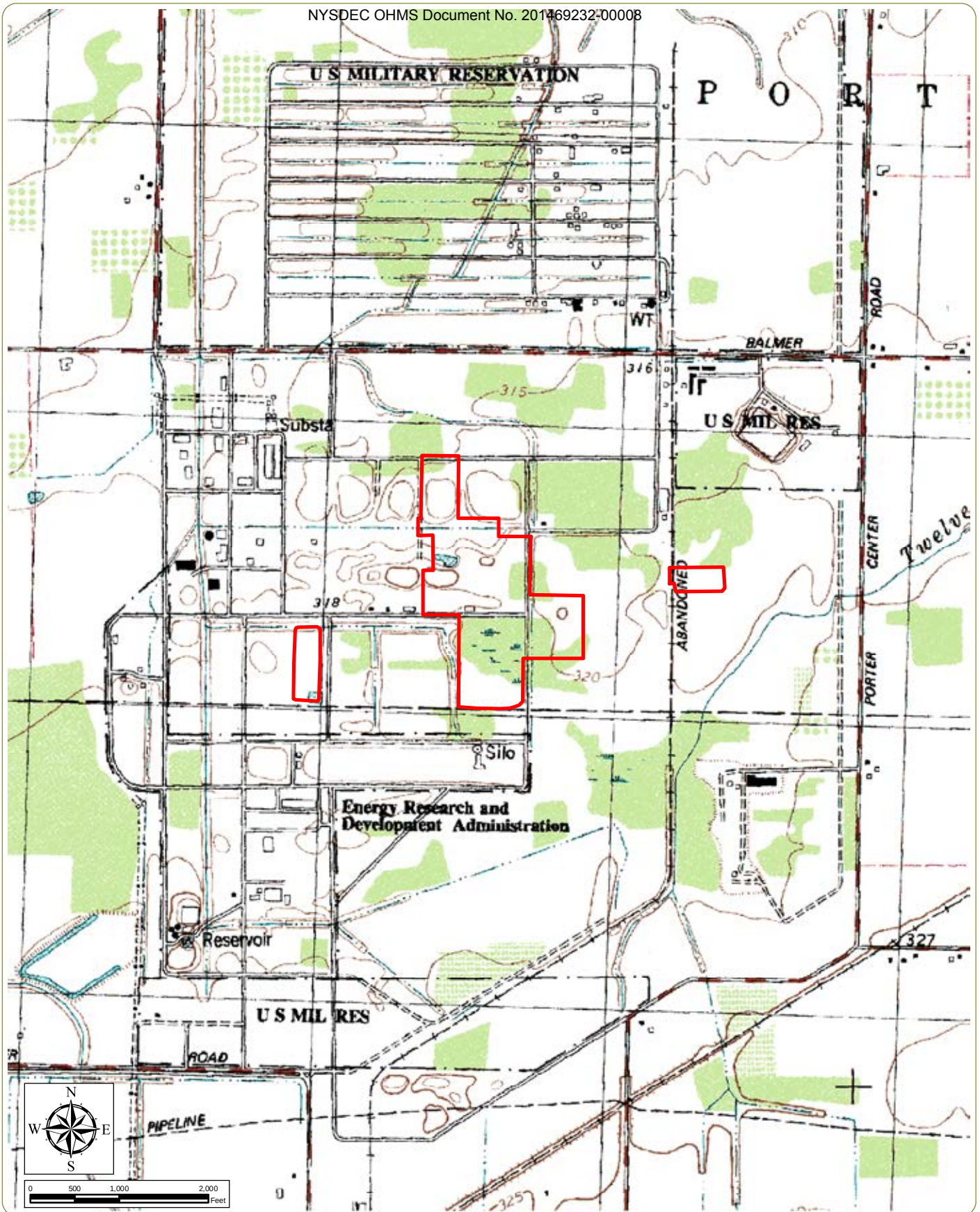
Town of Porter, Niagara County
Joint Application for Permit

Figure 2: Project Site

July 2013

Notes: Base Map: 1 ft resolution natural color orthophotography, year 2011.

- Project Site
- RMU-1 (Existing)
- Model City Facility
- Town Boundary



Residuals Management Unit 2

Town of Porter, Niagara County

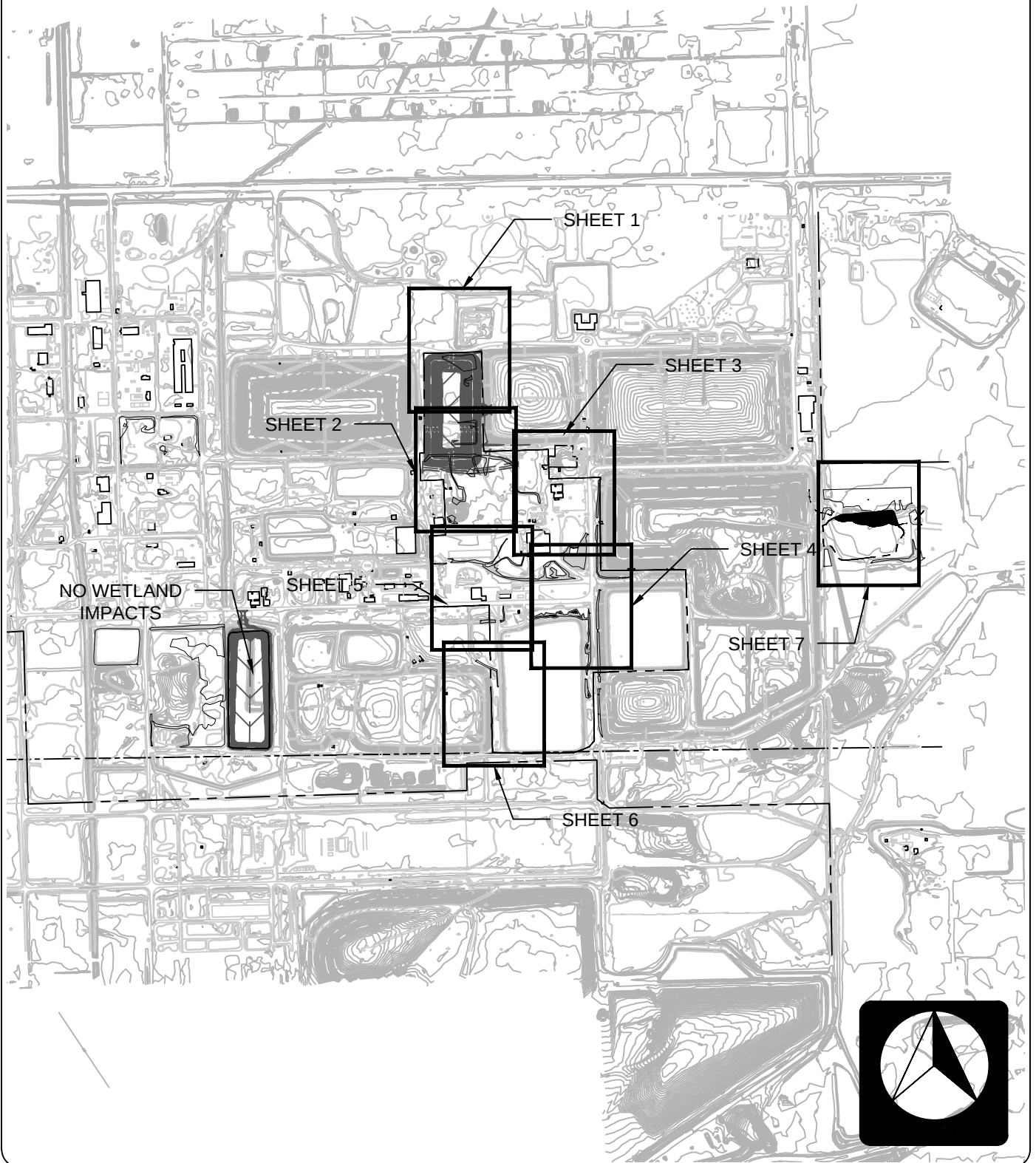
Joint Application for Permit

Figure 3: USGS Topographic Mapping

June 2013

Notes: Base Map: USGS 7.5-minute Ransomville topographic quadrangle.

