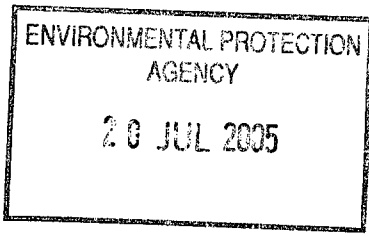


Sub 12100

204-1 office



Mount Slaney
Stratford on Slaney
Co Wicklow

19 July 2005

Environmental Protection Agency,
Johnstown Castle,
Wexford

**Application by Brownfield Restoration Limited for a licence for an integrated waste facility at
Whitestown, Co Wicklow
Application number 204-1**

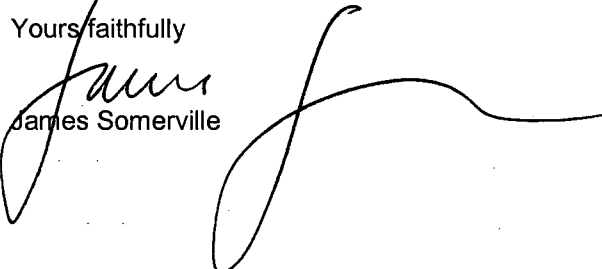
Dear Sirs

I have already made an observation to the EPA in respect of this application and while the receipt for my observation indicated that I could not make any further observations it has come to my attention that the appellant has submitted further information in respect of this application. I had thought that neither the applicant nor I could make further submissions but in the event that the applicant's further information is accepted I would like my further observation to be considered.

I believe the additional information submitted indicates that while at the date of the original application for a waste licence part of the site was within the boundary of a candidate special area of conservation that this area has now been reduced so that no part of the site actually abuts into the SAC. The reasons for this decision to move the SAC boundary are as yet unexplained by the relevant authorities and are open to legal challenge.

The Habitats Directive (94/43/EEC), as implemented into Irish law, state that regard should be had to the impact on a special area of conservation by a major development in immediate proximity of a SAC that might have an "adverse effect on the integrity of the site" (Regulation 18 of SI 94 of 1997). It cannot by any means be said that the operation of a major dump facility could not have a significant potential impact on an SAC particularly one involving a river and the inevitable risk of run off and percolation of water from the site to the river. For this reason I would submit that the change of the SAC boundary should not have any positive impact on the waste licence application. Perhaps the SAC boundary change might enable non intensive activity such as limited agricultural activities, but a major waste facility within metres of an important salmonid river would seem to be contrary to principles of EU environmental law and open to challenge before both the Irish and European Courts.

While I understand the additional information submitted also refers to additional barriers being put in place between the dump and the SAC I do not believe that there is any proven evidence that such barriers would effectively prevent the escape of toxic materials to the river. The potential risks would include incorrect installation, failures in the relevant material, and overflow of material from the barrier - where will rainwater go other than downhill into the river? While such risks may be measured as acceptable in sites not abutting areas with specific EU environmental designation I submit that they cannot be acceptable on the present site.

Yours faithfully

James Somerville



Environmental Protection Agency
An Ghníomhaireacht um Chaomhnú Comhshaoil

Mr James Somerville
Mount Slaney
Stratford on Slaney
Co Wicklow

Headquarters, PO Box 3000
Johnstown Castle Estate
County Wexford, Ireland
Ceanncheathrú, Bosca Poist 3000
Eastát Chaisleán Bhaile Sheáin
Contae Loch Garman, Éire

20th July 2005

204-1

T: +353 53 60600
F: +353 53 60699

Waste Licence Application re: Brownfield Restoration Ireland Ltd at Whitestown Lower, Co Wicklow.

E: info@epa.ie
W: www.epa.ie

LoCall: 1890 33 55 99

Dear Mr Somerville

I am to refer to your letter of 19/07/2005, received on 20/07/2005, in relation to an application for a waste licence reference number 204-1, by Brownfield Restoration Ireland Ltd, in respect of a facility at Brownfield Restoration Ireland Ltd, Whitestown Lower, Co Wicklow.

I am to advise that your letter will be treated as a submission and will be taken into account when determining the application, in accordance with the Waste Management Acts, 1996 to 2003, and Article 15 of the relevant Waste Management (Licensing) Regulations, which provides as follows:

Extract from the Waste Management (Licensing) Regulations

Submissions to the Agency regarding applications.

15. For the purpose of section 40(2)(b) of the Act, a person may make a written submission to the Agency in relation to -
- (i) an application, and
 - (ii) such plans, documents and other information and particulars, including an environmental impact statement, as are submitted by the applicant in accordance with articles 12, 13, 14 and 16, and the Agency shall not give notice of a proposed decision under section 42(2) of the Act before the expiry of a period of one month following the date of a relevant -
 - (a) acknowledgement in accordance with article 14(2)(a), or
 - (b) notice in accordance with article 16(2)(a), or
 - (c) acknowledgement in accordance with article 16(4), whichever such date is the later.

The application and associated correspondence, including the acknowledgements and notifications referred to in Article 15 above, are available on the public file relating to the application as they arise and that file may be inspected by any person during office hours at the Agency's headquarters. A copy of the file is also available for inspection at the offices of Wicklow County Council.

Copy extracts from the file will be supplied by the Agency to any person, on request, subject to payment of the reasonable cost of making the copy.

You are advised to refer to the public file for information on the progress of the application. The Agency will write to you to inform you of its proposed decision on the application in due course.

Please direct any further correspondence in relation to this matter to Administration, Office of Licensing & Guidance, Environmental Protection Agency, Headquarters, P.O. Box 3000, Johnstown Castle Estate, County Wexford.

Yours sincerely,

Noeleen Keavey
Programme Officer
Office of Licensing & Guidance

