



State of Ohio Environmental Protection Agency

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September 14, 2009

Connie Dall
Environmental Manager
Browning Ferris Industries of Ohio, Inc.
5092 Aber Road
Williamsburg, Ohio 45176

**Re: Willowcreek Landfill, Portage County
Ohio Administrative Code (OAC) Rule 3745-27-13 Authorization**

Dear Ms. Dall:

On June 19, 2009, the Ohio Environmental Protection Agency (Ohio EPA), Division of Solid and Infectious Waste Management (DSIWM), Northeast District Office (NEDO) received a request titled "Application for Authorization to Engage in Filling, Grading and Excavating at the Municipal Waste Landfill Owned by Browning-Ferris Industries, Atwater, Ohio." The document was submitted pursuant to OAC Rule 3745-27-13 by The Mannik & Smith Group, Inc. on behalf of Browning-Ferris Industries of Ohio, Inc. (BFIO) for the closed Willowcreek Landfill (Facility) located in Portage County, Ohio. Subsequent revisions were submitted to Ohio EPA and received on July 6, 2009, and July 24, 2009.

OAC Rule 3745-27-13 requires authorization from the Director of Ohio EPA (Director) before engaging in filling, grading, excavating, building, drilling, or mining on land where a solid waste facility was operated. Specifically, BFIO requests authorization to conduct filling, grading, and excavating at the Facility in order to better control leachate outbreaks on the side slopes of the southeast portion of the landfill. BFIO proposes to install leachate and surface water control structures and enhance the landfill cap. As part of the proposed activities, approximately 200 cubic yards of waste will be excavated and relocated.

Based upon a review of the request and subsequent revisions, I have determined, pursuant to OAC Rule 3745-27-13, that the proposed activities will not result in a violation of applicable laws or regulations, will not create a nuisance, and are unlikely to adversely affect the public safety or health or the enforcement. Therefore, BFIO is hereby authorized to perform the activities outlined in this letter in accordance with the submitted and approved plans, specifications, and information.

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

As part of this authorization, BFIO is subject to the following conditions:

CONDITIONS

1. This approval grants authorization to perform activities at the Facility in accordance with the request titled "Application for Authorization to Engage in Filling, Grading and Excavating at the Municipal Waste Landfill Owned by Browning-Ferris Industries, Atwater, Ohio," received on June 19, 2009, with revisions received through July 24, 2009, only. All activities shall be conducted in strict accordance with the plans, specifications, and information submitted as part of this request. There may be no deviation from the approved plans without prior written authorization from Ohio EPA. Any future activities at the Facility may require additional Ohio EPA approval.
2. Not later than 72 hours prior to the start of activities associated with this authorization, BFIO shall submit written notification, which specifies the anticipated date of work commencement, to Ohio EPA, DSIWM, NEDO and the Portage County Health Department.
3. All on-site activities shall be performed in a manner that prevents migration of leachate, explosive gas, or toxic gas from the Facility.
4. All activities undertaken shall not create a nuisance and shall not adversely affect public safety or health or the environment.
5. All solid and/or hazardous wastes to be removed from the Facility shall be containerized and securely stored until these materials are properly characterized and disposed in accordance with Ohio Revised Code (ORC) Chapter 3734 and the regulations promulgated thereunder.
6. All liquids, semi-solids, industrial wastes, and other wastes regulated by ORC Chapter 6111 that are removed during intrusive activities shall be containerized and securely stored until these materials are properly characterized and disposed in accordance with ORC Chapter 6111 and the regulations promulgated thereunder.
7. Prior to any removal of waste or contaminated soil from the Facility, BFIO shall submit copies of sample analysis results, the treatment or disposal method selected, and a letter of acceptance from the treatment or disposal facility to Ohio EPA, DSIWM, NEDO pursuant to OAC Rule 3745-27-13(H)(4).
8. Not later than 60 days after completing the activities authorized by this approval, BFIO shall submit to Ohio EPA, DSIWM, NEDO a certification report in

accordance with OAC Rule 3745-27-13(H)(10).