 Project Site



PROJECT TITLE: Residuals Management Unit 2

DRAWING TITLE: Figure 4: Proposed Wetland/Stream Impacts

DRAWN BY: EML

CHECKED BY: JP

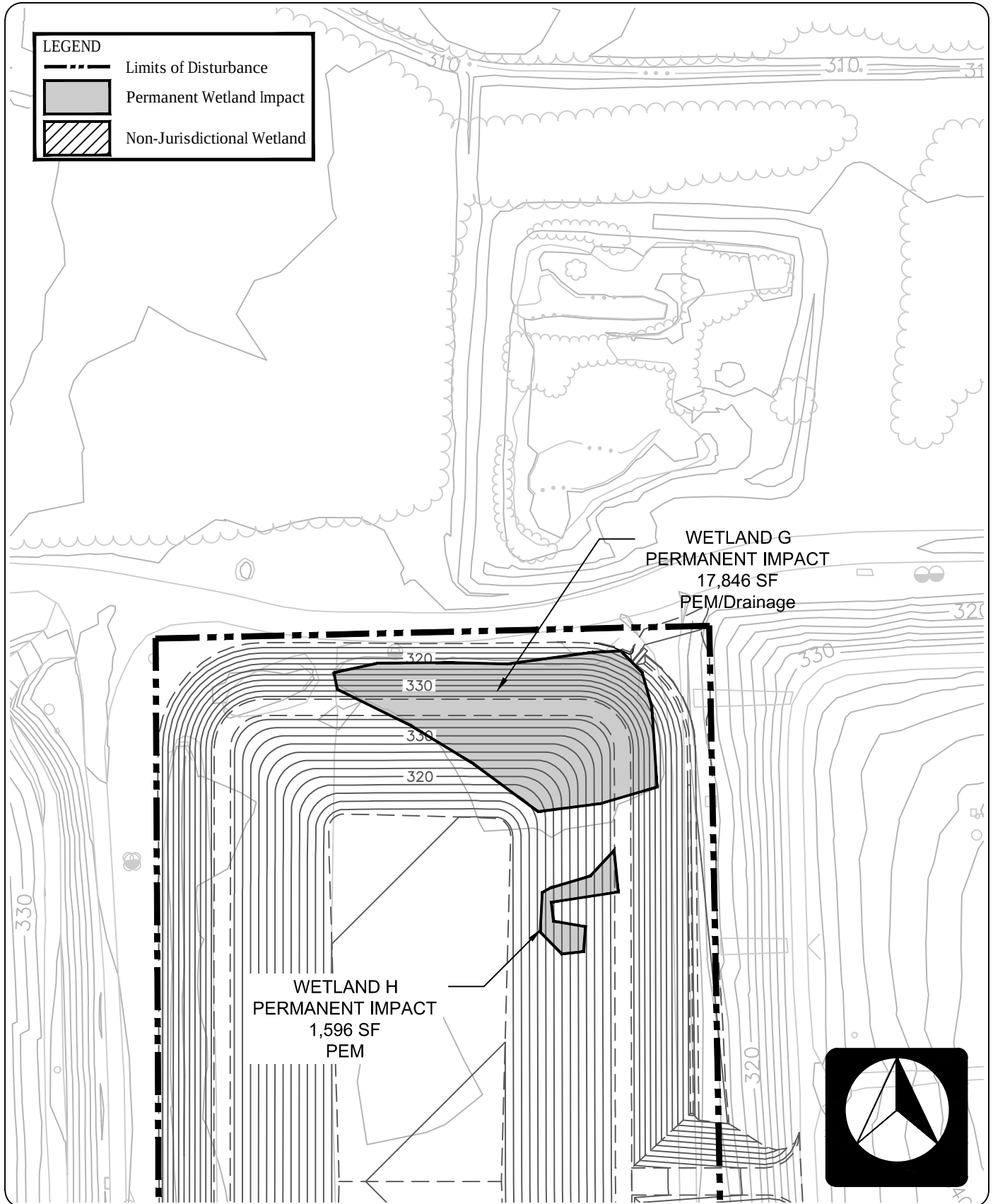
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DRAWING NUMBER: Sheet Index

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DATE: June 2013





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DRAWN BY: EML

CHECKED BY: JP

edr JOB NUMBER: 09022

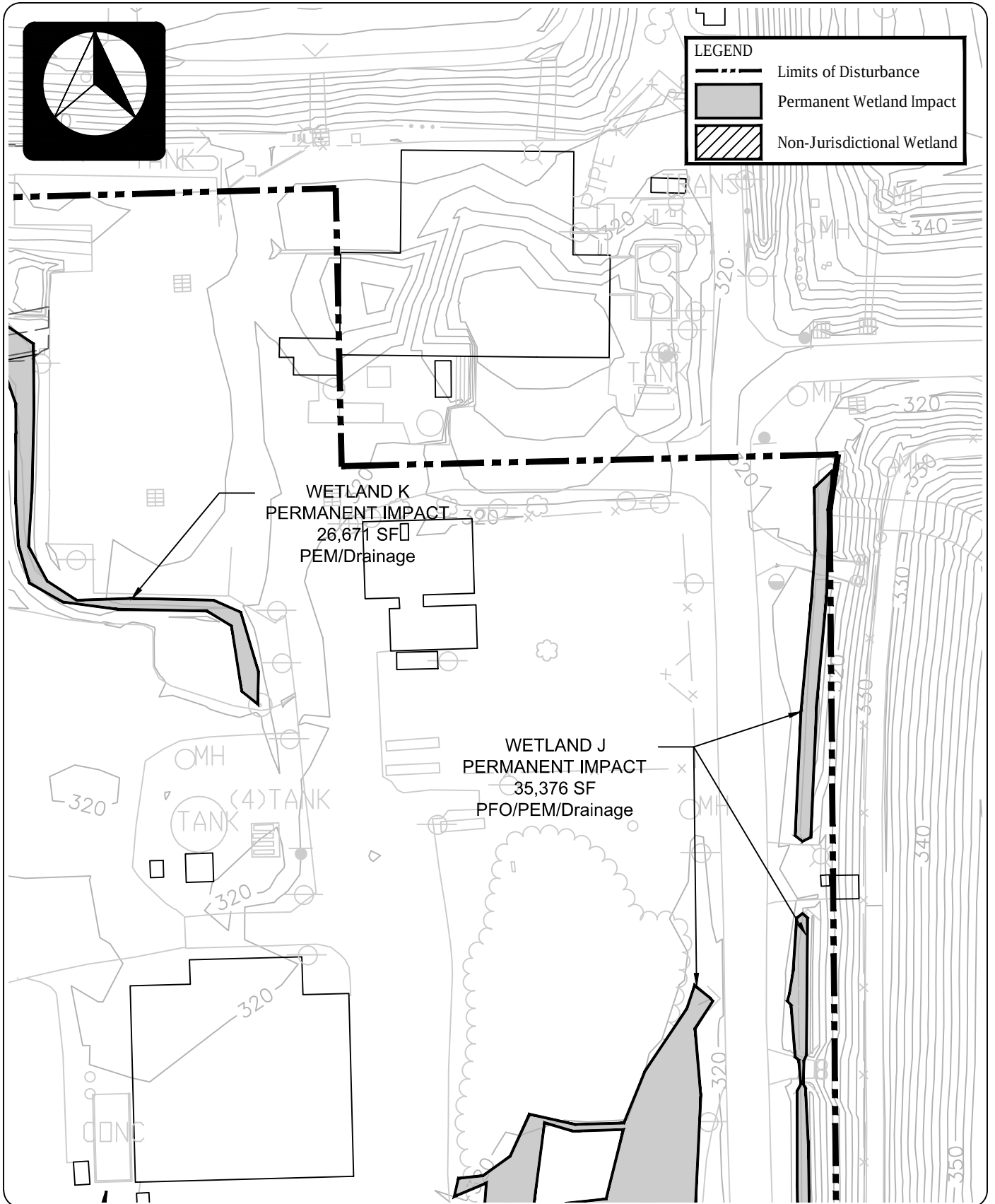
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DRAWING TITLE: Figure 4: Proposed Wetland/Stream Impacts

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CHECKED BY: JP

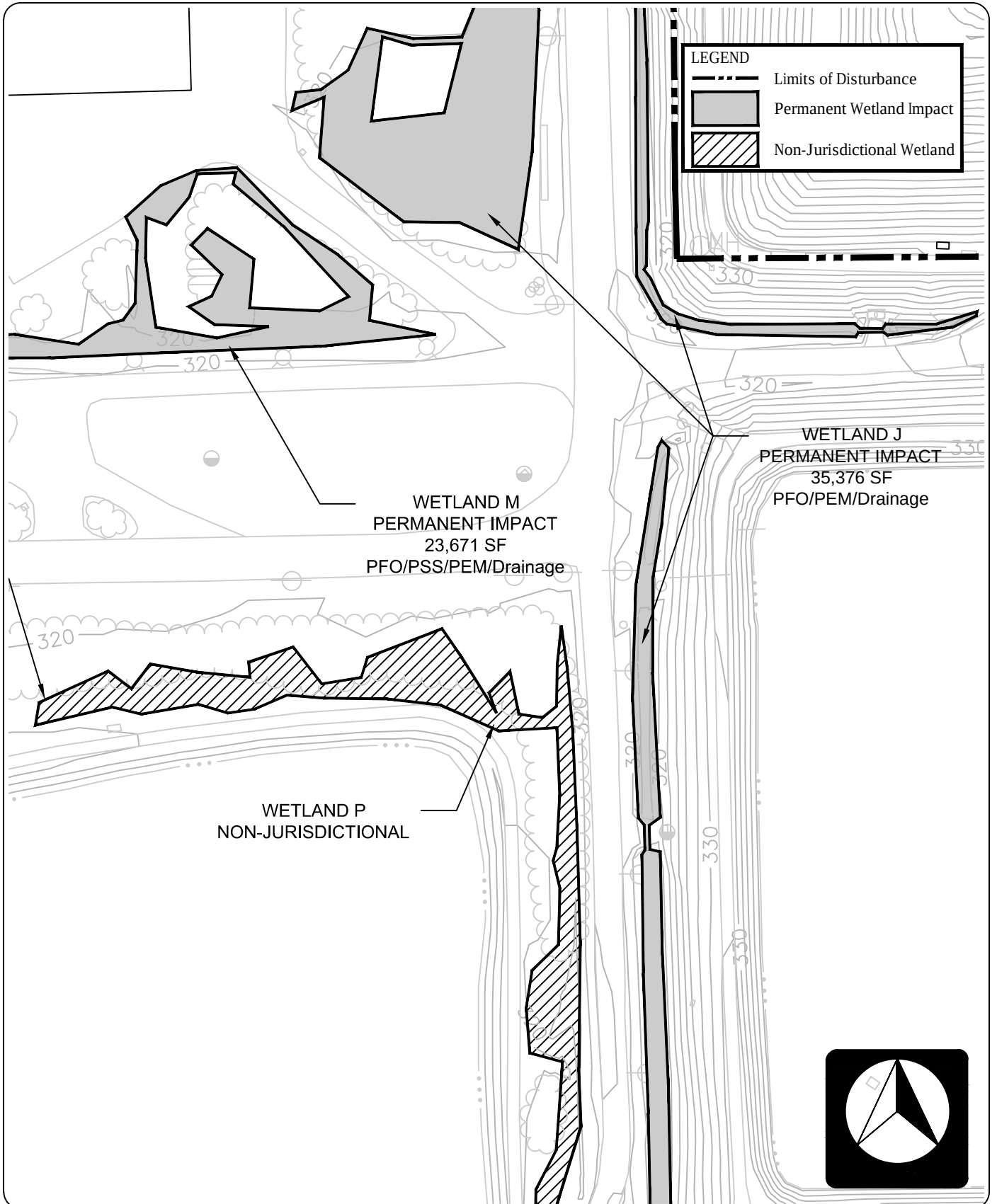
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DRAWING NUMBER: Sheet 3

