

## **Resolution Related to an Application for a Certificate of Environmental Safety and Public Necessity and the State Environmental Quality Review Act**

At a meeting of the Facility Siting Board (Board) relating to application of CWM Chemical Services, L.L.C. (CWM) for a Certificate of Environmental Safety and Public Necessity pursuant to title 11 of article 27 of the New York State Environmental Conservation Law (ECL) and 6 NYCRR Part 361, to site a proposed Residuals Management Unit - Two (RMU-2) landfill project at 1550 Balmer Road, Model City, New York, convened in public session on the 2nd day of July, 2014, at 1:30 o'clock P.M., there were:

**PRESENT:**

**Paul D'Amato, Chair, New York State Department of Environmental Conservation**

**Lynn Marinelli, New York State Department of Economic Development**

**Matthew Forcucci, New York State Department of Health**

**Dierdre K. Scozzafava, New York State Department of State**

**Darrell Kaminski, P.E., New York State Department of Transportation**

**John F. Benoit, Ad hoc Member**

**Lee Simonson, Ad hoc Member**

**A. Scott Weber, PhD, Ad hoc Member**

**ABSENT: None**

**Paul D'Amato** offered the following resolution and moved its adoption:

***WHEREAS***, the Board is authorized and empowered by title 11 of article 27 of the ECL to review an application for a Certificate of Environmental Safety and Public Necessity (Siting Certificate), participate in hearings, review the established record and issue a decision either granting the application, denying it, or granting it upon such terms, conditions, limitations, or modifications thereof as the Board may deem appropriate;

***WHEREAS***, the Board will evaluate CWM's application for a Siting Certificate while various permit applications are also being considered by the New York State Department of Environmental Conservation (DEC);

**WHEREAS**, the matters will be considered in joint hearings administered by the Board and the DEC's Office of Hearings and Mediation Services;

**WHEREAS**, Article 8 of the ECL and 6 NYCRR Part 617 require the proposed RMU-2 landfill project to undergo a State Environmental Quality Review (SEQR) process in conjunction with the submission of the Siting Certificate and permit applications;

**WHEREAS**, DEC declared itself lead agency pursuant to SEQR and determined the proposed RMU-2 landfill project to be a Type I Action as described under 6 NYCRR 617.4, and issued a positive declaration in accordance with 6 NYCRR 617.7 on October 12, 2005. Accordingly, CWM submitted a Draft Environmental Impact Statement (DEIS) which evaluates potential environmental impacts associated with the proposed RMU-2 landfill project. By notice dated May 7, 2014, DEC staff determined the applications for a Siting Certificate, the various DEC permits and the DEIS to be complete and ready for public review;

**WHEREAS**, the Board review of and decision on CWM's application for a Siting Certificate for the proposed RMU-2 landfill project is an "action" as defined in SEQR;

**WHEREAS**, pursuant to ECL Article 8 and 6 NYCRR Part 617 the Board is an involved agency for this project;

**WHEREAS**, pursuant to 6 NYCRR 361.3(d)(2), the DEC shall be designated lead agency for purposes of SEQR, unless the DEC and the Board acting through majority vote, mutually agree otherwise;

**WHEREAS**, the Board agrees that the DEC should serve as the lead agency, due in part to the various applications for DEC permits that the DEC is considering; and

***NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE FACILITY SITING BOARD AS FOLLOWS:***

1. The Facility Siting Board concurs with the determination of the New York State Department of Environmental Conservation (DEC) that the proposed RMU-2 landfill project is a Type I Action, concurs with the DEC serving as lead agency for this project, and shall serve as an involved agency for purposes of compliance with the requirements of the State Environmental Quality Review Act in this proceeding.

Seconded by **John F. Benoit** and duly put to a vote, which resulted as follows:

8 AYES

0 NAYS