

STATE OF NEW YORK  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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In the Matter of the Application of **CHEMUNG COUNTY**  
for modification of the Part 360 permit for its municipal  
solid waste landfill on County Route 60 in Elmira,  
Town of Chemung.

(Application No. 8-0728-00004/00013)

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**NOTICE OF MOTION BY  
NEW ENGLAND WASTE SERVICES OF N.Y., INC (“NEWSNY”)  
FOR EXPEDITED REVIEW & SUMMARY JUDGMENT DISMISSING  
AND/OR DENYING THE APPEAL OF RESIDENTS FOR THE  
PROTECTION OF LOWMAN AND CHEMUNG**

**PLEASE TAKE NOTICE**, that upon the annexed Affirmation of Thomas S. West, affirmed October 12, 2010, and the accompanying Memorandum of Law, dated October 12, 2010, and all the papers, documents, testimony, proceedings and other submissions respecting this matter to date, NEWSNY will move before the Commissioner Alexander B. Grannis (attention: Louis A. Alexander, Assistant Commissioner for Hearings and Mediation Services), New York State Department of Environmental Conservation, 625 Broadway, Albany, New York 12233, on October 22, 2010 (or at such other time as deemed appropriate by the Commissioner) for an Order:

1. pursuant to 6 NYCRR §§ 624.8(d) and 624.6(c),(e)&(g), that the September 22, 2010 appeal by Residents for Protection of Lowman and Chemung (“RFPLC”) of the September 3, 2010 Ruling on Issues and Party Status and the June 3, 2010 Interim Ruling by Administrative Law Judge Edward Buhrmaster (hereinafter, the “ALJ Rulings”) be decided on an expedited basis for the reasons that (1) the ALJ Rulings are rulings to exclude certain issues from adjudication, determine a legal

issue or affect party status, thus allowing expedited appeal on redundant grounds (6 NYCRR §§ 624.8[d][2][i], [ii] & [iii]); and (2) in any event, absent expedited treatment, the processing of RFPLC's appeal will result in extreme prejudice, thus making expedited treatment proper in the exercise of the Commissioner's discretion under 6 NYCRR §§ 624.8(d)(2), (3) & (4) and 624.6(e) & (g);

2. pursuant to 6 NYCRR §§ 624.4, 624.5, 624.8(d), and Rule 3212 of the Civil Practice Law & Rules ("CPLR"), granting summary judgment dismissing and/or denying RFPLC's appeal and affirming the ALJ Rulings relative to the issue appealed by RFPLC, given that RFPLC's asserted issue is irrelevant to, and wholly outside the scope of issues pertinent to, the underlying permit modification proceeding; and
3. granting such other and further relief as may seem just and proper.

Dated: October 12, 2010  
Albany, New York

Respectfully submitted:

By: \_\_\_\_\_

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