SCALE: 1"=1000'

DATE: June 2013





PROJECT TITLE: Residuals Management Unit 2

DRAWING TITLE: Figure 4: Proposed Wetland/Stream Impacts

DRAWN BY: EML

CHECKED BY: JP

edr JOB NUMBER: 09022

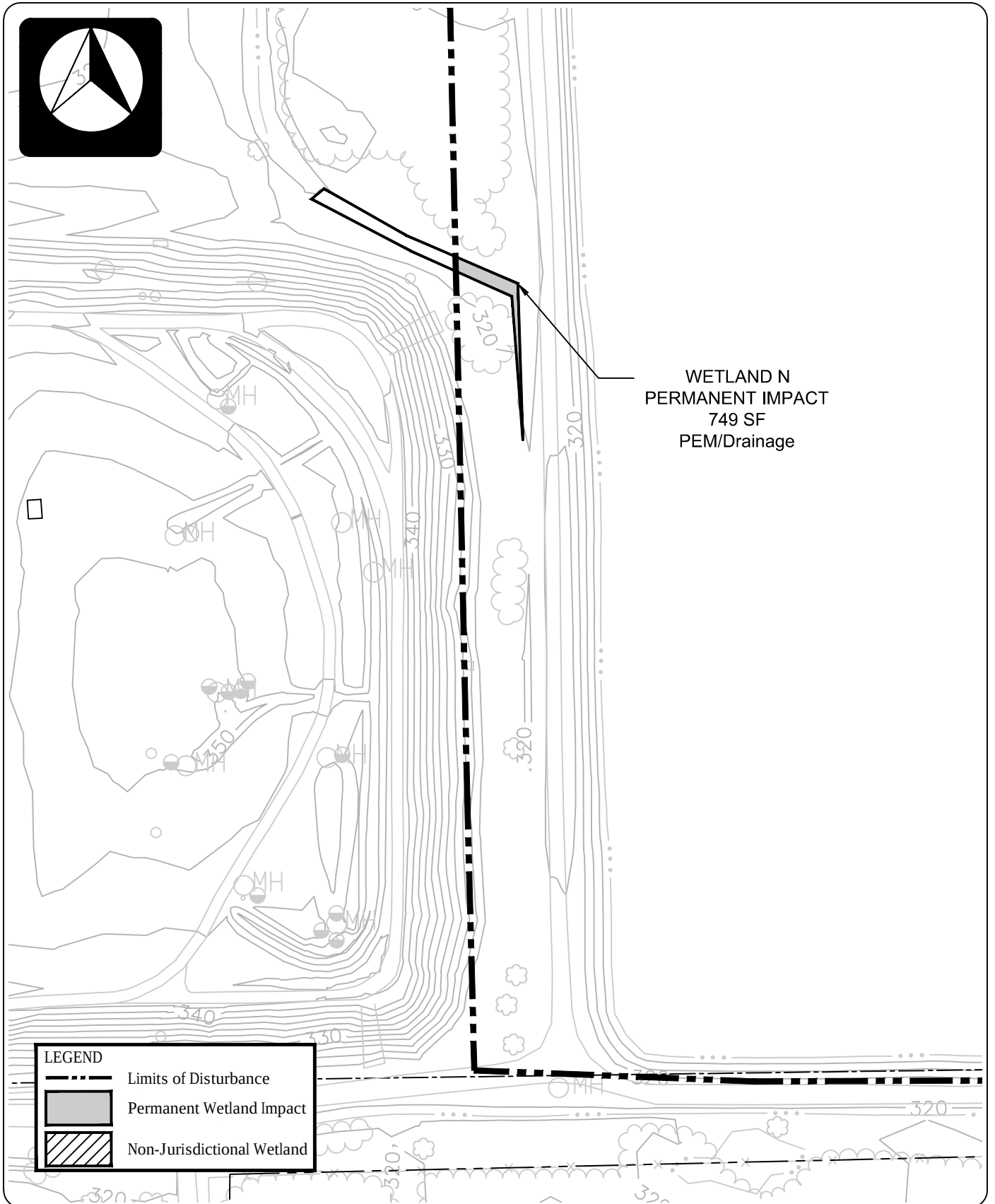
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DATE: June 2013







PROJECT TITLE: Residuals Management Unit 2

DRAWING TITLE: Figure 4: Proposed Wetland/Stream Impacts

DRAWN BY: EML

CHECKED BY: JP

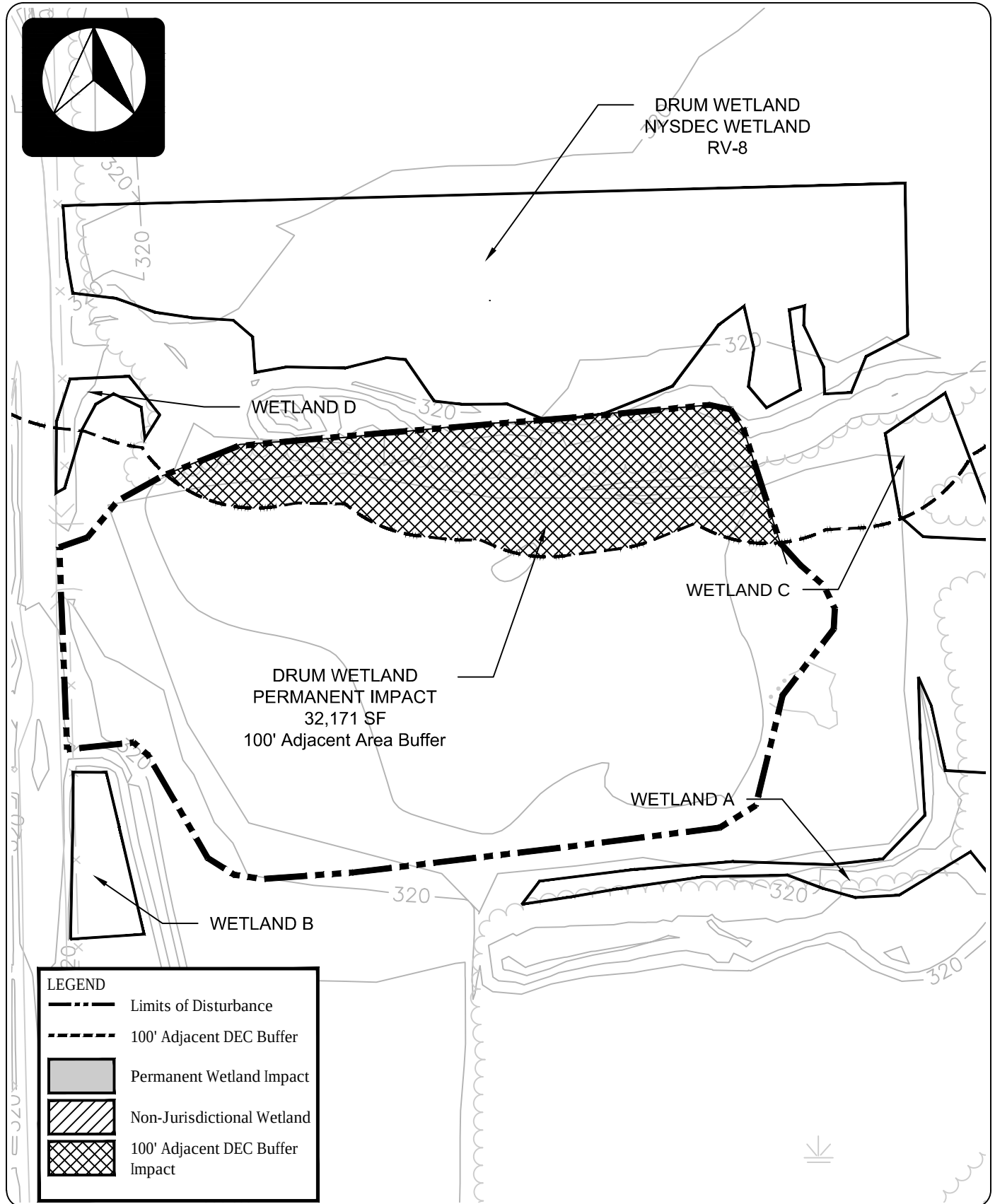
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DRAWING NUMBER: Sheet 6

SCALE: 1"=100'

DATE: June 2013





PROJECT TITLE: Residuals Management Unit 2

DRAWING TITLE: Figure 4: Proposed Wetland/Stream Impacts

DRAWN BY: EML

CHECKED BY: JP

edr JOB NUMBER: 09022

DRAWING NUMBER: Sheet 7

SCALE: 1"=100'

DATE: June 2013



APPENDIX B

Agency Correspondence



November 18, 2003

Mr. Gary McDannell
U.S. Army Corps of Engineers
1776 Niagara Street
Buffalo, New York 14207-3199

Mr. Steven Doleski
NYS Department of Environmental Conservation
270 Michigan Avenue
Buffalo, New York 14203

CWM CHEMICAL SERVICES, LLC

1550 Balmer Road
P.O. Box 200
Model City, NY 14107
(716) 754-8231
(716) 754-0211 Fax

Re: Section 404 Permit Application/Section 401 Water Quality Certification
Facility Upgrade Projects

Gentlemen:

CWM has developed plans for three separate upgrade projects at our Model City Facility. The first project involves construction of a new scales and scalehouse area near the main facility entrance for use in transmittal of shipping papers and weighing of incoming and outgoing transportation vehicles. This location will provide improved traffic patterns compared to the existing scales and scalehouse which are located in the central portion of the facility. The new scales and scalehouse are scheduled to be constructed this year.

The second project will construct a new Drum Management Building to provide container storage and consolidate several related site operations, such as the main laboratory, replacing the existing drum building which is over 20 years old. The new Drum Management Building is scheduled to be constructed during 2004. CWM will be submitting a request to modify its 6NYCRR Part 373 Permit for this project to the New York State Department of Environmental Conservation (NYSDEC) in a separate correspondence.

