



## New York State Department Of Environmental Conservation



## Written Comment Form

(Written comments must be received by September 5, 2014)

To provide comments on CWM Chemical Services, LLC's draft chemical waste management permits, pending applications & draft EIS with DEC, please provide below and place in the box located at the registration table or mail to:

New York State Department of Environmental Conservation  
Attn: James McClymonds, Chief Administrative Law Judge  
Office of Hearing and Mediation  
625 Broadway  
Albany, NY 12233-5500

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SEP 08 2014

HEARINGS AND MEDIATION SERVICES

Name: Barbara Riley Affiliation: (if any) \_\_\_\_\_City, State, Zip: [REDACTED] Telephone No: (optional) [REDACTED]

\*\*\*\*\*

Dear Judge McClymonds,

I am opposed to the CWM Chemical Services permit allowing them to create a new dump. As I understand it, there 20 years are up. Lewiston has suffered enough, let someone else due there turn, isn't that what the limits are for. Additionally, it is too close to the precious natural resource of Niagara falls. ~~and how~~ This area's residue feeds into all the waterways in the area. Basically too much risk for exposure.

Please deny this!

Very truly yours  
Barbara Riley  
[REDACTED]



BUFFALO NY 142

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NYS Dept of Environmental Conservation  
Attn: James McClymonds Chief Admin Law Judge  
Office of Hearing & Mediation  
625 Broadway  
Albany NY 12233-5500

122335500



September 12, 2014

James T. McClymonds  
Chief Administrative Law Judge  
NYSDEC Office of Hearings and Mediation Services  
625 Broadway, 1<sup>st</sup> Floor  
Albany, NY 12233-1550

RECEIVED  
SEP 17 2014  
HEARINGS AND MEDIATION SERVICES

Dear Judge McClymonds,

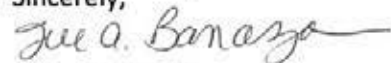
I strongly support the new landfill, which is proposed for construction at the CWM Chemical Services, LLC (CWM) facility in Model City, NY. I am the Technical Manager at the CWM facility and have worked at this location for 37 years. I have a Bachelor's and a Master's degree in chemistry. I am well versed in the treatment and disposal of hazardous waste. I believe that the design of RMU-2, with a double liner system, leak detection and leachate remove system is very protective of the environment.

Only solid waste that meets all regulatory and permit specifications may be placed in the landfill. While the waste minimization requirements of the Resource Conservation and Recovery Act (RCRA) have greatly reduced that amount of process based waste that our facility receives, we continue to receive large quantities of remediation based waste. For these contaminated soils, other treatment options such as soil washing, oxidation or incineration are often not practical (difficult to perform successfully) or they generate large volumes of treatment residuals. Long-term containment in an off-site secure landfill is often the most practical way to remediate contaminated property and make it available for future development. Our largest customers are NYSDEC and USEPA, Region 2!

While some may say that there is sufficient capacity in other landfills in the U.S. and another landfill is not necessary in Western New York, looking at the big environmental picture, it doesn't make sense to truck hazardous waste from the East Coast to all the way Alabama or Michigan, the two closest RCRA/TSCA permitted landfills. One needs to consider the extra diesel fuel consumed and the air pollution produced by the all the additional truck miles. Construction of the RMU-2 landfill at the Model City facility will provide disposal capacity for remediation waste generated in New York and the other eastern states.

Thank you for considering my comments.

Sincerely,



Jill A. Banaszak

Technical Manager

CWM Chemical Services, LLC.



CWM CHEMICAL SERVICES, LLC



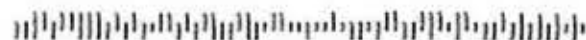
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James T McClmonds  
Chief Administrative Law Judge  
NYSDEC Office of Hearings + Mediation Svcs  
625 Broadway, 1<sup>st</sup> Floor  
Albany, NY 12233-1550

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

1223331550







NIAGARA COUNTY DEPARTMENT OF HEALTH  
[REDACTED]

Daniel J. Stapleton, MBA  
Public Health Director  
[REDACTED]

September 15, 2014

The Honorable James T. McClymonds  
Chief Administrative Law Judge  
New York State DEC  
Office of Hearings and Mediation Services  
625 Broadway, 1st floor  
Albany, NY 12233-2550

