

Submission to the Chairman of the EPA Oral Hearing from 14-2-2005

presented by AJ Navratil

on behalf of

East Cork for a safe Environment in association with CHASE

sub-title "The politics of Health"

S

INTRODUCTION

East Cork for a Safe Environment wishes to thank you for the opportunity to state the reasons why it feels the decision to issue a draft licence to operate an Hazardous Toxic Waste and or a Municipal Solid Waste incinerator should be opposed. Please permit me to explain our position - initially by saying;

- 1 who we are,
- 2 why we are concerned and,
- 3 what we are proposing is the most sensible, safest, economic and sustainable alternative

1 Who is [or are] East Cork for a Safe Environment?

We are an association of individual stakeholders in the general area centred on Midleton including Youghal, Carrigtwohil, Cloyne, Shanagarry etc.

We originally came into being,

firstly following an explosion at Hickson's Chemical plant at Ringaskiddy and resultant outfall and

secondly through concerns about the quality of the harbour water pre and post design and installation of the Midleton Sewage works.

Members are from a cross section of the community and include private individuals, parents and young people, shell-fish exporters, farmers, business people, food producers, restaurateurs, an international cookery school and qualified professionals including doctors, pharmacy, chemical engineering, environmental science, legal, domestic and international, accountancy and many others.

- * ECFASE has a well established record of responsible, objective and professional engagement with the issues of our time.

It is part of our mission to identify areas of potential creeping local environmental degradation and seek to reverse or arrest such by promoting viable alternatives with the objective of achieving safety and sustainability.

Sustainability was clearly defined at Rio over a decade ago as; "Providing for the needs of the present without compromising the interests of future generations."

- 2 Why we feel that the decision to issue a licence must be revoked because of the known threats that incineration poses to our health and that of our environment.

A Health Concerns

Incineration cannot destroy matter it merely converts it to other forms especially toxic gases and toxic ash. The emissions include Dioxins and Furans both of which are highly toxic chemicals. They constitute a known and serious threat to health especially on foetuses and young children. About 400 other gases are also emitted. These are constantly varying commensurate with the changing character of what is fed into the furnace and other variable factors. Virtually all would carry a Government health warning if, like cigarettes, they came in a packet !

Indaver's John Ahern has publicly admitted that their primary agenda is profit.

Our primary agenda is to protect our health and safety and that of our children, through clean air. That is our inalienable right and is not for discussion.

- * Ireland has the lowest level of Dioxins in its environment of all the developed countries. This is because we do not have mass incineration. We aim to keep our country clean, safeguard our people and our food exports.
- * Belgium, where INDAVER come from, has the highest level of Dioxins in the world in its environment.

Incinerators globally have a poor safety record and do frequently malfunction sometimes with spectacular consequences. The number that have been forced to close as a result of such incidents is increasing.

Indaver's plants in Belgium also have malfunctioned with

resultant Dioxin emissions breaching safety regulations by several orders of magnitude.

That Indaver might operate mass incineration and stand to profit at risk to our health is unacceptable and untenable.

B The relevant agencies have not discharged their function in accordance with their remit. The evidence indicates that this appears to be owing to overweening influences from the executive of State which indicates an abuse of process.

We will make the case that;

- * In their haste to reach a decision the relevant authorities, including the EPA, failed to recognise important threats such as the presence of a high pressure gas main under the proposed site.
- * That the EPA failed to address the inadequacy of the EIS which also contravenes EU regulations as evidenced by the Planning Appeal hearing.
- * That the EPA ~~it~~ does not envisage appropriate Dioxin monitoring which leaves 361 days of the year de facto uncontrolled, and
- * That, in its further haste to approve a policy that appears to have been inadequately pre-determined, the EPA has failed to engage with those whom they are appointed to serve.

C Alternative and more viable ways have not been properly considered.

We will make the point that the Government's infatuation with incineration, which is unsustainable anyway by its very definition, is contrary to the Government's publicised policy of Reduce, Re-use & Re-cycle. Thus it is seeking instead to treat the symptoms rather than the cause and so incur significant and cumulative risks for future generations.

To their credit, the Government has recognised the risks to health caused by pollutants such as cigarettes. Their action has been an inspiration to the world. We urge the Government to act now rather than wait until incineration has resulted in similar or worse casualties before looking to the alternatives.