The third project is the construction of a new landfill, designated Residuals Management Unit No. 2 (RMU-2), and the relocation of several operating areas and buildings. RMU-2 will provide replacement land disposal capacity once the capacity of the existing active landfill at the site is exhausted. Construction for RMU-2 is anticipated to begin during 2005. Applications for state and federal permits required for RMU-2 were submitted by CWM on May 15, 2003, to the NYSDEC and United States Environmental Protection Agency (USEPA).

In order to determine the potential impacts to State and Federal wetlands within the areas impacted by these projects, CWM hired Environmental Design & Research, P.C. (EDR) to perform wetlands delineation. A report entitled "Wetland Delineation Report, Western Expansion Area", dated April 2003, was prepared by EDR and submitted on May 15, 2003, by CWM to the U. S. Army Corps of Engineers (ACOE) and the NYSDEC. EDR has determined that there are no NYSDEC regulated wetland impacts associated with these projects, but there are some potential Federal wetlands which could be considered jurisdictional waters of the United States by the ACOE. In a September 10, 2003, letter, the ACOE verified the Federal wetland boundaries, as shown on the wetlands delineation maps contained in the EDR report.

As specified in the EDR report, this project will impact existing Federal wetlands and existing man-made roadside ditches which exhibit wetland characteristics. The ditches have been constructed and operated as part of the facility's stormwater management system, as required by the NYSDEC. The ACOE has determined that these existing wetlands and roadside ditches are jurisdictional.

Mr. Gary McDannell
 U.S. Army Corps of Engineers
 Mr. Steven Doleski
 NYSDEC

November 18, 2003

Re: Section 404 Permit Application/Section 401 Water Quality Certification
 Facility Upgrade Projects

Page - 2 -

The following table summarizes the impacts associated with each of the three projects:

	<u>Wetlands</u>	<u>Ditches</u>	<u>Total</u>
Scales and Scalehouse Area	0.10 acres	0.05 acres	0.15 acres
Drum Management Building	0.18 acres	0.00 acres	0.18 acres
RMU-2 Project	<u>0.38 acres</u>	<u>0.84 acres</u>	<u>1.22 acres</u>
Total	0.66 acres	0.89 acres	1.55 acres

Attached please find a Joint Application for Permit, Form #95-19-3, which requests a Section 404 Permit from the ACOE for the total wetland and ditch impacts associated with the three projects. In addition, a Section 401 Water Quality Certification is being requested from the NYSDEC, if it is determined that one is required for these projects.

CWM proposes to mitigate the loss of the roadside ditches by constructing new, similarly designed and operated ditches near the existing ditch location as part of project construction. The new ditches will provide the same function and serve the same stormwater runoff control purpose as the existing ditches which are being replaced by the projects. Mitigation for the relatively minor Federal wetland impact caused by these projects can not be feasibly provided through creation of new replacement wetlands either onsite or offsite, as explained in the attached application. CWM proposes to provide mitigation through a donation in the amount of \$30,000 to the Buffalo Audubon Society to assist in their efforts to establish a Birds of Prey Center in Niagara County. This environmentally beneficial project is anticipated to include various exhibits, bird enclosures, flight areas, native habitats, ponds, walking trails and educational elements. The amount of the proposed donation is consistent with a previous mitigation donation made by CWM for the Birds of Prey Center, adjusted for the relative amount of wetland impact (ref. April 28, 2003, letter, J. Knickerbocker to H. Adams).

CWM would greatly appreciate an expeditious review of the attached information and permit issuance to enable CWM to meet the project construction schedules stated above. It should be noted that CWM has already initiated the portion of construction for the scales and scalehouse project which impacts the man-made ditches based on verbal direction from the ACOE. All other wetlands and ditches have not yet been impacted.

If you have any questions or comments, please call Mr. John B. Hino at (716) 754-0278 or myself at (716) 754-0246.

Mr. Gary McDannell
U.S. Army Corps of Engineers
Mr. Steven Doleski
NYSDEC

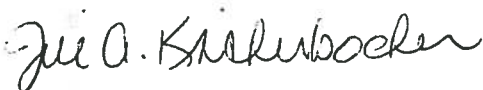
November 18, 2003

Re: Section 404 Permit Application/Section 401 Water Quality Certification
Facility Upgrade Projects

Page - 3 -

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with 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."

Sincerely,
CWM CHEMICAL SERVICES, LLC



Jill A. Knickerbocker
Technical Manager
Model City Facility

JBH/JAK/jbh
Attachment

cc:	J. Dietz	- NYSDEC/Region 9	- W/O Attachment
	J. Strickland	- NYSDEC/Region 9	- W/O Attachment
	B. Rostami	- NYSDEC/Region 9	- W/Attachment
	E. Dassatti	- NYSDEC/Albany, NY	- W/Attachment
	J. Sacco	- NYSDEC/On-site Monitor	- W/O Attachment
	J. Reidy	- USEPA/Region II	- W/O Attachment
	J. Devald	- NCHD/Lockport, NY	- W/O Attachment
	R. Sturges	- CWM/Model City, NY	- W/O Attachment
	J. Hino	- CWM/Model City, NY	- W/Attachment
	S. Rydzyk	- CWM/Model City, NY	- W/O Attachment
	J. Hecklau	- EDR/Syracuse, NY	- W/O Attachment
	EMD Subject File		
	Q & A		



CWM CHEMICAL SERVICES, LLC

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

July 6, 2009

Mr. Harold Keppner
U.S. Army Corps of Engineers
1776 Niagara Street
Buffalo, New York 14207-3199

Re: Request for Jurisdictional Determination

Dear Mr. Keppner:

On May 15, 2003, CWM Chemical Services, LLC, Model City Facility (CWM) submitted a wetlands delineation report to the U. S. Army Corps of Engineers, Buffalo District (Corps), for potential impacts associated with future construction of a new landfill, designated Residuals Management Unit No. 2 (RMU-2). At that time CWM also submitted a 6NYCRR Part 373 Permit Application to the New York State Department of Environmental Conservation (NYSDEC) which is still pending. Due to the anticipated timing of the NYSDEC review and subsequent projected construction schedule, the Corps temporarily suspended processing of the wetlands evaluation.

CWM has hired Environmental Design & Research, P.C. (EDR) to update the wetlands delineation to determine potential impacts to State and Federal wetlands associated with the RMU-2 project. The attached report entitled "Wetland Delineation Report, RMU-2 Landfill Expansion Area", dated June 2009, prepared by EDR, contains the results of this wetlands evaluation. The attached report replaces the 2003 report in its entirety. RMU-2 and associated project areas are situated within previously developed locations of the CWM Model City Facility. EDR has determined that there are no NYSDEC regulated wetlands associated with any of these project areas. The potential for impacts to Federally regulated wetlands consists of three man-made wastewater treatment ponds, man-made roadside ditches used for stormwater management and isolated pockets with minimal wetland function. As such, it is likely that there will be only minor impact to any jurisdictional Waters of the U. S.

CWM is anticipating that the NYSDEC review of the Part 373 Permit Application will be progressing over the next several months. Therefore, a resumption of the wetlands evaluation is appropriate at this time. CWM would greatly appreciate an expeditious review of the attached wetlands delineation report and issuance of a jurisdictional determination. CWM welcomes the opportunity to meet with the Corps and tour all of the project areas at your earliest convenience in order to facilitate the Corps' jurisdictional determination.

Please call Mr. John B. Hino at (716) 286-0278 or myself at (716) 286-0246 to schedule a site visit and if you have any questions or comments.

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with 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."

From everyday collection to environmental protection, Think Green® Think Waste Management.

Mr. Harold Keppner
U.S. Army Corps of Engineers
July 6, 2009
Re: Request for Jurisdictional Determination

Page - 2 -

Sincerely,
CWM CHEMICAL SERVICES, LLC



Jill A. Banaszak
Technical Manager
Model City Facility

JBH/JAB/jbh
Attachment

cc:	S. Doleski	- NYSDEC/Region 9	- W/O Attachment
	J. Dietz	- NYSDEC/Region 9	- W/O Attachment
	J. Strickland	- NYSDEC/Region 9	- W/O Attachment
	B. Rostami	- NYSDEC/Region 9	- W/Attachment
	R. Phaneuf	- NYSDEC/Albany, NY	- W/O Attachment
	M. Mortefolio	- NYSDEC/Albany, NY	- W/Attachment
	P. Kutlina	- NYSDEC/On-site Monitor	- W/Attachment
	J. Reidy	- USEPA/Region II	- W/O Attachment
	J. Devald	- NCHD/Lockport, NY	- W/Attachment
	M. Mahar	- CWM/Model City, NY	- W/O Attachment
	R. Zayatz	- CWM/Model City, NY	- W/O Attachment
	J. Hino	- CWM/Model City, NY	- W/Attachment
	S. Rydzyk	- CWM/Model City, NY	- W/O Attachment
	J. Hecklau	- EDR/Syracuse, NY	- W/O Attachment
	EMD Subject File		
	Q & A		



CWM CHEMICAL SERVICES, LLC

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

April 29, 2011

Ms. Kathleen Buckler
U.S. Army Corps of Engineers
1776 Niagara Street
Buffalo, New York 14207-3199

Re: Supplemental Request for Jurisdictional Determination

Dear Ms. Buckler:

On July 6, 2009, CWM Chemical Services, LLC, Model City Facility (CWM) submitted a wetlands delineation report to the U. S. Army Corps of Engineers, Buffalo District (Corps), for potential impacts associated with future construction of a new landfill, designated Residuals Management Unit No. 2 (RMU-2). The delineation report was submitted by CWM in anticipation of submittal of a revised 6NYCRR Part 373 Permit Application to the New York State Department of Environmental Conservation (NYSDEC), which was submitted on November 19, 2009. Based on the design submitted with the Part 373 Permit Application, an area proposed for development of RMU-2 was not previously delineated for wetlands in 2009.

