

BACKGROUND DISCLOSURE

Interim Certification Application Tailings Management Areas Omya Inc., Verpol Plant Florence, Vermont

Section (§) 6-304(e)(14) of the Vermont Solid Waste Management Rules (VSWMRs) requires that this Interim Certification Application include evidence of compliance with the disclosure requirements of the waste management personnel background review, pursuant to 10 V.S.A. §6605f. However, according to 10 V.S.A. §6605f(k), Omya Inc. (Omya) may claim exemption from this requirement because tailings product stored in the Tailings Management Areas (TMAs) are generated solely on the Omya Verpol site, and no off-site material is stored or treated in the TMAs. Nevertheless, in order to facilitate the review of this Interim Certification Application, the requirements of 10 V.S.A. §6605f are addressed in this document as it relates to Omya and the individuals listed below¹ and as it relates to the operation of the TMAs.

As required by 10 V.S.A §6605f(b), Omya (Federal ID # 03-0164580) is a Vermont corporation, formed in 1894² and is a wholly owned subsidiary of Omya Industries Inc. (Federal ID # 03-0266556), a Vermont corporation, which also is a creditor of Omya. Both Omya and its parent corporation are privately held entities, and are not publicly traded corporations. In addition to indebtedness owed to its parent entity, Omya is the debtor on certain purchase money financings undertaken in connection with the purchase of property unrelated to the TMAs, which financings are secured by mortgages on the property acquired. The information that follows is provided with respect to with the officers, directors, and key employees³ of Omya Inc.

The members of the Board of Directors of Omya Industries, and the business address of each, are:⁴

- James M. Reddy – Omya Inc., 61 Main Street, Proctor, VT 05765

¹ Such persons are the officers, directors, or certain key employees of the applicant business concern and all persons or business concerns that hold any equity in or debt liability of the applicant business concern. 10 V.S.A. § 6605f(b)(1).

² Omya Inc. is the same entity formerly known as Vermont Marble Company.

³ Notwithstanding the limitations and parameters contained in the definition of key employees in 10 V.S.A. § 6605f(d), Omya will identify certain individuals who may have oversight of the operations for which application is being made.

⁴ Because of identity theft concerns, Omya does not disclose, or require its officers, directors, or key employees to disclose, their individual Social Security numbers. Under Section 7 of the Privacy Act (5 U.S.C. § 552a (note) (Disclosure of Social Security Number)), “It shall be unlawful for any Federal, State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual’s refusal to disclose his social security account number.” Sec. 7(a)(1). Further, “Any Federal, State or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.” Sec. 7(b). No such information is contained in the Waste Management Act or the Rules.

- Leonard Eisenberg - Golenbock, Eiseman, Assor, Bell & Peskoe, 437 Madison Avenue, 35th Floor, NY, NY 10022-7302

The officers of Omya Industries, and the business address of each, are:

- President: James M. Reddy – Omya Inc., 61 Main Street, Proctor, Vermont 05765
- Vice President: John Suddarth – Omya Inc., 61 Main Street, Proctor, Vermont 05765
- Treasurer: John M. Mitchell – Omya Inc., 61 Main Street, Proctor, Vermont 05765
- Assistant Treasurer: Linda A. Benson – Omya Inc., 61 Main Street, Proctor, Vermont 05765
- Secretary: Leonard Eisenberg - Golenbock, Eiseman, Assor, Bell & Peskoe, 437 Madison Avenue, 35th Floor, NY, NY 10022-7302
- Assistant Secretary: Edward V. Schwiebert - Kenlan, Schwiebert & Facey, P.C, 71 Allen Street, Rutland, VT 05702-0578
- Assistant Secretary: Barbara A. Cosgrove – Omya Inc., 61 Main Street, Proctor, Vermont 05765

The members of the Board of Directors of Omya, and the business address of each, are:

- CJ Smith – Omya Inc., 61 Main Street, Proctor, VT 05765
- Barbara A. Cosgrove – Omya Inc., 61 Main Street, Proctor, VT 05765
- Leonard Eisenberg - Golenbock, Eiseman, Assor, Bell & Peskoe, 437 Madison Avenue, 35th Floor, NY, NY 10022-7302
- Anthony Colak, Omya Inc., 61 Main Street, Proctor, VT 05765

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- Assistant Secretary: Barbara A Cosgrove, Omya Inc., 61 Main Street, Proctor, Vermont 05765