ECfaSE promote a methodology called zero-waste. This means zero-waste of non renewable resources. It is effectively risk

free, globally well proven, environmentally sustainable, economically better and provides manifold job opportunities.

The fundamentals of zero-waste are a matter of common sense;

- * Statutory or fiscal measures to phase out re-calcitrant waste streams and encourage re-usables and/or re-cyclables.
- * Similarly encourage product and process re-design to eliminate non-reusable or non-recoverable products.
- * Mandatory segregation of separate product streams for recovery.
- * Similarly, putrescibles to be sent exclusively to composting or biodigesters.

What is it about this that is too difficult to grasp ?

The main issues therefore are;

- 1 Health concerns
- 2 Agencies doing a bad job
- 3 There is a proven better way.

Each of these points are re-inforced as follows,

1 Health & Ethics.

It is not for nothing that over 23,000 people in the fallout area have signed a petition opposing mass incineration. This could correspond to a similar number of households perhaps representing a population of some 60,000.

Dioxins are lypophilic and enter the food chain mainly through grazing livestock from whom we get milk and meat. These commodities also largely underpin our agricultural exports the clients for which increasingly specify "from uncontaminated sources".

Is there something here which is too difficult to understand?

Health and safety issues increasingly and correctly occupy peoples minds and unless lessons are learned, society is

condemned to repeat past mistakes. There are many compelling reasons to apply the precautionary principle especially to areas of particularly high risk discretionary activities of which incineration is a classic example. Consider the following;

The Titanic to-day would not be allowed to travel for want of adequate lifeboat capacity.

Nuclear power is no longer acceptable as Reactors produce waste which needs to be managed for a quarter of a million years.

CFC's which damage the earths protective ozone layer are no longer tolerated.

Lead in paint is no longer allowed mainly because of the risk to children eating paint flakes. Society percieves the risk, albeit small, as not worth taking.

Likewise lead in petrol is outlawed because mainly of risks to children.

Since Indaver squeezed in its application under earlier legislation thereby circumventing well publicised Health Regulations which are now embodied in the current Act, the EU decreed that all ash from incineration is classed as toxic and needs licenced disposal. Regulations governing stack emissions are overdue.

Given the above background and the manifold health risks which incineration involves, it is simply unethical that anyone could countenance such primitive thinking and outdated methods.

Incineration is not part of the solution as its exponents are crowing but it would become a malignant part of the problem.

Incineration of MSW leaves about one third as residual hazardous toxic ash which must go to landfill. To protect ground waters from leacheate these must be lined but there is no such thing as a liner with indefinite life. The implications are obvious - future contamination of aquifers through leacheate seepage which never really can be benign.

Not only therefore is the existing population put at risk but also future generations. What a shameful legacy we would be leaving to our descendants.

The authorities seduction by the plausible though simplistic and flimsy arguments put forward by Mr. Ahern and his cohorts so that his company may profit is all beneath contempt. The notion was advanced that adopting incineration is somehow patriotic.

Patriotism, however, has been elsewhere described as the last refuge of the scoundrel.

That it is not ethically, morally or indeed legally defensible that party "A" should profit through conduct which is damaging or of needless risk to party "B" is apparently well established. The burden and quality of proof falls on the victim however who may be weakened by the effect of what "A" may have done. This at least puts an onus on the relevant authorities to ensure that they have acted responsibly. That there may be circumstances under which immunity from suit may seem a defence but there is no shelter from the contumely which breaching moral or ethical boundaries will attract.

Health is precious, that is one reason why billions of taxpayers money are being spent on maintaining and improving it. The smoking ban makes sense in defence of health - as we need clean air for life. It is plain nonsense however to now contemplate arbitrarily and needlessly compromising our health status especially as there is a better and non-polluting way.

It is therefore our carefully considered conclusion that there are only two types of person who promote incineration - Those with a vested interest and those who simply don't know any better.

2 Agencies doing a bad job.

The background.

Democracy is about informed consent and stakeholder consultation is an intrinsic part of this process. Given that all citizens are stakeholders within the context of garbage issues, it is remarkable that there was no effective prior consultation on the subject of incineration.

The election of a Government does not bestow any rights on them for covert conduct regarding garbage or indeed, high handedness.