CWM hired Environmental Design & Research, P.C. (EDR) to provide a supplemental wetlands delineation to determine potential impacts to wetlands associated with the RMU-2 project in the area that was not previously delineated. The attached is a supplement to the report entitled "Wetland Delineation Report, RMU-2 Landfill Expansion Area", dated June 2009, prepared by EDR, and contains the results of the supplemental wetlands evaluation. The attached supplemental report should be reviewed in conjunction with the June 2009 report.

CWM is anticipating that the NYSDEC review of the Part 373 Permit Application will be progressing over the next several months. Therefore, the wetlands evaluation is appropriate at this time. CWM would greatly appreciate an expeditious review of the wetlands delineation reports and issuance of a jurisdictional determination. CWM welcomes the opportunity to meet with the Corps and tour all of the project areas at your earliest convenience in order to facilitate the Corps' jurisdictional determination.

Please call Mr. Jonathan Rizzo at (716) 286-0354 or myself at (716) 286-0246 to schedule a site visit and if you have any questions or comments.

"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."

From everyday collection to environmental protection, Think Green® Think Waste Management.

Ms. Kathleen Buckler
U.S. Army Corps of Engineers
April 29, 2011
Re: Supplemental Request for Jurisdictional Determination

Page - 2 -

Sincerely,
CWM CHEMICAL SERVICES, LLC



Jill A. Banaszak
Technical Manager
Model City Facility

JPR/JAB/jpr
Attachment

cc:	D. Denk	- NYSDEC/Region 9
	D. Weiss	- NYSDEC/Region 9
	B. Rostami	- NYSDEC/Region 9
	M. Cruden	- NYSDEC/Albany, NY
	T. Killeen	- NYSDEC/Albany, NY
	M. Mortefolio	- NYSDEC/Albany, NY
	H. Dudek	- NYSDEC/Albany, NY
	G. Burke	- NYSDEC/Albany, NY
	On-site Monitors	- NYSDEC/ Model City, NY
	C. Stein	- USEPA/Region II
	J. Devald	- NCHD/Lockport, NY
	M. Mahar	- CWM/Model City, NY
	R. Zayatz	- CWM/Model City, NY
	J. Hino	- CWM/Model City, NY
	S. Rydzyk	- CWM/Model City, NY
	J. Hecklau	- EDR/Syracuse, NY
	EMD Subject File	
	Q & A	



DEPARTMENT OF THE ARMY
BUFFALO DISTRICT, CORPS OF ENGINEERS
1776 NIAGARA STREET
BUFFALO, NEW YORK 14207-3199

September 13, 2011

RECEIVED
SEP 14 2011

REPLY TO

Regulatory Branch

EDR

SUBJECT: Department of the Army Application No. 2000-01534

Mr. James Pippin
Environmental Design & Research
274 North Goodman Street
Rochester, NY 14607

Dear Mr. Pippin:

This pertains to your proposal, on behalf of CWM Chemical Services, to potentially develop approximately 64 acres of land adjacent to Fourmile Creek, located on the CWM Model City facility, in the Town of Porter, Niagara County, New York.

Section 404 of the Clean Water Act establishes Corps of Engineers jurisdiction over the discharge of dredged or fill material into waters of the United States, including wetlands, as defined in 33 CFR Part 328.3.

I am hereby verifying the Federal wetland boundary as shown on the attached wetland delineation map dated June 2009. This verification was confirmed on November 17, 2010 and April 29, 2011 and will remain valid for a period of five (5) years from the date of this correspondence unless new information warrants revision of the delineation before the expiration. At the end of this period, a new wetland delineation will be required if a project has not been completed on this property and additional impacts are proposed for waters of the United States. Further, this delineation/determination has been conducted to identify the limits of the Corps Clean Water Act jurisdiction for the particular site identified in this request. This delineation/determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985, as amended. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resource Conservation Service prior to starting work.

Based upon my review of the submitted delineation and on-site observations, I have determined that wetland areas A, B, C, D, G, H, I, J, K, KX, M, N, and O on the subject parcel are part of a surface water tributary system to a navigable water of the United States as noted on the attached Jurisdictional Determination form. Therefore, the wetlands are regulated under Section 404 of the Clean Water Act. Department of the Army authorization is required if you propose a discharge of dredged or fill material in these areas.

In addition, I have determined that there is no clear surface water connection or ecological continuum between **wetland areas L, P, and Q** on the parcel and a surface tributary system to a navigable water of the United States. Therefore, these waters are considered isolated, non-navigable, intrastate waters and not regulated under Section 404 of the Clean Water

Act. Accordingly, you do not need Department of the Army authorization to commence work in these areas.

I encourage you to contact the appropriate state and local governmental officials to ensure that the proposed work complies with their requirements.

Finally, this letter contains an approved jurisdictional determination for the subject parcel. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form. If you request to appeal the above determination, you must submit a completed RFA form within 60 days of the date on this letter to the Great Lakes/Ohio River Division Office at the following address:

Ms. Pauline Thorndike
Review Officer
Great Lakes and Ohio River Division
CELRD-PDS-O
550 Main Street, Room 10032
Cincinnati, OH 45202-3222
Phone: 513-684-6212

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 C.F.R. part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by **November 14, 2011**.

It is not necessary to submit an RFA to the Division office if you do not object to the determination in this letter.

A copy of this correspondence without enclosures has been forwarded to Mr. Jonathan Rizzo – CWM permitting manager.

Questions pertaining to this matter should be directed to me by calling (716) 879-4303, by writing to the following address: U.S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207, or by e-mail at: kathleen.a.buckler@usace.army.mil

Sincerely,



Kathleen Buckler
Biologist

Enclosures



October 15, 2012

Mr. Charles Rosenberg
New York State Department of
Environmental Conservation
Region 9
270 Michigan Avenue
Buffalo, New York 14203-2999

CWM CHEMICAL SERVICES, LLC

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

Re: Request for Letter of Non-Jurisdiction

Dear Mr. Rosenberg:

On July 6, 2009, CWM Chemical Services, LLC, Model City Facility (CWM) submitted a wetlands delineation report prepared by Environmental Design & Research, P.C. (EDR) to the U. S. Army Corps of Engineers, Buffalo District (Corps), for potential impacts associated with future construction of a new landfill, designated Residuals Management Unit No. 2 (RMU-2). The delineation report entitled "Wetland Delineation Report, RMU-2 Landfill Expansion Area", dated June 2009 was submitted by CWM in anticipation of submittal of a revised 6NYCRR Part 373 Permit Application to the New York State Department of Environmental Conservation (NYSDEC), which was submitted on November 19, 2009.

On April 29, 2011, CWM submitted a supplemental wetlands delineation to determine potential impacts to wetlands associated with the RMU-2 project in an area that was not previously delineated. As indicated in the wetland delineation report and supplemental report for RMU-2, no NYSDEC regulated wetlands are located within the project area. Additionally, the project area is not located within a 100-foot adjacent area to any NYSDEC regulated wetland.

On September 13, 2011, the Corps issued a notice of jurisdictional determination indicating that there are wetlands in the project area that are regulated under Section 404 of the Clean Water Act. CWM is currently preparing a Section 401 and 404 Joint Application which will include a draft mitigation plan for submittal to the Corps and the NYSDEC for federally regulated wetlands within the project area.

Subsequently, on August 29, 2012, CWM received comments from the NYSDEC via email pertaining to the Draft Environmental Impact Statement (DEIS) for the RMU-2 project. The DEIS, dated April 2003 (revised August 2009 and March 2012), was submitted in accordance with 6 NYCRR Part 617 regulations. The August 29, 2012 NYSDEC email contained the following comment pertaining to wetlands: *".....the lack of state jurisdiction should be confirmed and a letter of non-jurisdiction from NYSDEC should be requested and obtained."* By this letter, CWM is requesting a letter of non-jurisdiction from the NYSDEC. The NYSDEC, both Region 9 and Central Office, were previously provided copies of the report entitled "Wetland Delineation Report, RMU-2 Landfill Expansion Area", dated June 2009 and the supplemental wetlands evaluation report, dated April 2011, prepared by EDR.

Mr. Charles Rosenberg
NYSDEC
October 15, 2012
Re: Request for Letter of Non-Jurisdiction

Page - 2 -

CWM would greatly appreciate an expeditious review of the wetlands delineation reports and issuance of a non-jurisdictional determination. CWM welcomes the opportunity to discuss this matter with a NYSDEC wetlands specialist and/or tour the project areas at your earliest convenience in order to facilitate the NYSDEC non-jurisdictional determination.

Please call Mr. Jonathan Rizzo at (716) 286-0354 or myself at (716) 286-0246 to schedule a site visit and if you have any questions or comments.

"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
Attachment

cc:	D. Denk	- NYSDEC/Region 9
	D. Weiss	- NYSDEC/Region 9
	B. Rostami	- NYSDEC/Region 9
	M. Cruden	- NYSDEC/Albany, NY
	T. Killeen	- NYSDEC/Albany, NY
	M. Mortefolio	- NYSDEC/Albany, NY
	G. Burke	- NYSDEC/Albany, NY
	On-site Monitors	- NYSDEC/ Model City, NY
	P. Flax	- USEPA/Region II
	J. Devald	- NCHD/Lockport, NY
	M. Mahar	- CWM/Model City, NY
	R. Zayatz	- CWM/Model City, NY
	S. Rydzyk	- CWM/Model City, NY
	J. Hecklau	- EDR/Syracuse, NY
	EMD Subject File	
	Q & A	



November 7, 2012

Mr. Charles Rosenberg
New York State Department of
Environmental Conservation
Region 9
270 Michigan Avenue
Buffalo, New York 14203-2999

CWM CHEMICAL SERVICES, LLC

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

Re: Supplemental Delineation Proposed Drum Management Building Area

Dear Mr. Rosenberg:

On October 15, 2012, CWM Chemical Services, LLC, Model City Facility (CWM) submitted a request for a determination of non-jurisdiction for potential impacts associated with future construction of a new landfill, designated Residuals Management Unit No. 2 (RMU-2).