RECEIVED  
SEP 18 2014  
HEARINGS AND MEDIATION SERVICES

Re: CWM Proposed RMU-2

Dear Judge McClymonds:

Niagara County has a rich and vibrant industrial history that has shaped our communities through both economic prosperity and scarred chemical contamination. We have all learned hard lessons that industry needs to be held to the highest standards of environmental protection as well as protection of both occupational and public health. New York State has spent billions of dollars cleaning up the mistakes of our past and has made significant strides in regulating industry towards waste reduction and even elimination. As a county, a state, and a country, industry produces materials smarter, creating far less waste than ever before. This has been recognized in the NYS Hazardous Waste Facility Siting Plan of 2010. With this Plan, the New York State Department of Environmental Conservation (NYSDEC) has determined that our need for mega landfills for hazardous waste disposal is not the same as it was 30, 20, even 10 years ago. The Plan concludes that New York does not need to provide additional landfill capacity as current capacity is adequate. Niagara County does not **need** to provide additional landfill capacity on behalf of the North East United States at CWM.

But even if you dismiss the Siting Plan's conclusions and forge ahead with another unnecessary hazardous waste landfill in Niagara County, can it be done safely? Based on the submitted application, the answer seems to be no.

There are historic radiologic challenges at the CWM site that must be fully acknowledged, researched and documented. There is a need for a soil management plan that includes radiological screening before and during any significant movement of soil. Based on the submitted application, CWM would not screen or investigate subsurface soils before excavation.

Existing groundwater contamination compromises the applicant's ability to monitor a new landfill's leak detection system. The groundwater beneath the site is already contaminated by CWM and others' past operations. The application does not propose to fully identify the contamination plumes west of the landfill, nor fully identify the site hydrology affecting the migration of this contamination.

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The Honorable James T. McClymonds  
CWM Proposed RMU-2

Niagara County is home to so many industrial disposal disasters that have directly and negatively impacted hundreds, if not thousands, of our residents. We have learned the lessons of safety and caution. This hearing process will shine a light on our concerns. The hearing process must adequately address each of them before granting any approvals to the applicant.

Allow me to emphasize two significant concerns....

1) Excavations of small projects for repair and replacement of ancillary facilities provide a window into the risks major excavation poses. Since 2006, CWM has been under an obligation imposed by both NYSDOH and NYSDEC to scan every excavation in six inch layers for radioactivity. This protocol applies to small excavations such as remediation of a surface spill, repair of a tank or pipeline or other small project. No major excavation has been allowed at CWM based upon NYSDOH's findings that there is no assurance that such an action would be safe. Excavation of large amounts of contaminated soils risks airborne exposure of the nearby public to radioactive materials, and workers could be at greater risk from radiation exposure during a large scale excavation if not carefully and diligently monitored during soil movement. The small excavation protocol has resulted in the periodic elevated radiological detections, consistent with diffuse radiological contamination.

We have supported NYSDOH's finding that without much more information, major excavations are too risky. The radiological scanning requirement that has been instituted to date for small excavations has provided the safety and assurance to both this Department and the citizens of Niagara County that no undocumented release of elevated radiological constituents would occur when small quantities of on-site soils are moved.

A large excavation has the potential of larger uncontrolled releases of contaminated material. Common sense would dictate a greater level of control with the need for more diligent monitoring, compared to what is needed for small excavations. But even prior to allowing a major excavation, a full radiological history of the site must be assembled, and characterization of known and suspected areas of elevated radioactive materials below ground must be completed. NYSDOH told CWM these things would be required when denying CWM's 2004 request to drop the ban on major excavations. CWM's application includes none of these basic safety strategies.

This Department demands an excavation plan which requires a detailed full site radiological history as well as a plan that requires acceptable levels of monitoring before, during, and after any major excavation.

2) Niagara County is an extremely fortunate County in that almost all residents have access to public drinking water derived from the fresh water of the Niagara River. But this good fortune should never be an excuse to disregard the protection of the ground water aquifer anywhere in the county. All groundwater should be treated as a potential drinking water source and as such, all due care is required to protect that resource.



Page 3

The Honorable James T. McClymonds  
CWM Proposed RMU-2

The Department is concerned that simplistic groundwater aquifer models depicting flow direction may be wrong across portions of the CWM site and in fact, a more complex glacial history formed our region resulting in underground valleys and erosion channels that have since been filled with a variety of deposits.

