

Obj 13 186-1



AN TAIISCE – THE NATIONAL TRUST FOR IRELAND

Our Ref: 20041110-04-EPA186.1

18 November 2004

The Secretary
Environmental Protection Agency
Johnstown Castle Estate
Co Wexford

SCANNED
04 MAY 2005

ENVIRONMENTAL PROTECTION
AGENCY WASTE LICENSING
RECEIVED
22 NOV 2004
INITIALS.....

Dear Sir

REF: Objection to proposed license determination for Waste Management Facility including a hazardous and non-hazardous waste incinerator at Ringaskiddy, Co Cork. License reference number 186-1 – up to 100 000 tonnes of waste per year to be incinerated in each of the incinerators for Indaver Ireland

We wish to object to this proposed licence determination on the following grounds:

1 BREACH OF COUNCIL DIRECTIVE 85/337/EEC, AS AMENDED BY 97/11/EC, THE EIA DIRECTIVE

1.1 Assessment Splitting

The proposal breaches the requirements of the Directive because the assessment of the application is inappropriately split between different decision-making authorities, in this case An Bord Pleanala and the EPA. This issue of split jurisdiction is part of a legal action being taken by the European Commission against the Irish Government for breaching the EIA Directive. The issue of split jurisdiction is referred to in the content of a Reasoned Opinion of 25th July, 2001. Section 3.2.9 of the Reasoned Opinion refers to a letter of the 26th June, 2001, where the Irish authorities refers to the provisions of Section 256 of Ireland's Planning & Development Act, allowing local authorities to take account of environmental considerations in the case of projects requiring an IPC license. However, the Reasoned Opinion rules that, 'these new provisions will not remedy the flawed procedures governing the projects cited by complaints or other projects decided under Ireland's current rules. This also applies to the provisions of Section 257 Planning & Development Act, 2000, with regard to developments subject to EPA Waste License under Section 4 of the Waste Management Act, 1996.

1.2 Adequacy of Environmental Impact Statement

It is submitted that the content of the Environmental Impact Statement is inadequate in complying with Council Directive 85/337/EEC, as amended by 97/11/EC, including regard to the following:

1.2.1 Groundwater data – Hydrology of Site

It is submitted that there is a lack of data with regard to the impact on sea water, on ground water and flooding which can occur in winter months due to the closeness of the bedrock. The EIS refers to depth of over-burden on the bedrock as being from 1m-9m, however, no maps showing the location of these depths are provided with the EIS. There is no data on the composition of the bed-rock nor fissures or caverns below the site. There is no data as to whether the soil or groundwater is already contaminated by its previous use by Irish Ispat and from the spillover from the adjoining Hammond Lane facility. No data on the level of the groundwater within the site by reference to the levels of escalation proposed, nor is there data on what portions of the site are flooded in the winter months.

Accordingly, it is not possible to assess the capacity of the proposed mitigation measures by the applicants to contain spillages or if there is existing contamination on the site.

The issue of adequacy of groundwater data and site conditions was raised in questioning by the An Bord Pleanála inspector to Ms Laura Bourke, employed by Indaver, who is now a Director of the EPA. The Inspector stated that therefore, 'in theory, if there was a spillage on the site, it wouldn't go down, into the rock, but would go sideways and very possibly into the harbour, and wasn't that so?' Ms Bourke stated, 'Yes, that this was a possibility.'

1.2.2 Noise Data

There is in adequate noise data with regard to the escalation of bedwork needed to construct the proposed development. This includes consideration of rock-breaking on a badger set and the vibration on the martello tower and archaeological monument and Protected Structure to the south of the site.

1.2.3 Flora and Fauna Data

There is no bat survey provided for the site, or no flora and fauna survey provided for the land adjacent to the site.

It should be noted that at the An Bord Pleanála oral hearing, Mr Morgan, (manager of the Aquatics Services Unit at the University College Cork) the ecological consultant for the applicants, stated that he was not given a brief to look at the impacts on flora and fauna on the operation of the development but only on the construction of the buildings on the actual site. Notwithstanding Mr Morgan's involvement, no baseline information was provided on the aquatic flora and fauna. No assessment was provided in the EIS as to the impact of tidal erosion and of high tides on the area to the east of the application site. We note from the An Bord Pleanála's Inspector's Report that, 'it was stated that the original owner of the land had had to periodically replace fences that had fallen into the sea.' It was also stated that other industries in the vicinity, which are on a foreshore

location (e.g. Pfizer, Lough Beg) had to put in rock barriers to protect their perimeters. However, no data was included in the EIS on this issue, which was not dealt with at all.

1.2.4 Assessment of Interactions

It is noted that the An Bord Pleanála Inspector's Report states that the sixteen lines of text in chapter 16 of the EIS, 'cannot in any meaningful way, be described as complying with this mandatory requirement.'; and that, 'there is no evidence that any actual assessment of the interactions was in fact carried out by the applicants or their consultants.'

1.2.5 Non-technical Summary

The Non-technical Summary does not meet the requirement of the Directives because of inclusion of unexplained scientific data and notations.