Having ill-advisedly become seduced by the practitioners and infatuated with incineration as a quick fix after years of neglect, it was at least inappropriate for a raft of Ministerial and other executive public statements to be made in support of this out-dated method and in advance of proper considerations by the relevant authorities and agencies established for such a purpose.

Worse still, any autonomy that Agencies may have had has been virtually subverted by the appointment of a coterie of biased

yes-men and women to their ranks thereby depriving the public of the proper objective consideration that is expected of those bodies and which is what they are paid to deliver.

Court judges are correctly protected in their deliberations from the potential influence of gratuitous comments in the media and elsewhere under the sub-judice rule. It appears singular therefore that in a matter involving the essential objectivity of several National agencies that their executive could not avoid exposure to a veritable intemperate barrage of strongly biased statements by past Environment Minister Cullen trumpeted by the media to the effect that irrespective of Planning Appeals the incinerator will be built or that incinerators will be built no matter what objections are raised and recently the Prime Minister when in China saying that future Planning Process must be fast-tracked to ensure incinerators are built.

In our view we feel it is simply impossible for Agencies such as the Planning Appeals Board or the EPA, however well intentioned individual officials may be, to function properly under such manipulation and biased interdict which we regard as a grotesque abuse of process by the Government.

Furthermore concerning Government approach to such Agencies;

- i it seems singular that there is no Democratic engagement of stakeholders prior to key appointments
- ii that Boards do not engage with those who they are appointed to serve
- iii That there is no mechanism for ongoing stakeholder monitoring or regulation of such agencies functions
- iv the appointees have shown themselves to be subservient to the politicians who appoint them rather than the public whom they purport to serve.

It is therefore a matter of profound concern to the committee of East Cork for a Safe Environment that the Agencies of State, as a result of deliberate and imposed bias, have been thus thwarted from delivering their functions with objectivity and fairness which we have a right to expect. Accordingly, in our view, these Agencies stand condemned by their own abysmal record.

This unsatisfactory state of affairs is further compounded by the fact that the mechanisms in place for appealing decisions perceived to be flawed are adjudicated on by appointees of the individual agency concerned, in this case the EPA. This is in clear conflict with the legal principle of NEMO JUDEX IN SUA

CAUSA - no one can judge his own case.

That a fee is charged for this makes matters even worse.

Please now consider the following;

a. in the autumn of 2003 the Health and Safety authority publicly admitted that they were not aware of the presence of a high pressure gas main under the proposed incinerator site. They also did not understand what was meant by the precautionary principle.

b. Also at the time the HSA and the County Council separately admitted that the issue of fire safety of the site was being passed to and fro between the two.

c. At the Planning Appeal hearing the inspector, Mr. Philip Jones said that he was under instructions from his Board not to admit or consider any issues concerning the effects of incineration on Health.

d. Later Mr. Jones first of fourteen reasons to reject the appeal was based on the fact that the EIS as submitted was not only inadequate because of;

- a) lack of sufficient data necessary to identify and assess the main effects of the proposed 'development'
- b) Inadequate consideration of the interactions between the factors
- c) Inclusion of technical terminology within the non-technical summary

and also it did not comply with the mandatory provisions as to content laid down in the 1999 EU EIS (Amendment) Regulation and applicable European Directives.

e) The evidence of the EPA's conduct clearly on record confirms;

- 1 EPA Director Dr. Mary Kelly's statement as reported in "Council Review" in the context of incineration stated "The conclusion is that incinerators may pose a risk to health but you cannot establish cause and effect"

This, in the view of ECfaSE shows reckless bias.

- 2 The dismissive manner in which your Mr. Kieran O'Brien

dealt with serious issues mainly concerning Health & Safety in his memo to your Board.

- 3 The Boards proposed, and in our view, deeply flawed licence to pollute being compromising of peoples Health and Safety.

It is our considered belief that, in a properly ordered administration, any one item in the above sample of serious issues concerning Health & Safety would be enough to stop everything in its tracks. Together they appear as grotesque and breathtakingly irresponsible and, if given effect, raise grave questions which need to be examined within the context of criminally culpable institutionalised and Governmental misfeasance and malfeasance and a serial disregard of vital Health & Safety implications.

