

Issuance Date: May 11, 1994

Effective Date: May 11, 1994

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF:

Browning Ferris Industries of Ohio, Inc.
2420 E. Mason-Morrow-Millgrove Rd.
Morrow, Ohio 45152

: Director's Final
: Findings and Orders
:
:
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Pursuant to Section 3734.02(G) of the Ohio Revised Code (ORC), the Director of Environmental Protection (Director) hereby makes the following Findings and issues the following Orders.

FINDINGS

1. Browning Ferris Industries of Ohio, Inc. (BFI) or (Applicant), owns and operates the Bigfoot Run Sanitary Landfill (Landfill) or (facility), located at 2420 East Mason-Morrow-Millgrove Road, Morrow, Warren County, Ohio.
2. The Landfill was in operation prior to July 1, 1968.
3. ORC Section 3734.05(A)(3) states that...

Unless the owner or operator of any solid waste facility, ... that commenced operation on or before July 1, 1968, has obtained an exemption from the requirements of division (A)(3) of this section in accordance with division (G) of section 3734.02 of the Revised Code, he shall submit to the director an application for a permit ... for approval under the rules adopted under division (A) of section 3734.02 ... and applicable rules adopted under division (D) of section 3734.12 of the Revised Code.

4. Pursuant to ORC Section 3734.05(A)(3), the Applicant submitted a solid waste disposal facility permit-to-install application (PTI No. 05-2277) on December 26, 1989.

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Mary Cowen Date 5-11-94

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5. As a result of alleged deficiencies contained in the application, on June 25, 1990 Ohio EPA issued a proposed denial of PTI No. 05-2277. The applicant requested an adjudication hearing on the proposed action on July 23, 1990. An adjudication hearing was held from March 18, 1991 to March 21, 1991, and the hearing officer recommended approval of PTI No. 05-2277.
6. Prior to action by the Director on the recommendation of the hearing examiner, the parties have reached a settlement in which PTI No. 05-2277 would be denied for one of the original reasons cited. Also as part of this settlement, the parties agreed that the Applicant should obtain an exemption allowing the Applicant to accept solid waste as part of implementation of the closure plan, for an extended but limited time not to exceed five (5) years.
7. Closure conducted in accordance with the approved closure plan will improve slope stability at the Landfill, will assist in minimizing the generation of leachate, and will further an environmentally beneficial closure of the facility in accordance with ORC Chapter 3734. and OAC Chapter 3745-27.
8. Applicant will conduct all future solid waste disposal activities at the facility in accordance with the closure plan approved by Director's Final Findings and Orders (DFFO's) dated May, 11, 1994.
9. ORC Section 3734.02(G) states that the Director may by Order, exempt any person generating, storing, treating, disposing of, or transporting solid waste in such quantities or under such circumstances that the Director determines are unlikely to adversely affect the public health or safety or the environment from any requirement to obtain a PTI.
10. Applicant's operation of the facility in accordance with ORC Chapter 3734., and in furtherance of completion of activities as set forth in the approved closure plan is unlikely to adversely affect the public health, safety or the environment.

ORDERS

1. Pursuant to ORC Section 3734.02(G), the Applicant is hereby exempted, for such time and under such circumstances as set forth in DFFO's dated May, 11, 1994, attached hereto, from the requirement of ORC Section 3734.05(A)(6) to close its facility located at 2420 East Mason-Morrow-Millgrove Road, Morrow, Warren County, Ohio, within one (1) year from the issuance of the denial of PTI No. 05-2277.

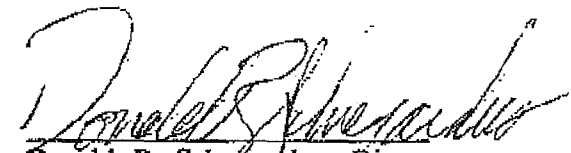
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By: Mary Carwin Date 5-11-94

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2. Pursuant to ORC Section 3734.02(G), the Applicant is hereby authorized to continue solid waste disposal operations at the Bigfoot Run Sanitary Landfill, located at 2420 East Mason-Morrow-Millgrove Road, for such time as authorized by the DFFO's dated May 11, 1994, attached hereto.
3. The Applicant is hereby required, pursuant to ORC Section 3734.05(A) and OAC Rule 3745-37-01(A), to apply for and receive annual solid waste disposal facility licenses for the Bigfoot Run Sanitary Landfill facility during the timeframe established in Order No. 2.
4. During the period of solid waste disposal operations of the Bigfoot Run Sanitary Landfill, the Applicant shall conduct all solid waste disposal operations in accordance with ORC Chapter 3734., the OAC Rules adopted thereunder, and any amendments or revisions thereto.
5. Nothing in these Orders shall be construed to authorize any waiver from any other requirements of applicable state solid waste laws or regulations. This exemption shall not be interpreted to release the Applicant from responsibility under ORC Chapters 3704., 3734., or 6111., the Federal Clean Water Act, or the Comprehensive Environmental Response, Compensation, and Liability Act for remedying conditions resulting from any release of contaminants from the facility to the environment.