In addition, for purposes of this application, certain key employees of Omya, and the business address of each, are:

- Plant Manager: Rob Tikoft – Omya Inc. , P.O. Box 10, Florence, VT 05744
- Environmental Manager: Michael Laurent – Omya Inc., P.O. Box 10, Florence, VT 05744

None of the officers, directors, and key employees of Omya Industries or Omya have been convicted of any of the following offenses (see 10 V.S.A. §6605f(a)(1) and (b)(3)) in this or in any other jurisdiction within the 10 years preceding the date of this Interim Certification Application:

- (A) murder;
- (B) kidnapping as defined in Section 2405 of Title 13⁵;
- (C) gambling as defined in Section 2135 of Title 13;
- (D) robbery as defined in Section 608 of Title 13;
- (E) bribery as defined in Chapter 21 of Title 13;
- (F) extortion as defined in Section 1701 of Title 13;
- (G) arson as defined in Chapter 11 of Title 13;
- (H) burglary as defined in Section 1201 of Title 13;
- (I) larceny and embezzlement as defined in Chapter 57 of Title 13;
- (J) forgery and fraud as defined in Chapters 43, 47 and 49 of Title 13 and Chapters 63, 67, 71, 105 and 131 of Title 9;
- (K) possession and control of drugs and related offenses as defined in Chapter 84 of Title 18;
- (L) trafficking in alcoholic beverages as defined in Section 561 of Title 7;
- (M) the federal Racketeer Influenced and Corrupt Organizations Act as defined in 18 U.S.C. § 1961 et seq.;
- (N) the criminal provisions of federal antitrust laws for activities related to solid waste;
- (O) the criminal provisions of any federal or state environmental protection laws or rules relating to solid waste;
- (P) obstruction of justice as defined in Chapter 67 of Title 13;
- (Q) fraud in the offering, sale or purchase of securities as defined in Section 4224a of Title 9 and in the United States Code;

⁵ All references are to Vermont Statutes Annotated unless otherwise indicated.

- (R) alteration of motor vehicle identification numbers as defined in Section 1703 of Title 23;
- (S) unlawful manufacture, purchase, use, or transfer of firearms as defined in Chapter 85 of Title 13 and in the United States Code; and
- (T) perjury as defined in Chapter 65 of Title 13.

In response to 10 V.S.A §6605f(a)(2), neither Omya Industries, Omya, nor the aforementioned members of the Board of Directors, company officers, and key employees, alone or taken together, have committed a violation of environmental statutes, rules, orders, certifications, or permits, issued by any jurisdiction, that would have the potential to significantly harm the public health, public safety or the environment. Furthermore, in the past five years, there have been no civil or administrative penalties issued against Omya Industries or Omya by any state or federal authority that resulted in a finding of violation or assurance of discontinuance, relating to the collection, transportation, treatment, storage, or disposal of solid or hazardous waste by Omya Industries or Omya or by any member of the Board of Directors, company officers, and key employees of either.

Notwithstanding the above, it is public record that Omya self-reported two environmental incidents that resulted in the issuance of Assurances of Discontinuance, none of which related to solid waste storage, treatment, transportation or disposal and none of which had the potential to significantly harm the public health, public safety, or the environment. A summary of each of the incidents, as reported by the Vermont Department of Environmental Protection, is presented below.

- **Omya Inc., Florence:** Respondent grinds limestone at its West-Verpol plant. Through self reporting by Omya, three significant, unpermitted discharge of process water were determined to have occurred during a five-month period beginning in late 1999. Each resulted in a discharge of calcium carbonate to Smith Pond and its tributaries. In the resulting Assurance of Discontinuance (“AOD”), the respondent agreed to comply with the conditions of its discharge permits, pay a \$1,550 penalty, and fund a \$6,500 Supplemental Environmental Project (“SEP”).
- **Omya Inc., Florence:** Respondent conducts marble crushing and milling at two Vermont locations, and is required to register its facilities with the Air Pollution Control Division annually. It failed to do so and therefore was operating without a valid registration. Also, Omya began and nearly completed the construction of major additions to one of its facilities without having submitted an application to amend its construction permit to include this component. Omya was ordered not to operate the facility, submit the required application for amendment to its permit, and wait for issuance prior to startup of the plant. Omya agreed to an AOD that required the timely submission of permits and related data, the delay of startup of the facility until the permit was issued, and the funding of a SEP in the amount of \$2,300.00.