California Regional Water Quality Control Board
San Francisco Bay Region

Linda S. Adams
Secretary for
Environmental Protection

1515 Clay Street, Suite 1400, Oakland, California 94612
(510) 622-2300 • Fax (510) 622-2460
http://www.waterboards.ca.gov/sanfranciscobay

Arnold Schwarzenegger
Governor

July 13, 2010
Place ID 215718 (FA)

Browning-Ferris Industries
Attention: Mr. Garry Lowe, Operations Manager
Corinda Los Trancos / Ox Mountain Sanitary Landfill
1601 Dixon Landing Road
Milpitas, California 95035

Subject: Transmittal of Cleanup and Abatement Order No. R2-2010-0092 and Clarification of Separation of Functions and Ex Parte Communications

Dear Mr. Lowe:

Attached is a copy of Cleanup and Abatement Order No. R2-2010-0092 issued by the San Francisco Bay Regional Water Quality Control Board (Water Board). This Order requires the Browning-Ferris Industries to submit number of technical reports including a work plan/schedule (due August 16, 2010) to assure future compliance with Order No. R2-2007-0062 acute toxicity requirements; and a work plan/schedule (due October 15, 2010) to conduct a bioassessment in the Corinda Los Trancos and Pilarcitos creeks to determine the effects of past discharges in violation of acute toxicity effluent limitations. The Order is self explanatory and effective immediately.

Separation of Functions: To help ensure the fairness and impartiality of this proceeding and any future enforcement activities, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Water Board (Prosecution Team) have been separated from those who will provide advice to the Water Board (Advisory Team). Members of the Advisory Team and the Prosecution Team are:

Advisory Team:
Bruce H.Wolfe, Executive Officer, bwolfe@waterboards.ca.gov, 510-622-2314
Yuri Won, Attorney, ywon@waterboards.ca.gov, 510-622-2491
Address: 1515 Clay Street, Suite 1400, Oakland, CA 94612
Primary Contact: Bruce H. Wolfe

Prosecution Team:
Dyan C. Whyte, Assistant Executive Officer, dwhyte@waterboards.ca.gov, 510-622-2441
Thomas Mumley, Assistant Executive Officer, tmumley@waterboards.ca.gov, 510-622-2395
Lila Tang, NPDES Division Chief, ltang@waterboards.ca.gov, 510-622-2425
Dorothy Dickey, Legal Counsel, ddickey@waterboards.ca.gov, 510-622-2490
Gina Kathuria, Section Leader, gkathuria@waterboards.ca.gov, 510-622-2378
Farhad Azimzadeh, Staff Engineer, fazimzadeh@waterboards.ca.gov, (510) 622-2310
Address: 1515 Clay Street, Suite 1400, Oakland, CA 94612

Yvonne West, Staff Counsel, Office of Enforcement, ywest@waterboards.ca.gov, 916-341-5445
Address: 1001 "I" Street, 16th Floor, P.O. Box 100, Sacramento, CA 95814
Primary Contact: Yvonne West

Any members of the Advisory Team who normally supervise any members of the Prosecution Team are not acting as their supervisors in this proceeding, and vice versa. Members of the Prosecution Team may have acted as advisors to the Water Board in other, unrelated matters, but they are not advising the Water Board in this proceeding. Members of the Prosecution Team have not had any ex parte communications with the members of the Water Board or the Advisory Team regarding this proceeding.

Ex Parte Communications: Representatives of the Browning-Ferris Industries, members of the Water Board's Prosecution Team, and interested persons are forbidden from engaging in ex parte communications regarding this matter with members of the Advisory Team or members of the Water Board. An ex parte contact is any written or verbal communication pertaining to the investigation, preparation or prosecution of the Tentative Cease and Desist Order between a representative of the Browning-Ferris Industries, a member of the Prosecution Team, or an interested person on the one hand, and a Water Board member or an Advisory Team member on the other hand, unless the communication is copied to all other parties (if written) or made in a manner open to all other parties (if verbal). Communications regarding non-controversial procedural matters are not ex parte contacts and are not restricted. Communications among the Browning-Ferris Industries and the Prosecution Team and interested persons themselves are not ex parte contacts.

Evidentiary Hearing before the Water Board: Any person affected by this action of the Water Board may request an evidentiary hearing before the Water Board. The Water Board's Executive Officer may elect to hold an informal hearing or a "paper hearing" in lieu of scheduling a hearing before the Water Board itself. Send your hearing request to Bruce H, Wolfe, Executive Officer 1515 Clay Street, Suite 1400, Oakland CA 9461c, with a copy to Farhad Azimzadeh at the same address. Your request must include all comments, technical analysis, documents, reports, and other evidence that you wish to submit for the hearing. Mr. Wolfe must receive the review request within 30 days of the date of this order. Failure to request review may prevent you from submitting new evidence in support of a State Board petition. The Executive Officer or Water Board may deny the request for a hearing after reviewing the evidence. A review request does not stay the effective date of the Order, whether or not a hearing is scheduled. The administrative record will include all materials that the Water Board has previously received regarding this site. You are not required to resubmit documents with a hearing request. A request for a hearing does not extend the 30-day period to file a petition with the State Board. The Order includes additional information about State Board petitions.

If you have any questions about this matter, please contact Farhad Azimzadeh (fazimzadeh@waterboards.ca.gov) at (510) 622-2310 or Yvonne West (ywest@waterboards.ca.gov) at (916) 341-5445.

Sincerely,

Dyan C. Whyte
Assistant Executive Officer

Attachment: Cleanup and Abatement Order No. R2-2010-0092

cc (by email):
Water Board Advisory Team
Water Board Lyris Enforcement email list