

204-1  
Office file.



# Environment & Resource Management Ltd

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ENVIRONMENTAL PROTECTION  
AGENCY WASTE LICENSING  
RECEIVED  
20 OCT 2004  
INITIALS.....

Mr. Malcolm Doak,  
Department of Licencing and Guidance,  
Environmental Protection Agency,  
Johnstown Castle,  
Co. Wexford.

**18 October 2004**

**Project No. 03.116**

**Re: Brownfield Restoration Ireland Ltd. - Waste Licence Application  
No. 204-1 at Whitestown Lower, Co. Wicklow**

Dear Malcolm,

We are acting on behalf of Brownfield Restoration Ireland Ltd. (BRI). We refer to Waste Licence Application No. 204-1, which is currently under consideration by the Agency.

Please find attached a copy of a letter dated 11<sup>th</sup> October 2004 recently received by the directors of the applicant company BRI from Wicklow County Council. As you will be aware, Mr. Michael Nicholson, in a recent submission from Wicklow County Council to the EPA dated 21 July 2004, requested that the EPA refuse this application.

However, the more recent letter from the Law Department of Wicklow County Council now requires the directors, Ann Stokes and Ray Stokes to mitigate and remedy the effects of the holding, recovery or disposal of waste on the lands, in steps similar to those described in the waste licence application, and also, specifically requires BRI and the directors to apply for a waste licence and other relevant required consents. As you will be aware, the waste licence application was submitted in March 2004. Our client, BRI, would like to initiate the remediation and development of the site, as proposed in the 204-1 Waste Licence Application submitted on 18 March 2004 as soon as possible.

In light of the attached correspondence, would you please advise us on the status of your consideration of the application and when we might receive the Agency's proposed decision?

I look forward to your response.

Yours sincerely,

Geoff Parker M.E.Sc., M.I.E.I

Cc: Mr Ray Stokes, BRI  
Attachments

# Comhairle Chontae Chill Mhantáin

## WICKLOW COUNTY COUNCIL

### LAW DEPARTMENT

Also serving  
Bray Town Council  
Greystones Town Council  
Wicklow Town Council

ENVIRONMENTAL PROTECTION  
AGENCY WASTE LICENSING  
RECEIVED

20 OCT 2004



County Buildings, Wicklow.  
TELEPHONE: (0404) 20122  
E-Mail: lawagent@wicklowcoco.ie  
FACSIMILE: (0404) 20144  
DX 46 004 - WICKLOW

My ref:

INITIALS.....

Your ref:

REGISTERED POST

Date  
11<sup>th</sup> October, 2004.

RECEIVED

18 OCT 2004

To: Anne Stokes,  
7, Ardilea Downs,  
Dublin 14.

**IN THE MATTER OF THE WASTE MANAGEMENT ACTS, 1996-2003 ("THE ACTS")**  
**LANDS AT WHITESTOWN (O'REILLY'S) QUARRY, WHITESTOWN, CO. WICKLOW ("THE LANDS")**

Dear Madam,

I act for Wicklow County Council and am instructed that Brownfield Restoration Ireland Limited of which you are a Director, its servants or agents or persons acting under its control or direction (amongst other persons) are responsible for the holding, recovering and/or disposing of waste (as defined in the Acts) and/or held, recovered and/or disposed of waste at the lands referred to above in a manner that has caused and/or is causing environmental pollution (as defined in the Acts). The lands are within the functional area of Wicklow County Council. The lands are more properly described on a site map annexed to Schedule I hereto and crosshatched in red thereon.

I am instructed that neither the said Company nor any person acting on its behalf who held, recovered or disposed of at the lands had a waste licence or waste permit or any other lawful authority so to do. Accordingly, such holding, recovering and/or disposal of waste on the lands is/was illegal, having regard, *inter alia*, to the provisions of the Acts. Having regard to the decision of the High Court (Mr. Justice O'Sullivan) in *Wicklow County Council v. Fenton* [2002] 4 IR 45, as a Director of a company whose actions in holding, recovering and/or disposing of waste on the lands have caused and/or is causing environmental pollution, you are personally responsible for the mitigation and/or remediation of such environmental pollution.

