

EPA ORAL HEARING ON WASTE LICENCE FOR A WASTE MANAGEMENT FACILITY INCLUDING A HAZARDOUS AND NON-HAZARDOUS WASTE INCINERATOR

STATEMENT ON BEHALF OF C.H.A.S.E

FEARGAL DUFF

The granting of waste licence for a waste management facility including a hazardous and non-hazardous waste incinerator at Ringaskiddy would be a miscarriage of environmental justice.

I say this not as a lawyer but as a person who has worked for many years with the United Nations Environment Programme (UNEP). During that time I represented UNEP on many occasions at international fora and expert conferences on Biodiversity held prior to and as a follow-up to the adoption of the convention on biological diversity. I have participated with the representatives of a large number of countries in the discussions on the implementation of the convention and have helped formulate environmental policy at an international level.¹

Environmental justice is defined as: The equitable treatment of all people, regardless of race, income, culture, or social class with respect to the development, implementation, and enforcement of environmental laws, regulations and policies.²

Establishing links between environmental justice and a particular development is often very difficult. But in this case due to the concern, courage and generosity of a dedicated and talented group of people from Cork and elsewhere, and the wisdom and integrity of an bord pleanalta senior planning inspector, the link has been established.

The fact that poorer communities have suffered more from environmental damage has been around for a long time, but politicians have been slow to react. In cases like this many people think only of local exposure to highly toxic dioxins. This is understandable as with exposure to highly toxic dioxins there is a great risk. It does not matter how rich you are or how many doctors are available. It must be noted that dioxins know no boundaries and they can travel around the world. Furthermore indirect effects such as climate change as a result of increased greenhouse gas emissions from incinerators can be felt around the world.

¹ See attached C.V.

² US dept of energy office of environmental management.

Sadly, all too often it is left to private individuals to ensure that governments fulfil their environmental obligations and live up to their commitments made at Rio and elsewhere.

At the an bord pleanala Oral Hearing it was clearly demonstrated that the proposed development would be unethical, unhealthy, unnecessary, unsafe, and unsustainable.

The proposed development is inconsistent with national and international environmental policy as I outlined in my paper to the an bord pleanala oral hearing.³

INTERNATIONAL POLICY

As a member of the global community Ireland participates in making and influencing policy at an international level. When policy leads to commitment and calls for action we, like other members of the global community, are bound nationally and internationally to honour our commitments and we expect others to do the same.

One of the key agreements adopted at Rio was the Convention on Biological Diversity. This pact among the vast majority of the world's governments sets out commitments for maintaining the world's ecological underpinnings as we go about the business of economic development.

The Convention establishes three main goals: the conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of the benefits from the use of genetic resources.

Ireland was the 139th nation to sign the CBD on the 13 June 1992. Ireland subsequently ratified the CBD on the 22 March 1996.

Ireland reaffirmed its policy and commitment to the principles agreed at RIO when it signed the Stockholm Convention On Persistent Organic Pollutants on the 23 May 2001. The policy underpinning the Stockholm Convention On Persistent Organic Pollutants (POPS CONVENTION) is to *inter alia* end the release and use of 12 of the most dangerous Persistent Organic Pollutants (POPS) and to protect human health and the environment from the harmful impacts of persistent organic pollutants.

³ See attached F.DUFF paper to an bord Pleanala Oral Hearing

These POPS include dioxins and furans.

The major source of these dioxins and furans in industrialised countries are combustion processes of any type. Examples are incineration of municipal, hazardous, and clinical waste; and smaller sources, such as automobiles (especially when run on leaded gasoline), home heating, open garbage burning and landfill fires. Dioxins and furans are the most potent cancer-causing chemicals known to man; they gained worldwide attention when they were found to have contaminated chicken meat in several European countries (UNEP 2002 [online].)⁴

RECENT WORK HAS ALSO FOUND THAT WASTE INCINERATION CONTRIBUTES A SUBSTANTIAL AMOUNT OF THE LEAD FALLOUT OVER URBAN AREAS (CHILRUD ET AL, 1999). MOST INCINERATORS HAVE BEEN SHUT IN EUROPE AND NORTH AMERICA, BUT THEY ARE INCREASINGLY USED IN DEVELOPING COUNTRIES, INCLUDING CHINA AND PAKISTAN, WHICH MAY HELP ACCOUNT FOR THE INCREASES... IN LEAD POISONING IN CHILDREN.⁵

The Irish government has committed itself to a policy to reduce the release of dioxins, furans, hexachlorobenzene and PCBs as by products of industrial combustion, with the goal of their continuing minimization and, where feasible, ultimate elimination. The Waste Management Facility as proposed for Ringaskiddy is not consistent with this policy.