Hydrogeological data from soil borings and monitoring wells provided by CWM and the Army Corps of Engineers show that a sand and gravel aquifer is aligned in an east-west pattern, flowing to the west. This now covered underground valley underlies the central area of the CWM site where RMU-2 is proposed.

This is troubling news as CWM has installed monitoring wells into the aquifer on the north, east and south sides of the proposed hazardous waste landfill expansion, but none on the west side (which is down gradient and the direction a contaminant would go should the proposed landfill leak).

It is also very concerning that PCB contamination of groundwater to the west has reached 35,000 ppb (a significantly high level) but no remediation or characterization of this contamination has been required. It is noted that CWM operates a PCB landfill (under the Toxic Substance Control Act), and these concentrations seem far higher than could be accounted for by legacy waste. Not only should the regulatory agencies consider a possible source (such as an existing leaking landfill), we must consider how one could effectively monitor for a PCB leak from a new landfill when the baseline contamination is already extraordinarily high. Proper identification (area and depth as well as source determination) of the contamination plume is inherently a logical step prior to allowing any additional landfill construction.

In closing, this Department trusts that the NYS Hazardous Waste Facility Siting Plan will be carefully reviewed, and you will determine, as we have, that continued operation of the CWM facility at this site is not necessary or in the public interest.

If it is determined more landfill capacity is necessary contrary to the conclusion of the NYS Hazardous Waste Facility Siting Plan, my department's expectation is that construction occurs in a manner that includes appropriate radiological screening that is at least as protective as what is required now under the small excavations protocol.

Prior to approving any construction, the monitoring strategy for the proposed landfill must be evaluated further to consider how effective it would be given the contamination in the ground right now. Evidence is being brought forward during this hearing process that contradicts groundwater flow directions predicted by CWM and as a result shows that the monitoring strategy proposed by CWM would be ineffective.

For these reasons, the Niagara County Department of Health opposes this application.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Stapleton", with a long horizontal flourish extending to the right.

Daniel J. Stapleton  
Public Health Director

NIAGARA COUNTY DEPARTMENT OF HEALTH



RETURN SERVICE REQUESTED

The Honorable James T. McClymonds  
Chief Administrative Law Judge  
New York State DEC  
Office of Hearings and Mediation Services  
625 Broadway, 1st floor  
Albany, NY 12233-2550

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TRI-STATE TRANSFER ASSOC., INC.

[REDACTED]  
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[REDACTED]

September 19, 2014

James T. McClymonds  
Chief Administrative Law Judge  
NYSDEC Office of Hearings and Mediation Services  
625 Broadway, 1<sup>st</sup> Floor  
Albany, NY 12233-1550

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SEP 22 2014

HEARINGS AND MEDIATION SERVICES

Dear Judge McClymonds,

I am with a hauling company that works directly with CWM Chemical Services, and I support the expansion effort.

Tri-State Transfer Associates Inc. is a WBE company and hazardous waste transporter servicing the metropolitan New York area. CWM is an integral part of our business and many of our customers request CWM as their preferred disposal facility.

Many people do not understand the dynamics of a hazardous waste facility or just how many jobs the facility impacts. The hauling company I work for would be negatively affected if the facility were not able to continue operations.

Hopefully, you Judge McClymonds, and the Sitting Board will take into consideration all aspect of this expansion, especially the role that CWM plays in the economics of the area, the need for a safe disposal option and the numerous jobs from the facility and hauling companies that would be impacted.

Sincerely,

A handwritten signature in black ink that reads 'Jaime Byrne Baranoff'.

Jaime Byrne Baranoff

President

**Empire State Development**

August 9, 2012

Ms. Eve Byrne  
President  
Tri State Transfer Associates, Inc.  
[REDACTED]  
[REDACTED]

Re: File 54809

Dear Ms. Byrne:

On behalf of New York State Department of Economic Development, Division of Minority and Women's Business Development (DMWBD) has completed its review of your application for state certification as a Women-Owned Business Enterprise and has determined that your firm meets eligibility requirements for certification, pursuant to Executive Law, Article 15-A.