**TAKE NOTICE** that Wicklow County Council now requires you to undertake personally:-

1. That you and the said Company of which you are a Director will not hold, recover or dispose of any waste on the lands in the absence of a waste licence or waste

David Sweetman, Law Agent;

Note: All Correspondence should be addressed to The Law Agent quoting our reference

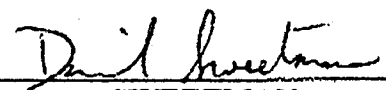
- permit, as appropriate, or other lawful authority.
2. That you personally will pay Wicklow County Council all costs and expenses incurred by it and/or which will be incurred by it in the investigation and detection of the unlawful holding, recovery and/or disposal of waste on the lands and/or monitoring of the lands to date and into the future in light of its unlawful holding, recovery and/or disposal of waste on the lands (including the remuneration and other expenses of employees of Wicklow County Council and consultants, experts and/or advisers engaged by it in this regard).
  3. That you personally will mitigate and remedy the effects of the holding, recovery or disposal of waste on the lands. (In this regard, Schedule II hereto sets out in skeleton form the mitigation and remediation steps required to be taken in respect of the lands.)

**AND FURTHER TAKE NOTICE** that if you do not provide an undertaking in the foregoing form, which is to the satisfaction Wicklow County Council, within 21 days of the date of this letter, it will, without further notice to you institute legal proceedings against the Company and you personally under the Acts for such Orders or reliefs as it shall consider appropriate.

**AND FURTHER TAKE NOTICE** that if Wicklow County Council is required to take legal proceedings against the Company and you personally, this letter will be produced in order to affix the Company and you personally with Wicklow County Council's costs and expenses.

Dated this 11<sup>th</sup> day of October, 2004.

Signed:

  
**DAVID SWEETMAN,**  
Law Agent,  
Wicklow County Council,  
County Buildings,  
Wicklow,  
County Wicklow.

## SCHEDULE I

(See attached map)

## SCHEDULE II

**IN THE MATTER OF THE WASTE MANAGEMENT ACTS, 1996-2003 ("THE ACTS")  
LANDS AT WHITESTOWN (O'REILLY'S) QUARRY, WHITESTOWN, CO.  
WICKLOW ("THE LANDS")**

**Measures regarding the mitigation and/or remediation of effects of waste held, recovered or disposed of on the lands:**

Wicklow County Council considers that the most appropriate mitigation/remediation option is to remove waste from land filled areas on the lands, to treat the waste on site, to segregate nominated fractions and to dispose or recover this material in appropriate off-site facilities, to contain residual waste and to restore the lands.

**Steps required to be taken:**

- Excavation of waste material and contiguous soils ("the material")
- The screening of the material to remove soils from waste
- The segregation of the recovered waste into fractions
- Composting of putrescible waste and conversion to compost
- Safe Soil making
- The removal of recovered material and recyclables off site
- The disposal of hazardous material at an approved location
- The construction of an engineered landfill on the lands to retain residual waste
- Restoration of the lands
- The continuous monitoring of the lands

**Mitigation/Remediation Plan:**

The Parties notified by Wicklow County Council shall provide a Mitigation/Remediation Plan which will set out the manner in which it is proposed that the steps to be taken shall be implemented. The Parties notified shall also put in place appropriate health and safety

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protocols (such Plan and protocols to be agreed with Wicklow Council in advance).

**Regulatory Permits, Permissions, Consents and/or Licences:**

The Parties notified by Wicklow County Council shall undertake to make such applications as are necessary to the appropriate regulatory authorities for whatever regulatory permits, permission, consents and/or licences under the environmental, planning and waste management codes are required to carry out the remediation/mitigation steps to be taken set out above.

**NOTE**

*The time frames required to implement the mitigation/remediation of the lands (including the time frames required for each of the individual steps to be taken) shall be made the subject of an agreement between the Council and the notified Parties in advance.*

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