During the design process for the new Drum Management Building Environmental Design & Research, P.C. (EDR) performed a supplemental wetlands delineation in the area. Attached please find a Supplemental Wetland Delineation Report prepared by EDR, dated July 21, 2012 to assist you with your determination.

Please call Mr. Jonathan Rizzo at (716) 286-0354 or myself at (716) 286-0246 if you have any questions or comments.

"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

A handwritten signature in black ink, appearing to read 'Jill A. Banaszak'.

Jill A. Banaszak
Technical Manager
Model City Facility

JPR/JAB/jpr
Attachment

Mr. Charles Rosenberg

NYSDEC

November 7, 2012

Re: Supplemental Delineation Proposed Drum Management Building Area

Page - 2 -

cc:	D. Denk	- NYSDEC/Region 9
	D. Weiss	- NYSDEC/Region 9
	B. Rostami	- NYSDEC/Region 9
	M. Cruden	- NYSDEC/Albany, NY
	T. Killeen	- NYSDEC/Albany, NY
	M. Mortefolio	- NYSDEC/Albany, NY
	G. Burke	- NYSDEC/Albany, NY
	On-site Monitors	- NYSDEC/ Model City, NY
	P. Flax	- USEPA/Region II
	J. Devald	- NCHD/Lockport, NY
	K. Buckler	- USACE/Buffalo, NY
	M. Mahar	- CWM/Model City, NY
	R. Zayatz	- CWM/Model City, NY
	S. Rydzyk	- CWM/Model City, NY
	J. Hecklau	- EDR/Syracuse, NY
	EMD Subject File	
	Q & A	



November 7, 2012

Ms. Kathleen Buckler
U.S. Army Corps of Engineers
1776 Niagara Street
Buffalo, New York 14207-3199

CWM CHEMICAL SERVICES, LLC

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

Re: Supplemental Wetland Delineation

Dear Ms. Buckler:

On July 6, 2009, CWM Chemical Services, LLC, Model City Facility (CWM) submitted a wetlands delineation report prepared by Environmental Design & Research, P.C. (EDR) to the U. S. Army Corps of Engineers, Buffalo District (Corps), for potential impacts associated with future construction of a new landfill, designated Residuals Management Unit No. 2 (RMU-2). The delineation report entitled "Wetland Delineation Report, RMU-2 Landfill Expansion Area", dated June 2009 was submitted by CWM in anticipation of submittal of a revised 6NYCRR Part 373 Permit Application to the New York State Department of Environmental Conservation (NYSDEC), which was submitted on November 19, 2009.

On April 29, 2011, CWM submitted a supplemental wetlands delineation to determine potential impacts to wetlands associated with the RMU-2 project in an area that was not previously delineated. On September 13, 2011, the Corps issued a notice of jurisdictional determination indicating that there are wetlands in the project area that are regulated under Section 404 of the Clean Water Act. CWM is currently preparing a Section 401 and 404 Joint Application which will include a draft mitigation plan for submittal to the Corps and the NYSDEC for federally regulated wetlands within the project area.

Subsequent to the Corps jurisdictional determination CWM continued with the preparation of the design for RMU-2 and a proposed new Drum Management Building. During the continuing preparation of the design, CWM identified a small portion of an intermittent drainage channel (Wetland M in Project Area 4) that was not included in the Corps September 13, 2011 jurisdictional determination. Additionally, the area of disturbance of the new Drum Management Building (Project Area 1) may be larger than shown on the June 2009 Wetland Delineation Report. Therefore, a supplemental wetlands delineation was performed by EDR in July 2012 to include the additional drainage channel (Wetland M) and a forested area north of the proposed new Drum Management Building location.

CWM anticipates that the additional drainage channel (Wetland M) will be within the area of disturbance for development of RMU-2. CWM also anticipates that the area of disturbance for the new Drum Management Building will be within the open field area of Project Area 1 and will not impact the forested wetlands identified to the north of the development area.

Attached please find a Supplemental Wetland Delineation Report for federal wetland M and the new Drum Management Building area for your review. Please advise CWM if the Corps will

Ms. Kathleen Buckler
U.S. Army Corps of Engineers
November 7, 2012
Re: Supplemental Wetland Delineation

Page - 2 -

require further information.

Please call Mr. Jonathan Rizzo at (716) 286-0354 or myself at (716) 286-0246 if you have any questions or comments.

"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
Attachment

cc:	D. Denk	- NYSDEC/Region 9
	D. Weiss	- NYSDEC/Region 9
	B. Rostami	- NYSDEC/Region 9
	M. Cruden	- NYSDEC/Albany, NY
	T. Killeen	- NYSDEC/Albany, NY
	M. Mortefolio	- NYSDEC/Albany, NY
	G. Burke	- NYSDEC/Albany, NY
	On-site Monitors	- NYSDEC/ Model City, NY
	P. Flax	- USEPA/Region II
	J. Devald	- NCHD/Lockport, NY
	M. Mahar	- CWM/Model City, NY
	R. Zayat	- CWM/Model City, NY
	S. Rydzyk	- CWM/Model City, NY
	J. Hecklau	- EDR/Syracuse, NY
	EMD Subject File	
	Q & A	

New York State Department of Environmental Conservation**Division of Fish, Wildlife and Marine Resources, Region 9**

270 Michigan Avenue, Buffalo, New York, 14203-2915

Phone: (716) 851-7010 • FAX: (716) 851-7053

Website: www.dec.ny.govJoe Martens
Commissioner

November 28, 2012

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Mr. Jonathan P. Rizzo, Permitting Manager
Waste Management
1550 Balmer Road
Model City, New York 14107

Dear Mr. Rizzo:

**Wetland RV-8
Boundary Delineation
Town of Porter, Niagara County**

This letter serves as notification that I verified the wetland delineation conducted by EDR Companies (EDR) of Wetland RV-8 within the proposed Chemical Waste Management landfill expansion area, parcel 61.00-2-1, on November 6, 2012. The wetland boundary is identified with pink plastic flagging consecutively numbered DRUM 1 through DRUM 33 and C1 through C5 as shown on EDR's Figure 8 "Revised Delineated Wetlands", as well as the enclosed map. Please note that Wetland C has a direct connection to the main body of Wetland RV-8 and is therefore state jurisdictional but Wetlands A, B, and D are not state jurisdictional. Also, please beware that wetland boundaries may change over time and this map does not fix the wetland boundary indefinitely.

If you would like to document the precise boundary of the wetland relative to your property boundary, it is your responsibility to have the wetland boundary surveyed. If you choose to complete a survey, the wetland boundary survey map should be submitted to me for verification. A copy of this Department's Requirements for Wetland Survey and Mapping is enclosed. Please note that a surveyed wetland boundary that has been verified by this Department will be considered valid for five years.

In 1975, the New York State Legislature passed the Freshwater Wetlands Act to preserve and protect wetlands and their functions, such as flood protection and fish and wildlife habitat. The New York State Department of Environmental Conservation is required to map all wetlands protected by this law, and to make those maps available for inspection in all local government clerks' offices. Certain activities within the wetland or its regulated 100-foot adjacent area require a permit from this Department, including but not limited to filling, clearing vegetation, draining, and construction. Contact our Division of Environmental Permits for information regarding permit requirements at:

New York State Department of Environmental Conservation
Division of Environmental Permits
270 Michigan Avenue
Buffalo, New York 14203-2915
Telephone: (716) 851-7165

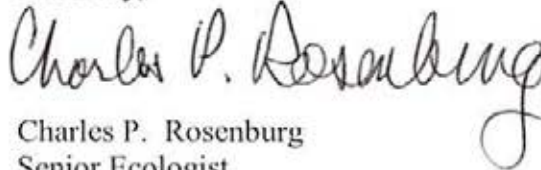
Please be advised that this Department plans to amend the Freshwater Wetlands Map for Niagara County to better illustrate the boundary of Wetland RV-8 based on this wetland delineation. We will publish notice of the proposed amendment in the Department's Environmental Notice Bulletin and in two local newspapers on a later date. In addition, all affected landowners will be notified by certified mail. Affected landowners, local government officials, and other interested parties may comment to this Department on the proposed map amendment now or at the time of the published notices.

In addition, the U.S. Army Corps of Engineers may also have wetland jurisdiction irrespective of the Department of Environmental Conservation. For more information, you may contact the Corps at:

United States Army Corps of Engineers Regulatory Branch
1776 Niagara Street
Buffalo, New York 14207
Telephone: (716) 879-4330

If you have any questions about this wetland delineation, please feel free to call me in the Buffalo office at (716) 851-7010.