We are pleased to inform you that the firm of **Tri State Transfer Associates, Inc.** has been granted status as a **Women-Owned Business Enterprise**. Your business will be listed in the State's Directory of certified businesses with the following list of principal products or services:

324 – Hazardous Waste Disposal  
2019 – Waste Management Material Supplier

1072 – Asbestos Abatement & Compliance

Certification status is not intended to imply that the State of New York guarantees your company's capability to perform on state contracts, nor does it imply that your company is guaranteed any state business.

Be advised that your certification **expires 3 years from the date of this letter** or unless you are contacted by the Division of Minority and Women's Business Development for recertification. Please remember that any changes in your company that affect ownership, managerial and/or operational control, must be reported to DMWBD within thirty (30) days of such changes; including changes to company name, business address, telephone numbers, principal products/services, and bonding capacity. At such time as it is necessary for your company to be recertified, you will be notified by DMWBD.

If your certification is questioned by any public or private entity, please direct the inquiry to DMWBD for clarification.

Thank you for your cooperation. On behalf of the State of New York, I wish you luck in your business endeavors, particularly those involving state agencies.

Sincerely,

  
Scott Munson  
Associate Certification Analyst  
[REDACTED]



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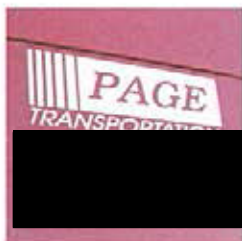
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NYSDEC Office of Hearings and Mediation Services  
625 Broadway, 1st Floor  
Albany, NY 12233-1550  
Attn: James T. McClymonds

122331550







# The PAGE Companies

Keith Titus Corporation ■ PAGE Transportation, Inc. ■ PAGE E.T.C., Inc.



James T. McClymonds  
Chief Administrative Law Judge  
NYSDEC Office of Hearings and Mediation Services  
625 Broadway, 1st Floor  
Albany, NY 12233-1550

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SEP 24 2014

HEARINGS AND MEDIATION SERVICES

September 22, 2014

Dear Judge McClymonds,



We own Page Transportation & Page E.T.C., Inc. a long haul bulk transportation company with our primary headquarters in Weedsport, NY. In that location we employ over 60 individuals that live in the greater upstate NY area. We directly contract with another one hundred subcontractors that live in New York. We work with other trucking companies, manufacturing plants, generators of waste and a plethora of other companies that require long haul trucking services. Specifically we are a hauling company that works directly with CWM Chemical Services, and we support the expansion effort.



Our drivers and dispatchers have interacted with CWM Chemical Services, their facilities and personnel on a regular basis over the thirty five year history of our company. Many people outside of our industry do not understand the dynamics of a hazardous waste facility or just how many jobs the facility impacts. Page E.T.C., Inc. would be negatively affected if the facility were not able to continue operations.



Hopefully, you Judge McClymonds, and the Siting Board will take into consideration all aspects of this expansion, especially the role that CWM plays in the economics of the area, the need for a safe disposal option and the numerous jobs from the facility and hauling companies that would be impacted.

Sincerely,

A large, stylized handwritten signature in black ink.

Daniel Titus, Owner & President  
Piper Titus Kline, Owner & CFO



**The PAGE Companies**

 KEITH TITUS CORPORATION [REDACTED]

 TRANSPORTATION, INC. [REDACTED]

 INC. - [REDACTED]

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James T. McClymonds  
Chief Admin Law Judge  
NYSDEC Office of Hearings & Mediation  
625 Broadway, 1st Floor  
Albany, NY 12233-1550  
12233-1550

Paul McCollum, Business Manager  
 Lyle K. Evans, Business Agent/President  
 David Arch, Vice President  
 Mark Printup, Recording/Corresponding Secretary  
 Jason Fedder, Financial Secretary  
 Travis Diaz, Treasurer



## INTERNATIONAL UNION OF OPERATING ENGINEERS

Local Union No. 463, 463-A, 463-B, 463-C and 463-D

Affiliated with Niagara County Building and Construction Trades Council

September 24, 2014

James T. McClymonds  
 Chief Administrative Law Judge  
 DEC Office of Hearings and Mediation Services  
 625 Broadway, First Floor  
 Albany, NY 12233-1550

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OCT 1 2014

HEARINGS AND MEDIATION SERVICES

Dear Mr. McClymonds,

My name is Paul McCollum, I am the Business Manager for the International Union of Operating Engineers Local 463. I represent approximately 300 active and retired heavy equipment operators here in Niagara County. Our members are the people you see on construction sites running the backhoes, bulldozers, loaders, asphalt pavers, cranes and many other pieces of equipment that you see building and repairing our roads and bridges, and also building facilities for the future, such as the current expansion of the Fashion Outlet Mall and the new docking facility at the Maid of the Mist.