The first meeting of the Conference of the Parties (COP) to the POPS convention will be held in Punta del Este, Uruguay, 2-6 May 2005. In reporting to the COP, how will the Irish delegation reconcile the approval of this proposed facility with the objectives of the POPS convention?

What will the government report in the National Implementation Plan required under article 7 of the convention. It is worth noting paragraphs 2 and 3 of this article:

2. The Parties shall, where appropriate, cooperate directly or through global, regional and subregional organizations and consult their national stakeholders, including women's groups and groups involved in the health of children, in order to facilitate the development, implementation and updating of their implementation plans.

⁴UNEP Chemicals *Ridding the World of Pops: A Guide to the Stockholm Convention on Persistent Organic Pollutants.*

⁵<http://earthwatch.unep.ch/toxicchem/heavymetals.php>

3. The Parties shall endeavour to utilize and where necessary, establish the means to integrate national implementation plans for persistent organic pollutants in their sustainable development strategies where appropriate.

The Minister of the Environment is quoted in the Sunday Tribune of 7 November 2004 as saying:

“that it was not honest of anybody to suggest that Ireland could have a coherent waste management policy that did not include incineration”.

I ask the Minister, is it honest to go ahead with incineration plans, which are inconsistent with national waste management policies, and our obligations under international agreements?

In the same paper, the Minister is quoted as saying:

“The big issue is how we conduct the debate on incineration. If we can have a debate in which all the facts are put before the people and considered in a calm fashion, I believe it will be widely accepted that there is no way of dealing with the issue without using incineration”. The paper went on to say:

The minister said the public health was a prime concern of the government.

I welcome the minister's suggestion on a public debate and have personally offered to help him organize this debate. Furthermore, I believe we must use the organizations we subscribe to and seek expert advice from the UNEP, WHO, the Inter-Organization Programme for the Sound Management of Chemicals (IOMC), the Inter-governmental Forum on Chemical Safety (IFCS) and other relevant organizations and stake-holders on this issue.

I have heard references to the World Health Organisation (WHO) by John Ahern of Dundaver, which might be construed to mean that WHO approve of this proposed facility at Ringaskiddy. I must point out that WHO, as a member of Inter-Organisation programme for the sound Management of Chemicals (IOMC), participated in the making of the Stockholm convention. As the principle aim of this convention is to rid the world of P.O.Ps, I would be astonished if WHO approved of this proposed facility. Furthermore, the WHO guidelines on SITE SELECTION FOR NEW HAZARDOUS WASTE MANAGEMENT FACILITIES have not been adhered to: the site is unsuitable as it is located in a coastal area subject to floods (see Step I criteria used in site selection page 31). Moreover, exclusionary factors in site selection as listed in Table 2 on page 34 of the guidelines have not been correctly applied. Reference is made in particular to paragraphs 9,11, 12, 13, and 14.

I would be willing to participate in a mission to UNEP and WHO with Mr John Ahern to seek expert opinion on this proposed facility.

Furthermore, as I indicated in my paper to the an bord pleanala oral hearing the Waste Management Facility as proposed for Ringaskiddy is not consistent with the major policies of the CBD. principally with respect to the following articles: Articles 8(c, d, e, f, h, i, j, k, l) art 10, (a, b, c, d, e,) Article 14 1(a) and (b) plus the last paragraph of the preamble to the CBD

Article 8 of the CBD sets out the major POLICIES for effective conservation of biodiversity, giving states a set of goals against which to match their own laws and policies. Article 10 does the same for sustainable use of biological resources and article 14 for environmental impact assessment.

ART 14: Impact assessment and minimizing adverse impacts

1. Each Contracting Party, as far as possible and as appropriate, shall:
 - a) Introduce appropriate procedures requiring environmental impact assessment of its proposed projects that are likely to have significant adverse effects on biological diversity with a view to avoiding or minimizing such effects and, where appropriate, allow for public participation in such procedures;
 - b) Introduce appropriate arrangements to ensure that the environmental consequences of its programmes and policies that are likely to have significant adverse impacts on biological diversity are duly taken into account;...