9. All on-site activities shall be accomplished in compliance with all applicable state and federal laws and regulations pertaining to environmental protection, including but not limited to the control of air pollution, leachate, surface water runoff and runoff, and protection of ground water.
10. BFIO shall take measures to control fugitive dust and other air emissions that may result from activities authorized by this approval.
11. In accordance with OAC Rule 3745-27-13(H)(9), BFIO shall restore any portions of the Facility cap where the cap is removed or damaged by activities conducted pursuant to this approval.
12. In accordance with OAC Rule 3745-27-13(M), this authorization shall terminate three years after its effective date if BFIO has not begun the activities authorized herein.
13. The Director may revoke this authorization if BFIO violates, or is likely to violate, any applicable law or if the continued implementation of the approved plans may cause a threat to human health or safety or the environment.

END OF CONDITIONS

EXEMPTION FROM OAC RULE 3745-27-13(H)(6)

BFIO has requested an exemption from OAC Rule 3745-27-13(H)(6), which requires, in part, that no excavation of waste can occur unless the excavated waste is replaced within previously existing horizontal and vertical limits of waste placement or is treated or disposed of at a licensed, permitted treatment or disposal facility, in accordance with ORC Chapter 3734 and the regulations promulgated thereunder.

As part of the activities approved through this authorization, BFIO will be excavating waste and relocating it to other areas within the Facility. All waste movement will occur within the current horizontal limits of waste placement, and in no event will waste be placed at elevations lower than existing vertical limits of waste placement. However, final grades will be above the existing limits of waste placement in certain areas.

Pursuant to ORC Section 3734.02(G) and OAC Rule 3745-27-03(B), the Director may, by order, exempt any person generating, collecting, storing, treating, disposing of, or transporting solid wastes, or processing solid wastes that consist of scrap tires, in such quantities or under such circumstances that, in the determination of the Director, are unlikely to adversely affect the public health or safety or the environment, from any

requirement to obtain a registration certificate or license or comply with other requirements of ORC Chapter 3734.

Ohio EPA has reviewed the request received on June 19, 2009, and revised through July 24, 2009, and associated information and has determined that granting an exemption in order to place waste in areas of the Facility above previously existing vertical limits of waste placement is unlikely to adversely affect the public health or safety or the environment. Therefore, pursuant to ORC Section 3734.02(G) and OAC Rule 3745-27-03(B), BFIO is hereby exempted from OAC Rule 3745-237-13(H)(6), which requires, in part, that no excavation of waste can occur unless the excavated waste is replaced within previously existing horizontal and vertical limits of waste placement or is treated or disposed of at a licensed, permitted treatment or disposal facility, in accordance with ORC Chapter 3734 and the regulations promulgated thereunder, provided BFIO complies with the requirements of the submitted and approved plans, specifications, and information and this authorization. This exemption shall remain in effect throughout the effective period of this authorization unless otherwise revoked.

END OF EXEMPTION

Nothing in this letter shall be construed to authorize any waiver from the requirements of any applicable federal or state laws or regulations except as specified herein. This authorization shall not be interpreted to release BFIO or others from responsibility under ORC Chapters 3704, 3714, 3734, or 6111; under the Federal Clean Water Act, the Resource Conservation and Recovery Act, the Toxic Substances Control Act, or the Comprehensive Environmental Response, Compensation, and Liability Act; or from other applicable requirements for remedying conditions resulting from any release of contaminants to the environment.

You are hereby notified that this action of the Director is final and may be appealed to the Environmental Review Appeals Commission (Commission) pursuant to ORC Section 3745.04. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by filing fee of \$70.00 which the Commission, in its discretion, may reduce if by affidavit you demonstrate that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Commission at the following address:

Ms. Connie Dall
Willowcreek Landfill
Page 5 of 5

Environmental Review Appeals Commission
309 South Fourth Street
Room 222
Columbus, Ohio 43215

If you have any questions concerning this authorization, please contact Karen Naples of Ohio EPA, NEDO at (330) 963-1244.

Sincerely,

Chris Korleski
Director

cc: Lynn Sowers, DSIWM-NEDO
Adam Harris, Portage County Health Department