

BEFORE THE ILLINOIS
POLLUTION CONTROL BOARD

CITIZENS UNITED FOR A)	
RESPONSIBLE ENVIRONMENT,)	
)	
Petitioner,)	PCB 96-238
)	
v.)	
)	
BROWNING-FERRIS INDUSTRIES)	
OF ILLINOIS, INC., and)	July 16, 1996
VILLAGE BOARD OF THE VILLAGE)	
OF DAVIS JUNCTION, ILLINOIS,)	Davis Junction
)	Village Hall,
Respondent.)	Davis Junction, IL

Hearing commenced at 9:25 a.m.

BEFORE:

HEARING OFFICER MICHAEL L. WALLACE,
Illinois Pollution Control Board,
600 South Second Street, Suite 402,
Springfield, Illinois, 62704

REPORTER:

Carrie L. Vaske,
Certified Shorthand Reporter,
Ashton, Illinois

APPEARANCES:

ATTORNEY KIM KRAHENBUHL,
of the firm of Williams & McCarthy,
601 Washington Street,
Oregon, Illinois, 61061

Counsel for CURE.

ATTORNEY GERALD CALLAGHAN and
ATTORNEY ANN ZWICK,
of the firm of Freeborn & Peters,
311 South Wacker Drive,
Chicago, Illinois, 60606-6677

Counsel for BFI.

ATTORNEY DENNIS SCHUMACHER and
ATTORNEY BRIAN BUZARD,
of the Law Offices of Dennis Schumacher,
111 East Hitt Street,
Mt. Morris, Illinois, 61054

Counsel for the Village.

ALSO PRESENT: Tim Hess, Concerned Citizen and
James Ambroso of BFI.

MR. WALLACE: Pursuant to the direction of the Illinois Pollution Control Board I now call docket PCB 96-238. This is Citizens United for a Responsible Environment versus Browning-Ferris Industries of Illinois, Inc., and the Village Board of the Village of Davis Junction, Illinois.

If I could I have appearances for the record, please, for the Petitioner.

MR. KRAHENBUHL: Kim Krahenbuhl, K-r-a-h-e-n-b-u-h-l, Attorney for Citizens United for a Responsible Environment.

MR. WALLACE: For the City, please or the Village.

MR. SCHUMACHER: Dennis Schumacher, Brian Buzard, Law Offices of Dennis Schumacher for the Village of Davis Junction.

MR. WALLACE: And for BFI.

MR. CALLAGHAN: Gerald Callaghan and Ann Zwick from the law firm of Freeborn and

Peters, and also James Ambroso from Browning-Ferris Industries.

MR. WALLACE: Let the record reflect there are no other appearances at today's hearing. Are there any members of the public that wish to be noted as being present this morning?

MR. HESS: Yes.

MR. WALLACE: Your name, sir.

MR. HESS: Tim Hess, H-e-s-s.

MR. WALLACE: Anyone else? All right, thank you. I received yesterday afternoon the stipulation which apparently pretty well takes care of this morning's activities.

Mr. Krahenbuhl, do you want to address that at all?

MR. KRAHENBUHL: Yes. The Petitioner has no evidence or information to provide today. We will stand on our brief and our argument will be made in the brief we will file with the Pollution Control Board I believe in two weeks.

MR. WALLACE: Mr. Callaghan?

MR. CALLAGHAN: We will do the same. Browning-Ferris will rely on the record that was presented at the local siting hearing and make all argument in its brief as well.

MR. WALLACE: And Mr. Schumacher for the Village?

MR. SCHUMACHER: And I think we're just taking the position of traveling along with the other parties in this matter just to respond to anything as far as any procedural issues that we feel that we need to address, but other than that, I think we're kind of viewing ourselves as a neutral party in this proceeding.

MR. WALLACE: All right, so there being no witnesses to be called, no further evidence to be introduced at this time, before me here on the podium, I don't know exactly how many exhibits, these are the exhibits that were not included in the record submitted to the Board.

It's my intention to take these with me to the Board's office in Chicago today. I don't have an exact num -- the exact numbers. I will rely on the chart that was submitted with the motion if that's agreeable to everyone.

MR. CALLAGHAN: Mr. Wallace, for the record, if I may, many of the exhibits -- these are the actual large size exhibits. Many of them were in reduced form admitted into evidence at the hearing, and it was simply the full-sized version that I think the parties agreed that it would be easier for the record not to have them, but they certainly, I think would be of assistance to the Board in making its decision.

MR. WALLACE: All right. Do you think that all of them have been reduced or just --

MR. CALLAGHAN: No, some of them I think were actual -- and I don't have my complete witness list. For example, there

is -- BFI Exhibit No. 51 is a chart that was produced at the hearing. That was admitted into evidence, I believe. All of this would be reflected in the record as to those exhibits which were admitted and those which were produced subsequently as issues arose at the hearing, but certainly in the transcript of the proceedings you'd be able to tell which ones. And if you would like we could provide you with an exhibit list as we understand it.

MR. WALLACE: That would probably be convenient for the Board.

