

**CWM CHEMICAL SERVICES, LLC**

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December 23, 2003

Antonia C. Novello, M.D., M.P.H., Dr. P.H.
New York State Department of Health
Corning Tower, Empire State Plaza
Albany, New York 12237

Re: Request to Vacate 1972 NYSDOH Order

Dear Dr. Novello:

As described below, CWM Chemical Services, LLC, Model City, NY, Facility (CWM) respectfully requests that the New York State Department of Health (NYSDOH) execute an Order to partially rescind and vacate a previously issued NYSDOH Order, dated April 27, 1972, as modified by a Supplementary Order issued in 1974.

The 1972 NYSDOH Order dealt with residual contamination found in soils on the former Fort Conti property, in, and adjacent to, the Niagara Falls Storage Site (NFSS), which was used for storage of radioactive materials, and stipulated certain restrictions regarding the future use of this land. The CWM Facility is now located on a portion of this property. Paragraph V of the Order provides that the restrictions contained therein would be terminated once further remedial actions were taken at the site.

As a result of extensive corrective remedial actions taken at CWM since the 1972 NYSDOH Order, on May 7, 1992, the United States Department of Energy (USDOE) certified that the majority of the CWM property was in compliance with applicable radiological decontamination criteria (see attached letter). Decontamination was certified for all properties owned by CWM, with the exception of specific portions of properties designated as E, E' and G (see attached map). Specifically excluded from the decontamination certification were (1) soil beneath Lagoon 6 and the berm surrounding that lagoon on Property E, (2) soil beneath a roadway and PCB storage tanks on Property E', and (3) soil beneath the liquid treatment pond on the western edge of Property G. Since these areas could not be properly assessed due to inaccessibility, the USDOE could not confirm that contamination does not exist in these areas.

Based on the May 7, 1992, USDOE letter, CWM requests that the NYSDOH execute an order to rescind and vacate the 1972 NYSDOH Order for all CWM property, except the three specific areas described above (specific portions of property designated E, E' and G). It is noted that a similar NYSDOH order was executed on October 25, 1990, for portions of the former Fort Conti property currently owned by Modern Landfill, Inc.

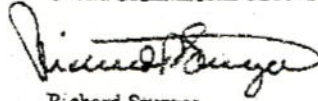
Please call Ms. Rebecca Zayatz at (716) 754-0279 or myself at (716) 754-0230 if you have any questions or comments.

"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."

December 25, 2003
Aronia C. Novello, M.D., M.P.H., Dr. P.H.
NY'sDOH
Re. Request to Vacate 1972 NYSDOH Order

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Sincerely,
CWM CHEMICAL SERVICES, LLC



Richard Sturges
District Manager
Model City Facility

JBH/RS/jdh
Attachment

cc:	B. Rostami	- NYSDEC/Region 9	- W/Attachment
	J. Strickland	- NYSDEC/Region 9	- W/O Attachment
	D. Stever	- NYSDEC/Region 9	- W/Attachment
	C. Jones	- NYSDEC/On-site Monitor	- W/Attachment
	E. Dassatti	- NYSDEC/Albany, NY	- W/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
	R. Zayatz	- CWM/Model City, NY	- W/Attachment
	J. Knickerbocker	- CWM/Model City, NY	- W/O Attachment
	D. Darragh	- BIPC/Pittsburgh, Pa	- W/Attachment
	EMD Subject File		
	Q & A		