3 There is a better way

For aeons Nature has re-cycled its products and detritus in a circular manner. Since World War II we have seen a proliferation of products and packaging with diminishing consideration of its negative environmental impact or indeed unsustainability. Because it is mainly unco-ordinated garbage streams tend to become part of a linear process ending up in landfill, incineration or both. This is patently wasteful, unsustainable and above all unhealthy.

The polluter pays principle appears also to be institutionally misunderstood. It is unfair to penalise the end user (e.g. with ever higher refuse charges) as he has no material input for product design.

Perhaps a consumer can bring some limited discretionary pressure but a far surer method is the mandatory internalisation of the full cycle of product costs to the manufacturers account. This would provide an irresistible incentive for the elimination of problematic items. To draw a human analogy, few if any would be happy to pay a doctor to treat their symptoms but neglect the disease.

Glass milk bottles are a good example. They re-cycled very well for about a century. The only reason they were dropped was to boost the P&L account of the distributors. That should not be allowed as it adds hugely to garbage disposal problems. That is where the Government has a positive part to play to regulate the distributors but not to force NEEDLESS and unhealthy incineration on the public.

Incineration creates Dioxins. As well as being carcinogenic,

Dioxins accumulated in the mother and cross the placenta with the risk of foetal damage leading to ^{clinical} sub-clinical cognitive and behavioural difficulties. The cumulative nature of Dioxins in the environment means that risks are on an ascending plane. Even if the risk profile were to result in only one such case it would be sufficient to outlaw incineration given that there is a much better, safer and more economic way. i.e. Zero waste which is known and proven.

Just as it would be ethically indefensible were a swimmer not to assist a person in difficulties it is incumbent on ECsaSE to support the authorities in adopting a better way. It gives us no pleasure whatsoever to have to raise our voices in protest. We are not a NIMBY's but we are deeply concerned for our future and that of future generations.

The Government in adopting their policy were doubtless well intentioned. It is not easy to tell someone they are wrong. We would rather say - not so fast - there is a better way.....

14 February 2005

For inspection purposes only.
Consent of copyright owner required for any other use.

Summary

A.

East Cork for a Safe Environment, in association with CHASE are a responsible group of stakeholders committed to protecting the health of our environment.

B.

We have to be involved because we feel that the structures which are meant to protect us have failed to do so.

C.

Dioxins and furans being the most potent toxins known to man, the unborn are particularly vulnerable. Dioxins & Furans are the unwanted by-products of combustion of unsuitable mixed materials the combustion of which especially in large concentrated locations such as incinerators has a high and largely unpredictable total risk profile.

As dioxins are lypophilic, cumulative contamination of a large fallout zone is inevitable. The resultant degradation of food quality especially milk, meat and marine products would damage our food exports as more buyers are sourcing foodstuffs well outside a wide radius of incinerator plants. That there are better ways and with the very large job creation potential in re-cycling makes incineration a poor choice to say the least.

The infernally primitive nature of incineration also runs counter to this countries obligations under the Kyoto Protocol on CO2 and the Stockholm convention on POPS - Persistant Organic Pollutants.

D.

The deeply flawed ill-advised and openly defiant pro-incineration bias of the Government at executive and subordinate levels and the resultant transparent obeisance demonstrated by the executive of the relevant boards and agencies, which were in fact established to protect the public, is tantamount in our view, to an open abuse of process.

There is a better way and we propose;

- 1 The adoption of the zero-waste objective starting with progressive Carrot & stick legislative and taxation measures to encourage the elimination of many avoidable 'waste' streams.

Product and process re-design driven by cost internalisation measures on an item by item basis.

Seperation of compostables and separation of individual re-cyclables at point of use, e.g. householders & businesses.

2 Improved tax regimes to promote the establishment of re-cycling operations to ensure the early creation of an adequate infrastructure in an orderly manner. Overseas these have become centres of excellence and employ a significant number of people. Incineration negates that opportunity.

3 Our present relatively clean environment needs to be recognised, defended and promoted as one of our most vital National assets.

It must not be compromised by hasty acceptance of propaganda postulating a contrived 'need' for incineration that absolutely does not exist in order that its proponents can profit. That public health may be compromised with neither indemnity or compensation and at risk to the economic security of communities is untenable.

Rigorous environmental monitoring, protection and improvement programmes need to be implemented to underpin rather than undermine our healthy status. This will enable better marketing of clean uncontaminated food products.

END

For inspection purposes only. Consent of copyright owner required for any other use.