Sincerely,



Charles P. Rosenberg
Senior Ecologist
Region 9

CPR/jmm

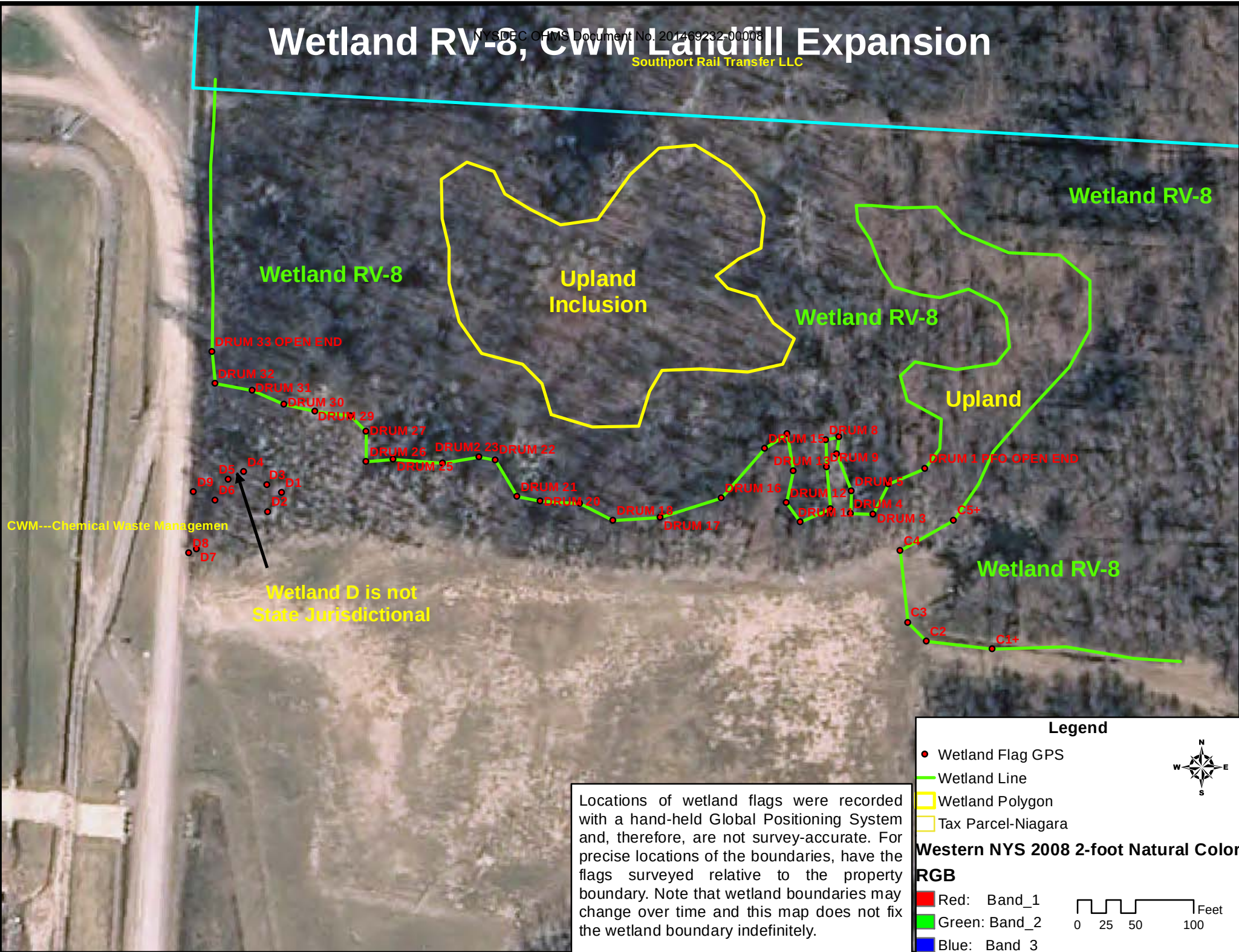
Enclosures: Wetland RV-8 Delineation Map, NYSDEC Region 9 Survey Requirements

cc: Mr. Mark Kandel, NYSDEC, Regional Wildlife Manager
Lt. James R Schultz, NYSDEC Division of Law Enforcement
Mr. Jim Pippin, EDR Companies
Porter Town Clerk
Porter Town Supervisor
Niagara County Clerk
Niagara County Executive
Wetland RV-8 file

Wetland RV-8, CWM Landfill Expansion

NYS DEC OHMS Document No. 201469232-00008

Southport Rail Transfer LLC



New York State Department of Environmental Conservation
Division of Fish, Wildlife and Marine Resources, Region 9
270 Michigan Avenue, Buffalo, New York, 14203-2915
Phone: (716) 851-7010 • FAX: (716) 851-7053
Website: www.dec.ny.gov



February 4, 2013

Mr. Jonathan P. Rizzo, Permitting Manager
Waste Management
1550 Balmer Road
Model City, New York 14107

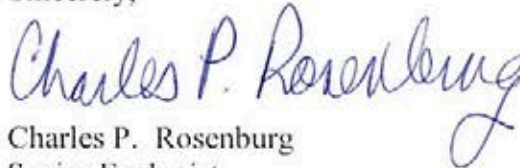
Dear Mr. Rizzo:

Freshwater Wetlands Jurisdiction
CWM Residuals Management Unit No. 2
Town of Porter, Niagara County

This letter serves as a supplement to the November 28, 2012 letter I sent to you regarding delineation of the Freshwater Wetland RV-8 boundary within the CWM Residuals Management Unit No. 2 (RMU-2). That letter did not specifically address New York State Department of Environmental Conservation (NYSDEC) freshwater wetlands jurisdiction elsewhere within the RMU-2. Please note that I concur with EDR's assessment that there are no other areas of NYSDEC freshwater wetlands jurisdiction within the RMU-2 development area.

If you have any additional questions about NYSDEC freshwater wetlands jurisdiction, please feel free to call me in the Buffalo office at (716) 851-7010.

Sincerely,



Charles P. Rosenberg
Senior Ecologist
Region 9

CPR/jmm

cc: Ms. Lisa Porter, NYSDEC Division of Environmental Permits
Mr. Jim Pippin, EDR Companies
Wetland RV-8 file



June 28, 2012

Jean Pietrusiak
New York Natural Heritage Program
625 Broadway, 5th Floor
Albany, NY 12233-4757

**RE: CMW RMU-2 Facility and Mitigation Area
edr Project No. 09022**

Dear Ms. Pietrusiak:

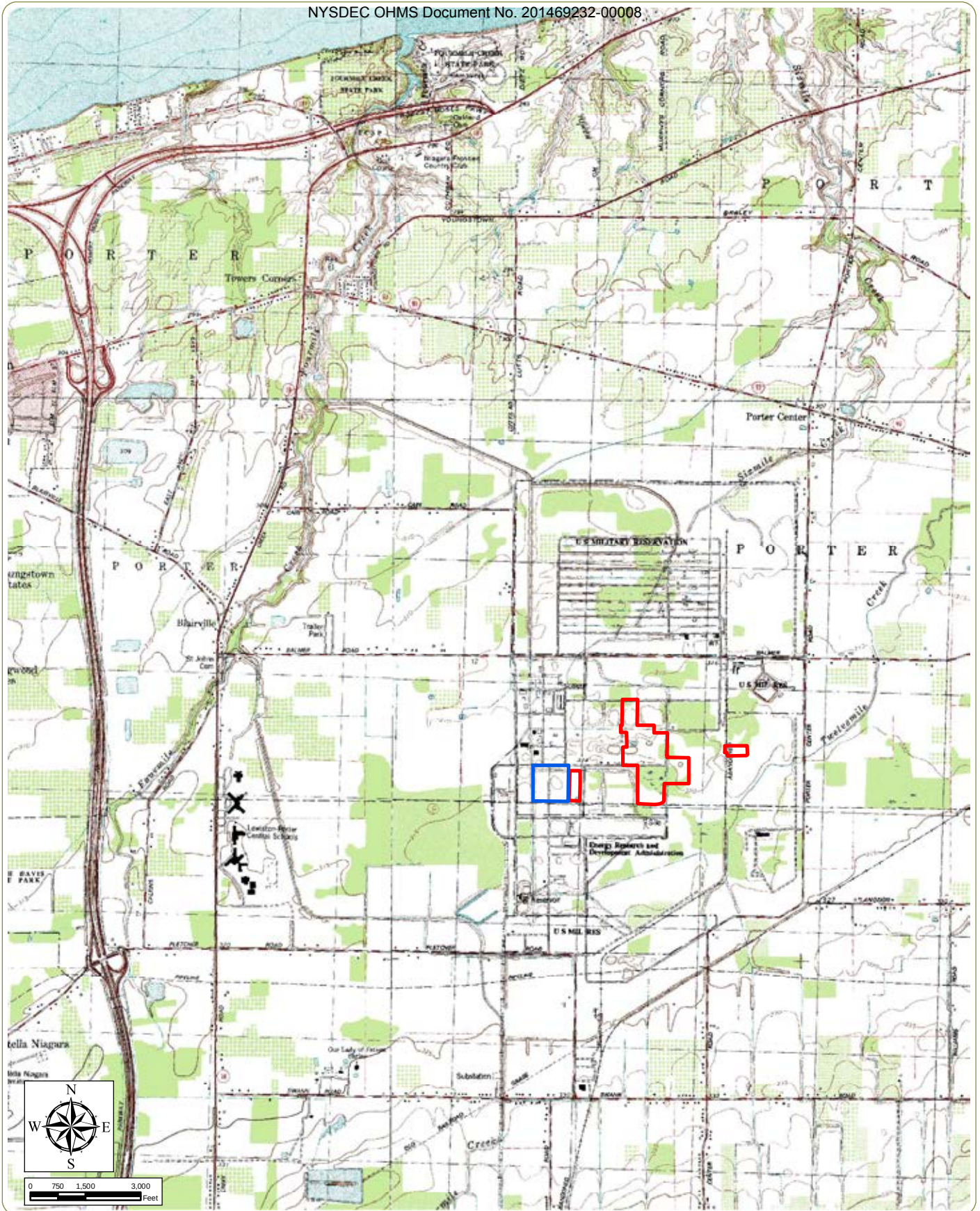
edr Companies is compiling environmental information for a proposed expansion of the existing CWM Model City Hazardous Waste Management Facility and associated wetland mitigation area, located in the Town of Porter, Niagara County, New York. The Project area is located within the Ransomville USGS 1:24,000 quadrangle (see attached project location map). Please accept this request for any information you may have concerning documented endangered and threatened wildlife and/or plant species and/or important ecological communities that may occur in or adjacent to the site.

If you have any questions regarding this data request or require additional project information, please do not hesitate to contact me at 315-471-0688. Thank you in advance for your attention to this request. We look forward to receiving your response.

Sincerely,

A handwritten signature in black ink that reads 'Lisa Young'.

Lisa Young
Senior Environmental Analyst



Residuals Management Unit 2

Town of Porter, Niagara County

Project Location

June 2012

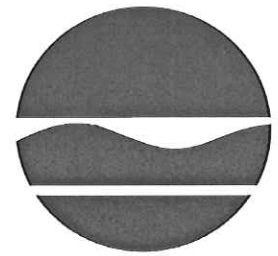
Notes: Base Map: 1 ft resolution natural color orthophotography, year 2011.