Niagara County's extensive history of manufacturing, chemical processing and other heavy industrial operations have also led to another category of work for the Operating Engineers, hazardous waste remediation. These heavy industries created a significant amount of hazardous waste. As the technologies of the industrial age progressed rapidly, not much thought was given to the disposal of the resulting waste products, and the ramifications of improper disposal. Most waste disposed of that era consisted of dumping the waste wherever was convenient, or possibly digging a hole, dumping and burying the waste. This is how we ended up having sites such as the Love Canal, which helped spawn the whole hazardous waste remediation industry.

Our Operating Engineers have worked at many uncontrolled hazardous waste sites since the Love Canal cleanup of the late 1970's, such as the Hyde Park landfill, Frontier Chemical, Pettitt Creek Flume, Occidentals 102nd Landfill and "S" Area, plus many others. Along with remediation, we have worked with responsible owners such as CWM to build new secure landfills so that future waste can be disposed of in a fashion that will not cause harm to the



surrounding environment or the community. Multiple layers of impermeable liners and the extensive leachate collection systems will keep the waste contained in the landfill.

I have been an OSHA Outreach Health and Safety Instructor for Local 463 for about 25 years, having instructed our members over the years in the 40 Hour Hazardous Waste Operations and Emergency Response (Hazwoper) course and the corresponding annual 8-hour Refresher, along with many other OSHA courses. Some of the topics covered include Excavation and Trenching, Personal Protective Equipment (PPE), Respiratory Protection, Emergency Response, Lockport/Tagout, Air Monitoring, plus many others. The point and purpose of the various training that we provide is to assure that our members are able to work under constantly changing non-hazardous and hazardous conditions, to be able to identify when a hazardous condition exists, using the proper personnel protective equipment so that the worker may perform their job while protecting themselves from any hazards that exist.

In regards to the proposed new 50 - acre landfill cell (RMU-2), I have heard significant speculation whether new landfill capacity is needed. Others will cite specific studies saying no new landfill capacity is needed in New York. My comment on this issue is based simply on economic common sense; why could CWM risk spending upwards of 50 million dollars in construction costs if they did not anticipate the market being there to make use of the new landfill?

The economic benefits to the surrounding communities coming from CWM's operations are well documented, so I don't need to repeat them here. An extension of those economic benefits also goes to our members who have worked there and will in the future. This new landfill will provide many thousands of hours of employment for our members, the majority of them live and work in Niagara County. In addition to their wages, this employment will provide pension and healthcare benefits for our members and their families.

Another related issue that has drifted away from common sense to an emotional response is the usage of CWM's property. Many residents are saying they don't want any more hazardous waste in the area, using many "what if" scenarios, which in many cases in my opinion has resulted in fear mongering. The word "expansion" has been used in public to describe the proposed new landfill. The context of the word expansion needs to be explained. Yes, CWM is expanding its operational landfill space by adding the new 50 acre cell. But, the "expansion" is "internal" to CWM's property. This is best visualized by looking at the aerial photo of CWM's property that shows an outline of CWM's property and an outline of the proposed landfill. The proposed RMU-2 cell lies directly in the center of CWM's property, and is surrounded by other CWM landfills and processes. This **Does Not** expand the footprint of CWM's property out into the surrounding community, so in this circumstance the "expansion" is completely internal within CWM's existing boundaries. Realistically speaking, because of the nature of CWM's business, and also the proximity of the nearby LOOW site and the Modern Disposal Landfill, this 50 acre parcel within CWM will NEVER be used for any other civic purpose in our lifetimes. The common sense response to this should be to let the existing business continue their operation,

which will benefit the business, the surrounding communities and the construction workers and employees of CWM.

To summarize our position on the proposed new landfill at CWM:

- Will provide significant economic benefits to the community.
- Will provide good paying local jobs for the construction workers and the current CWM employees.
- Provides a safe and secure facility to dispose of these wastes.
- The availability of well trained and experienced construction work force to build the new landfill.
- The proposed new landfill is located directly in the center of CWM's property, surrounded by other CWM landfills and processes.
- The realistic lack of any other future use of the 50 acre parcel of property.