MR. CALLAGHAN: Sure, okay.

MR. WALLACE: As you're aware, I don't write up the order. The Board itself will issue the opinion and order, and having these exhibits in the Chicago office for their reference may be helpful to the Board members as they write the opinion.

MR. SCHUMACHER: May I ask for today for this proceeding, would it be possible or

do we need to identify the exhibits today that you're taking to distinguish those that may have been considered or reviewed prior to this or explaining which is where.

MS. ZWICK: They were all listed in the motion. We filed a motion.

MR. SCHUMACHER: All of these that are here today?

MS. ZWICK: Yeah. We filed a motion to exclude these from having to make extra copies so they're all listed.

MR. SCHUMACHER: So they're all identified.

MS. ZWICK: They're all identified.

MR. SCHUMACHER: Thank you.

MR. WALLACE: If we go by Exhibit A of the attachment to the motion to waive the requirement to file copies of certain documents comprising the record, I assume that that would be the exhibits --

MS. ZWICK: Yep, those are them.

MR. WALLACE: -- present today.

MR. SCHUMACHER: Okay, good. I just want to make sure we have a record showing that.

MS. ZWICK: Yeah, we put down -- we tried to put down the exhibit number from the hearing so I don't know if they need another list or not. That's it.

MR. WALLACE: That sounds like that would be fine then, and since these are the only existing copies, according to the Board's order they do become part of the record submitted to the Board. I do not know if they are returnable or not. You can make a request after the opinion and order is issued for a request for the exhibits to be returned if you so desire, and the Board will rule upon that. That's entirely up to you. I know it's been done in the past.

I quite frankly am not sure what the Board's requirements are on keeping these types of exhibits, so I leave that with you as an option if you were to desire

to try to get them back at some point in time down the road.

The briefing schedule was set. Anyone have any amendments or is that acceptable as is?

MR. CALLAGHAN: We would request one thing, Mr. Wallace, and that is because I believe there's a two week turn around, we have two weeks to respond to the Petitioner's brief, if we could get that faxed to us it would certainly help us in preparing our brief. So I would ask Mr. Krahenbuhl as a matter of courtesy if he'd be willing to do that, and if not -- we will be glad to do the same to you.

MR. KRAHENBUHL: We'll have it to you by the date, because we're going to file it before the date.

MR. CALLAGHAN: Fine.

MR. KRAHENBUHL: Because I'm going to be gone on vacation.

MR. CALLAGHAN: We do have priorities.

MR. WALLACE: So then the initial brief is due July 29th, a response August 12th and a reply August the 19th. Those are the dates established.

The deadline in this case has been waived to September 19th. That is the Board meeting for that. The second Board meeting of September is on the 19th, so that the decision should be entered either -- well, I'm assuming the Board will act on this case on that date. Absent any additional waiver the Board has to act upon that date. Is there any --

MS. ZWICK: Do you know what time that hearing will be, the Board meeting is?

MR. WALLACE: The Board convenes at 10:30.

MS. ZWICK: 10:30.

MR. WALLACE: BFI is not -- you're not waiving the deadline any further out at this time.

MR. CALLAGHAN: Right.

MR. WALLACE: All right. Anything else from the parties, Mr. Krahenbuhl?

MR. KRAHENBUHL: I have nothing further.

MR. WALLACE: Mr. Callaghan?

MR. CALLAGHAN: Nothing.

MR. WALLACE: Mr. Schumacher?

MR. SCHUMACHER: Nothing further.

MR. WALLACE: Mr. Hess, do you wish to make a statement as a member of the public for the record?

MR. HESS: No, my comments will take care of that.

MR. WALLACE: I'm sorry, sir?

MR. HESS: The comments I'm filing will take care of that.

MR. WALLACE: Okay. You wish to file comments to the Pollution Control --

MR. HESS: Be written comments as per the -- I don't exactly remember the number of the document that was filed in the local papers here.

MR. WALLACE: Okay. Our docket number is PCB 96-238.

MR. HESS: It's a different issue. I realize that. Sorry.

MR. WALLACE: I'm merely asking you if you want to make --

MR. HESS: No, sir.

MR. WALLACE: -- any oral comments for the record today --

MR. HESS: No, thank you.

MR. WALLACE: -- on the siting process for the Orchard Hill Site.

MR. HESS: No, thank you.

MR. WALLACE: Thank you. I believe that's all. Thank you very much. This record is closed.

(The hearing was concluded at 9:36 a.m.)

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I, Carrie L. Vaske, hereby certify that I am a Certified Shorthand Reporter of the State of Illinois; that I am the one who by order and at the direction of the Hearing Officer, Michael Wallace, reported in shorthand the proceedings had or required to be kept in the above-entitled case; and that the above and foregoing is a full, true and complete transcript of my said shorthand notes so taken.

Dated at Ashton, Illinois, this 18th day of July, 1996.

Carrie L. Vaske
Registered Professional Reporter
Certified Shorthand Reporter
Illinois License No. 084-003845
8991 South Prairie Road
Ashton, Illinois 61006