 Proposed Mitigation Site

 Proposed RMU-2 Site

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**Division of Fish, Wildlife & Marine Resources**625 Broadway, 5th Floor, Albany, New York 12233-4757

Phone: (518) 402-8935 • Fax: (518) 402-8925

Website: www.dec.ny.govJoe Martens
Commissioner

July 3, 2012

EDR

JUL 09 2012

RECEIVED

Lisa Young
E D R Companies
217 Montgomery St, Suite 1000
Syracuse, NY 13202

Dear Ms. Young:

In response to your recent request, we have reviewed the New York Natural Heritage Program database, with respect to an Environmental Assessment for the proposed Hazardous Waste Management Facility expansion of existing CWM Motel City Facility, Project # 090 22, area as indicated on the map you provided, located in the Town of Porter, Niagara County.

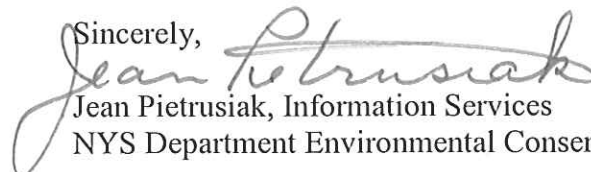
We have no records of rare or state listed animals or plants, significant natural communities or other significant habitats, on or in the immediate vicinity of your sites.

The absence of data does not necessarily mean that rare or state-listed species, natural communities or other significant habitats do not exist on or adjacent to the proposed site. Rather, our files currently do not contain information which indicates their presence. For most sites, comprehensive field surveys have not been conducted. We cannot provide a definitive statement on the presence or absence of all rare or state-listed species or significant natural communities. This information should not be substituted for on-site surveys that may be required for environmental assessment.

Our databases are continually growing as records are added and updated. If this proposed project is still under development one year from now, we recommend that you contact us again so that we may update this response with the most current information.

This response applies only to known occurrences of rare or state-listed animals and plants, significant natural communities and other significant habitats maintained in the Natural Heritage Data bases. Your project may require additional review or permits; for information regarding other permits that may be required under state law for regulated areas or activities (e.g., regulated wetlands), please contact the appropriate NYS DEC Regional Office, Division of Environmental Permits, as listed at www.dec.ny.gov/about/39381.html.

Sincerely,

Jean Pietrusiak, Information Services
NYS Department Environmental Conservation

Enc.

cc: Reg 9, Wildlife Mgr.

642

Niagara County

Federally Listed Endangered and Threatened Species and Candidate Species

This list represents the best available information regarding known or likely County occurrences of Federally-listed and candidate species and is subject to change as new information becomes available.

<u>Common Name</u>	<u>Scientific Name</u>	<u>Status</u>
Bald eagle ¹	<i>Haliaeetus leucocephalus</i>	D
Eastern prairie fringed orchid (<i>Historic</i>)	<i>Platanthera leucophaea</i>	T

Status Codes: E=Endangered, T=Threatened, P=Proposed, C=Candidate, D=Delisted.

¹ The bald eagle was delisted on August 8, 2007. While there are no ESA requirements for bald eagles after this date, the eagles continue to receive protection under the Bald and Golden Eagle Protection Act (BGEPA). Please follow the Service's May 2007 Bald Eagle Management Guidelines to determine whether you can avoid impacts under the BGEPA for your projects. If you have any questions, please contact the endangered species branch in our office.

Information current as of: 7/19/2012

Print Species List



Mr. Robert Englert
New York State Office of Parks, Recreation and Historic Preservation
Historic Preservation Field Services Bureau
Peebles Island Resource Center
PO Box 189
Waterford, New York 12188-0189

Subject:

CWM Chemical Services, LLC.
Proposed RMU-2 Expansion
Model City, New York

Dear Mr. Englert:

Please find attached the completed *Project Review Cover Form* submittal necessary for the New York State Office of Parks, Recreation and Historic Preservation, Historic Preservation Field Services Bureau to initiate a review of potential historic and/or cultural impacts as the result of the proposed Residuals Management Unit 2 (RMU-2) expansion at the CWM Chemical Services, LLC. (CWM) facility located in Model City, Niagara County, New York.

Included with the completed form are maps and figures that show the geographic location of the existing Model City Facility and the proposed location of the RMU-2 expansion within the facility as Attachment 1. Attachment 2 provides photographs showing the proposed locations of the RMU-2 expansion and associated support facilities. Attachment 3 provides applicable sections of the RMU-2 *Draft Environmental Impact Statement* (DEIS) (prepared by ARCADIS, 2003 – revised 2009 and 2012) that was recently submitted to applicable agencies as part of the application process for the proposed action. The DEIS sections provided details on the physical setting of the proposed action within the Model City Facility and provides an overview of the planned activities associated with the proposed action.

To support the application process, ARCADIS, on behalf of CWM, requests the Historic Preservation Field Services Bureau perform an assessment of the proposed action and provide a determination on the potential historic and/or cultural resources impacts resulting from the proposed action.

Imagine the result

ARCADIS
295 Woodcliff Drive
Third Floor
Suite 301
Fairport
New York 14450
Tel 585 385 0090
Fax 585 385 4198
www.arcadis-us.com

Date:
June 22, 2012

Contact:
Todd J. Farnen

Phone:
585.662.4028

Email:
todd.farnen@arcadis-us.com

Our ref:
B0023725.2011



Mr. Robert Englert
June 22, 2012

If you have any questions regarding the information included with this application or require any additional information, please call me at 585.662.4028.

Sincerely,

ARCADIS

A handwritten signature in black ink, appearing to read "Todd Farmen".

Todd Farmen
Project Manager

Copies:

Mr. Jonathan Rizzo, CWM Chemical Services, LLC.

Mr. William B. Popham, ARCADIS

Mr. Joseph Molina III, P.E., ARCADIS



NYSDEC OHMS Document No. 201469232-00008

New York State Office of Parks, Recreation and Historic Preservation

Historic Preservation Field Services Bureau

Peebles Island Resource Center, PO Box 189, Waterford, NY 12188-0189 (Mail)
Delaware Avenue, Cohoes 12047 (Delivery)

(518) 237-8643

PROJECT REVIEW COVER FORM

Rev. 5-05

Please complete this form and attach it to the top of **any and all information submitted to this office** for review.
Accurate and complete forms will assist this office in the timely processing and response to your request.

This information relates to a previously submitted project.

PROJECT NUMBER _____ PR _____

COUNTY _____

☐

If you have checked this box and noted the previous Project Review (PR) number assigned by this office you do not need to continue unless any of the required information below has changed.

2. This is a new project.

☐

If you have checked this box you will need to complete ALL of the following information.

Project Name _____

Location _____

You MUST include street number, street name and/or County, State or Interstate route number if applicable

City/Town/Village _____

List the correct municipality in which your project is being undertaken. If in a hamlet you must also provide the name of the town.

County _____

If your undertaking* covers multiple communities/counties please attach a list defining all municipalities/counties included.

TYPE OF REVIEW REQUIRED/REQUESTED (Please answer both questions)

A. Does this action involve a permit approval or funding, now or ultimately from any other governmental agency?

☐

No

☐

Yes

If Yes, list agency name(s) and permit(s)/approval(s)

Agency involved	Type of permit/approval	State	Federal
_____	_____	☐	☐
_____	_____	☐	☐
_____	_____	☐	☐

B. Have you consulted the NYSHPO web site at ****<http://nysparks.state.ny.us>** to determine the preliminary presence or absence of previously identified cultural resources within or adjacent to the project area? If yes:

☐

Yes

☐

No

☐

Yes

☐

No

☐

Yes

☐

No

Does the project site involve or is it substantially contiguous to a property listed or recommended for listing in the NY State or National Registers of Historic Places?

CONTACT PERSON FOR PROJECT

Name _____ Title _____

Firm/Agency _____

Address _____ City _____ STATE _____ Zip _____

Phone (____) _____ Fax (____) _____ E-Mail _____

****<http://nysparks.state.ny.us>** then select **HISTORIC PRESERVATION** then select **On Line Resources**

The Historic Preservation Review Process in New York State

In order to insure that historic preservation is carefully considered in publicly-funded or permitted undertakings*, there are laws at each level of government that require projects to be reviewed for their potential impact/effect on historic properties. At the federal level, Section 106 of the National Historic Preservation Act of 1966 (NHPA) directs the review of federally funded, licensed or permitted projects. At the state level, Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law of 1980 performs a comparable function. Local environmental review for municipalities is carried out under the State Environmental Quality Review Act (SEQRA) of 1978.

regulations on line at:

<http://nysparks.state.ny.us> then select **HISTORIC PRESERVATION** then select **Environmental Review**

Project review is conducted in two stages. First, the Field Services Bureau assesses affected properties to determine whether or not they are listed or eligible for listing in the New York State or National Registers of Historic Places. If so, it is deemed "historic" and worthy of protection and the second stage of review is undertaken. The project is reviewed to evaluate its impact on the properties significant materials and character. Where adverse effects are identified, alternatives are explored to avoid, or reduce project impacts; where this is unsuccessful, mitigation measures are developed and formal agreement documents are prepared stipulating these measures.

ALL PROJECTS SUBMITTED FOR REVIEW SHOULD INCLUDE THE FOLLOWING MATERIAL(S).



Project Description

Attach a full description of the nature and extent of the work to be undertaken as part of this project. Relevant portions of the project applications or environmental statements may be submitted.



Maps Locating Project

Include a map locating the project in the community. The map must clearly show street and road names surrounding the project area as well as the location of all portions of the project. Appropriate maps include tax maps, Sanborn Insurance maps, and/or USGS quadrangle maps.



Photographs

Photographs may be black and white prints, color prints, or color laser/photo copies; standard (black and white) photocopies are NOT acceptable.

-If the project involves rehabilitation, include photographs of the building(s) involved. Label each exterior view to a site map and label all interior views.

-If the project involves new construction, include photographs of the surrounding area looking out from the project site. Include photographs of any buildings (more than 50 years old) that are located on the project property or on adjoining property.

NOTE: Projects submissions will not be accepted via facsimile or e-mail.

***Undertaking** is defined as an agency's purchase, lease or sale of a property, assistance through grants, loans or guarantees, issuing of licenses, permits or approvals, and work performed pursuant to delegation or mandate.