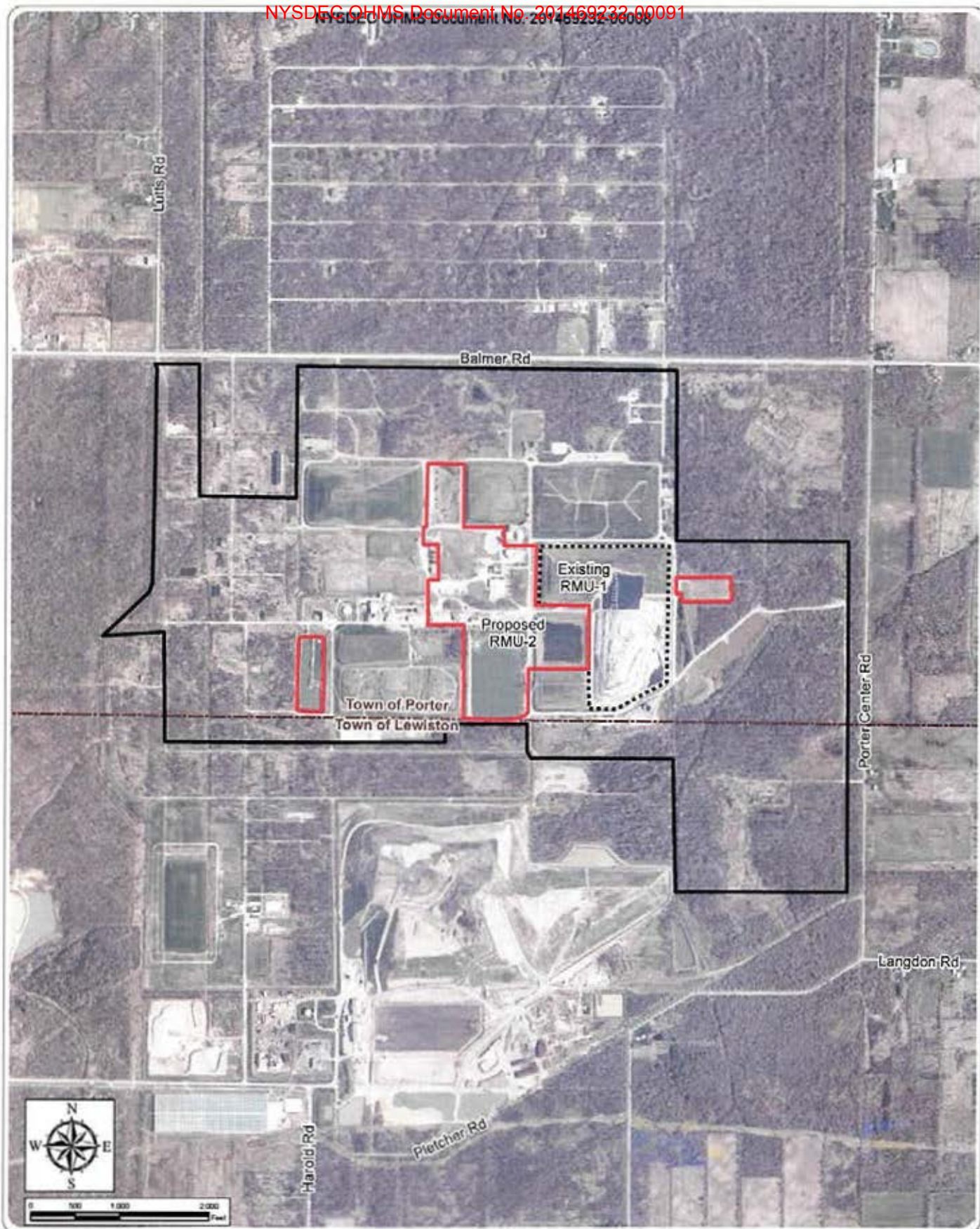
Based on these issues, on behalf of the Operating Engineers Local 463, I would recommend to the siting board that they approve the proposed new RMU-2 cell at CWM's Model City facility. Please feel free to contact me at (716)434-3327, I would be happy to answer any questions you may have. Thank you for your consideration.

Sincerely,



Paul D. McCollum  
Business Manager





## 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