IT IS SO ORDERED:


 Donald R. Schregardus, Director
 Ohio Environmental Protection Agency

May 11, 1994
Date

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Mary Cavine Date 5-11-94

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 DEPT. OF ENVIRONMENTAL PROTECTION

ATTACHMENT

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

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ALIGNED DIRECTOR'S JOURNAL

In The Matter Of	:	
	:	
Browning Ferris Industries	:	Case No. 90-SO-035
of Ohio, Inc.	:	
(Big Foot Run Landfill),	:	Director's Final Findings
	:	And Orders Dismissing
Applicant.	:	Proceeding

Pursuant to Section 119.06 et seq. and Chapter 3734. of the Ohio Revised Code, and the rules of the Ohio Environmental Protection Agency, the Director of Environmental Protection makes the following Final Findings and Orders:

FINDINGS

1. Browning-Ferris Industries of Ohio, Inc. (hereinafter "BFI") owns and operates the Big Foot Run Sanitary Landfill (hereinafter "Facility") which is located on Mason Morrow Millgrove Road in Union Township, Warren County, Ohio.
2. The Facility was in operation prior to July 1, 1968.
3. BFI submitted a Permit to Install (PTI) application on December 30, 1986. Ohio EPA neither granted nor denied this PTI application.
4. Pursuant to H.B. 592, BFI submitted a Permit to Install (PTI) application on December 26, 1989 to comply with O.R.C. Section 3734.05(A)(3).
5. On June 25, 1990, the Director of the Ohio Environmental Protection Agency issued his Findings and Proposed Orders which proposed to deny the issuance of a PTI to BFI for the Facility.
6. On July 23, 1990, BFI requested an adjudication hearing upon the Director's Findings and Proposed Orders.

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By: Mary Carvin Date 5-11-94

7. An adjudication hearing was held on this matter from March 18, 1991 to March 21, 1991.
8. The Hearing Officer issued a Report and Recommendation in this matter on December 11, 1991.
9. In his Report and Recommendation, the Hearing Officer recommended as follows: "The application for a permit to install, submitted by BFI for its Big Foot Run Sanitary landfill on December 30, 1986 and revised on December 28, 1989, should be approved."
10. Subsequent to the issuance of the Hearing Officer's Report and Recommendation, the parties have been negotiating in order to resolve the appeal without resort to a ruling by the Director on the Report and Recommendation of the Hearing Officer and objections thereto and without the further appeals which may ensue.
11. As a result of such negotiations, the parties had tentatively agreed, among other things, that OEPA would consider an extended closure of the Facility and BFI would consider accepting denial of its application of its permit to install.
12. On June 19, 1992, BFI submitted a final closure/post-closure report and plan to Ohio.EPA. BFI revised the final closure/post-closure report and plan on May 17, 1993.
13. Upon review of the final closure/post-closure report and plan, the Ohio EPA staff has agreed to approve an extended closure for up to a maximum of 5 years, as set forth below. The date when BFI shall initiate closure shall be based on

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By: Mary Carvin Date 5-11-94

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information BFI shall submit at the completion of 3 years from the date of the approval of the closure plan, illustrating what amount of air space shown on the final contours of the approved closure plan have been filled. If BFI demonstrates that 3/5 of the airspace has been filled and that the remaining 2/5 of air space can be filled within 24 months based on the previous 12 months daily receipts, then BFI shall initiate final closure within 24 months. If BFI fails to make such a demonstration, it shall initiate closure within 12 months and submit revised closure slopes..

14. The parties also agreed that the report and recommendation of the hearing officer shall have no precedential value as applied to other cases involving an interpretation of the statutory provisions or rules.

15. Furthermore, on May 11, 1994, the Director of Ohio EPA issued a modified order denying BFI's application for a permit to install for the Facility, and issued findings and orders approving the extended closure plan as approved by the Ohio EPA staff, and exempting BFI from the requirement to obtain a permit for the Facility, because operations pursuant to the approved closure plan and other applicable laws and rules are unlikely to adversely affect the public health or safety or the environment.

17. The above events render moot BFI's request for an adjudication hearing on Ohio EPA's proposed denial, the adjudication hearing and the Hearing Officer's Report and Recommendation, and all other aspects of Case No. 90-SO-035.

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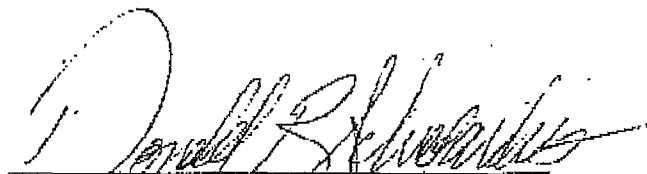
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ORDERS

1. The report and recommendation of the hearing officer is moot and shall have no precedential effect as to the interpretation of any of the statutory provisions or rules cited therein;
2. Case No. 90-So-035 is dismissed.

IT IS SO ORDERED:



 Donald R. Schregardus, Director of
 Environmental Protection

May 11, 1994
 Date

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Mary Carin Date 5-11-94

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