In the conclusions of an bord pleanala report P104.131196 the senior planning inspector concluded inter alia that the E.I.S was inadequate by reason of:

- Lack of sufficient data necessary to identify and assess the main effects of the proposed development,
- Inadequate consideration of the interaction between the factors, and
- Inclusion of technical terminology within the non-technical summary

I believe it is essential that the EIA is revisited and reviewed. Questions such as: Were Ireland's obligations under international legally binding agreements, adequately covered?

Was the ecosystems approach as defined by the COP to the CBD used?

Why was the EIS prepared after the site had been purchased?

Why were the WHO guidelines on SITE SELECTION FOR NEW HAZARDOUS WASTE MANAGEMENT FACILITIES not adhered to.

The review of the E.I.A. must be transparent.

It is worth noting that in section 8.3 of The 6th EAP, Guiding Principles of EU Environmental Policy Making, reference is made to the reversal of the burden of proof i.e. making producers responsible to prove that any hazardous substances they currently use and any that they create and plan to use do not present unnecessary or unacceptable risks for the environment and human health⁶.

Furthermore, on the 11 August 2003 a major waste enforcement initiative was announced by the Minister for the Environment, Mr. Cullen. The press release said that there will be a number of important enforcement-related changes in the law including the reversal of the burden of proof - in certain cases, so that it will be up to the defendant to prove that an activity did not cause environmental pollution.

It has also been argued that we should be self-sufficient in dealing with our hazardous waste. However, as recommended in the National Hazardous Waste Management Plan (NHWMP) it makes much more sense to legally export the small amount of hazardous waste envisaged while we get our act together on the implementation of the waste hierarchy shown in Figure 2.1 of the NHWMP.

The proposed facility is inconsistent with the National Hazardous Waste Management Plan NHWMP as outlined in the conclusions of an bord pleanaála report P104.131196. In this the senior planning inspector concluded inter alia that the proposed development, prior to any progress on the achievement of the waste prevention targets set out as a priority in the National Hazardous Waste Management Plan (NHWMP), would be premature and because of its scale, which is considerably in excess of the scale envisaged for thermal treatment in that Plan, would be contrary to national policy as it would inhibit the achievement of the Prevention Programme as provided for in the plan and that no provision was made for hazardous waste generated by the proposed development. He also concluded that the EIS was inadequate. In all, he gave 14 reasons for his decision to recommend refusal for the proposed development.

THE EPA'S MISSION IS: TO PROTECT AND IMPROVE THE NATURAL ENVIRONMENT FOR PRESENT AND FUTURE GENERATIONS, TAKING INTO ACCOUNT THE ENVIRONMENTAL, SOCIAL AND ECONOMIC PRINCIPLES OF SUSTAINABLE DEVELOPMENT

THE TIME HAS COME FOR THE EPA TO LIVE UP TO ITS'S MANDATE:

⁶ Environment Directorate General 2003 Management Plan (Based on 6th Environment Action Programme)

In this connection I would like to draw your attention to the CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION. ARTICLE 37:

Environmental Protection

A high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the Union and ensured in accordance with the principle of sustainable development.

AND THE EUROPEAN CONVENTION ON HUMAN RIGHTS, ARTICLE 8:

- 1. Everyone has the right to respect for his private and family life, his home and his correspondence.**
- 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.**

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CURRICULUM VITAE

NAME: Feargal Duff

DATE OF BIRTH: 5 February 1950

PLACE OF BIRTH: Derry, N. Ireland

CITIZENSHIP: Irish

MARITAL STATUS: Married with three children

LANGUAGES: English (mother tongue), French (fluent), German and Kiswahili (basic)

COMPUTER SKILLS: Extensive (word-processing, Spreadsheets, Email, Internet)

DEGREES: Master of Arts T.C.D
Economics, History, Geography
Extension Course Law of Contract
And Sociology

POSTGRADUATE STUDIES: Certificate of Advanced European
Studies in Economics (College of
Europe, Bruges)

Diploma International Relations
University of Vienna International
School

Training Certificate Commission of
The European Communities

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PROFESSIONAL HISTORY:

Has 20 years experience with the design and management, as well as the evaluation of global biodiversity and natural resources projects. Worked in an international organisation and played an active role in the development of the Convention on Biological Diversity (CBD) and ensuing projects. On numerous occasions represented the United Nations Environment Programme (UNEP) at international fora working with both developed and developing country governments, international organizations, NGOs, corporate and multilateral funding agencies on biodiversity, and other environmental issues. Has a proven track record for assisting NGOs develop new sources of income from the public and private sectors.

(2000-2004)

Biodiversity Consultant representing various environmental groups in Ireland including the Cork Harbour Alliance for a Safe Environment (C.H.A.S.E) and the Bottlehill Environmental Alliance (B.E.A.). Designed and formulated an Eco-village and Eco-Building project and has raised funds for a feasibility study for these projects. Acted as advisor and fundraiser, for several Irish and international environmental projects and was successful in soliciting funds for these projects. Assisted Mr. Willy Mayer, President of the Karl Mayer Foundation, with the establishment of "UsitawiNetwork" an International Club for Sustainable Development. Responsible for developing fund raising strategies in order to disseminate and implement the concept of sustainable economic activity.

(1994-1999)

Task Manager (UNEP, Nairobi) for the UNEP/GEF Biodiversity Data Management (BDM) project. Focused on developing countries and on the data compiled in biodiversity country studies, the BDM aimed to mobilize these data as an instrument in building national capacity. Was responsible for the management of the "Umbrella" Project" and the coordination of subprojects in 10 developing countries. Provided technical assistance to these countries including training courses and workshops on biodiversity information as well as advice on fundraising activities.

(1991-1994)

Fund/Programme Management Officer (UNEP, Nairobi). Was responsible for the financial management and monitoring implementation of GEF biodiversity projects such as biodiversity country studies (BCS) and Global Biodiversity Assessment (GBA), and assisted with fundraising for these projects. Participated in the preparation of "The UNEP Guidelines for Country Studies on Biological Diversity" (UNEP 1991) as well as in the peer review of the National Biodiversity Planning Document (IUCN/WRI/UNEP 1995).

PROFESSIONAL HISTORY (cont. d)

(1987-1991)

Programme Management Officer (UNEP, Nairobi). Was responsible for the preparation, evaluation and financial management of projects within UNEP operational programme areas for: Water, Lithosphere, Bio-productivity Research, Biological Diversity, Technical and Regional Co-operation, Arid Lands and Desertification, Agricultural Lands and Agrochemicals. Acted as Team Leader responsible for co-ordination, within UNEP'S Fund Programme Management Branch, of all Terrestrial Ecosystems projects.

(1983-1987)

Special Assistant to the Assistant Secretary General, Fund and Administration Office (UNEP, Nairobi). Was responsible for, *inter alia*, the coordination of activities between the Office of the Environment Fund and Administration and other Divisions of UNEP.

(1981-1983)

Associate Fund Management Officer (UNEP, Nairobi). Was responsible for the financial management of projects. Served on various UNEP Committees including Contracts, Administrative Questions, Fundraising, and Staff Management Relations.

(1981)

Business Consultant (IMPAC International Management Consultants LTD London and Dublin).

(1980)

Marketing Consultant (K. H. I. Know How International LTD Management Training Recruitment, Brussels and Nairobi).

(1980)

Stagiaire (Council of Europe Directorate of Economic and Social Affairs, Strasbourg).

(1979)

Post-graduate Scholarship Student in International Relations (University of Vienna, Strobl).

(1979)

Stagiaire (Commission of the European Communities Directorate of Employment and Social Affairs, Brussels).

(1978)

Post-graduate Scholarship Student in Economics (College of Europe, Bruges).

(1976-1977)

Placement Officer (National Rehabilitation Board, Dublin).

PROFESSIONAL HISTORY (cont. d)

(1975)
Trainee Underwriter (Dublin International Reinsurance Company,
Dublin, London.)

STUDENT SUMMER EMPLOYMENT:

(1974)
Assistant Auctioneer (Goff's Bloodstock Agents, Dublin).

(1972)
School Bus Driver (American Summer Camp, New York State).

(1970)
Assistant Driller (Seismograph Exploration LTD,
Forests of Northern France).

(1969)
Camp Counsellor (American Youth Center, New York
State).

PUBLICATIONS:

Contributed to:

- "Biodiversity Information Needs and Options" (Chapter 8)
(CAB International, 1997)
- "The Guide to Information Management" (UNEP/WCMC, 1996).
- "The Guide to National Institutional Survey" (UNEP/WCMC,
1998).
- "The Electronic Resource Inventory" (UNEP/WCMC, 1995).
- "National Biodiversity Planning Guidelines Based on Early
Experiences Around the World" (WRI/UNEP/IUCN, 1995).

CONTACT ADDRESS:

Mr. J.F. Duff
Glenville Park,
Glenville,
Co. Cork,
Ireland
Eire
TEL: (+353-21) 4880474
Mobile: 086 1068467
E-mail: feargalduff@eircom.net