The conclusion of the An Bord Pleanála inspector is that, 'I conclude that the submitted EIS is legally invalid.'

2 APPLICANT'S LEGAL STATUS AND TITLE TO SITE

Condition 1.2 refers to the area of land outlined in the License application. It is submitted that the applicant does not have full control of this land as there is an established Right of Way across the landholding. There is a direct conflict between the development of the structures required by the proposed facility and the provisions of Section 3.4.1 with regard to the construction of a palisade security fence.

3 FAILURE TO ADDRESS REQUIREMENT FOR AN IPPC LICENSE UNDER THE ENVIRONMENTAL PROTECTION AGENCY ACT, 1992.

Neither the applicant, the EPA, nor the Waste License determination address the requirement for an IPPC licence under the Environmental Protection Agency Act, 1992, for the emission stacks.

4 INADEQUATE LICENCE PROVISIONS IN ADDRESSING HEALTH SAFETY & EIA DIRECTIVE

4.1 Inadequate provisions for screening of waste delivered for incineration

We submit that provisions and conditions for screening and categorisation of waste delivered to the facility are inadequate to ensure compliance with Condition 3.14.4 with regard to limitation of waste input into the fluidised bed incinerator.

4.2 Inadequate provisions with regard to energy recovery.

The License fails to provide for good or appropriate energy recovery from the development given that this was part of its touted benefit by the applicant. The issue of energy efficiency is inappropriately left to be resolved by internal review between the developer and the EPA under Condition 7.

4.3 Failure to address disposal of ash waste produced by the development

Condition 8.2 relates to waste acceptance to the facility. Section 8.10 requires that dry residues in the form of dust and the treatment of combustion gases be stored in closed containers. Section 8.11 inappropriately leaves waste incineration residues to be agreed by the Agency. Section 8.13 requires that bottom ash and gypsum should be stored at dedicated areas within the building. Sections 8.14 and 8.15 relate simply to storage and not any removal off site.

5 UNSUITABILITY WITH REGARD TO WATER-LOGGING AND FLOODING

The site is unsuitable for the proposed development due to water-logging and flooding, including flooding during recent high rainfall conditions during late October/early November, 2004. It is to be noted that in the An Bord Pleanála Inspector's Report on the parallel planning application, the site in August, 2003, had 'some evidence of water logging (the ground was very soft when I inspected it in August after many weeks of dry and sunny weather.)'.

6 CONTINUATION OF NATIONAL HAZARDOUS WASTE MANAGEMENT PLAN, 2001-2006

Page 85 provides for a prevention programme as, 'the cornerstone' of the Plan. 'The primary objective of the National Hazardous Waste Management Plan is to prevent the production of hazardous waste and to minimise the effect of hazardous waste on the environment.' Section 4.4 provides for a 'standstill scenario for hazardous waste disposal.'

It should be noted that the Implementation Committee has only been established in July, 2003, so that the proposal is premature.

While page 65 of the Plan does provide for consideration of 'thermal treatment for hazardous waste', this does not justify an incinerator of the scale proposed. We consider that the scale of the hazardous incinerator element of the proposed development has not been justified, and in the absence of conditions limiting sourcing of material within the Republic of Ireland, the facility could clearly be used for the import of material from the UK and other countries.

Chapter 6 of the Plan envisages reducing hazardous waste to 1996 levels, (table 6.1), which would generate a figure of approximately 18 880 tonnes per annum. The proposed development is significantly and unjustifiably in excess of this capacity.

7 CONTRAVENTION OF PROVISIONS OF WASTE MANAGEMENT ACT, 1996

It is submitted that the proposal contravenes the provisions of Section 26 of the Waste Management Act, 1996, which requires that the National Hazardous Waste Management Plan should put forward proposals for, 'the disposal of such hazardous waste as cannot be prevented or recovered.' The objective is to reduce waste to 1996 levels is provided under the Plan through prevention or recovery so that the proposal as submitted would be prejudicial to this objective.

While the purported justification of the hazardous waste element of the proposal is to resolve disposal and treatment of hazardous waste in the Republic of Ireland, in fact fails to do so by not providing for the disposal of toxic ash waste.

8 CONTRAVENTION OF 1999 COUNTY CORK WASTE MANAGEMENT PLAN

The proposal is in direct contravention of the Plan as the Plan makes no provision for incineration of residual municipal waste.

9 INADEQUATE ACCESS FOR EMERGENCY EVACUATION FOR SECOND-TIER SEVESO II SITE.

The proposal must be considered with regard to Seveso II both with regard to the direct impact of the proposed development and its potential cumulative developments with the two other second-tier establishments and one first-tier establishment within 2.5 km of the site.

We consider that there are very serious emergency evacuation concerns raised by the location of the proposed development in proximity to the Maritime College which is supposed to have 750 students and 75 staff. We note that in a letter of 7th March, 2003, to Cork County Council, Health & Safety Authority, referred to the precluding of planning permission for the National Maritime College on the basis of the proposed incinerator location. We refer to the statement of the Minister for Defence, reported in The Irish Times on 5 November 2004 (see enclosure).

10 CONTRADICTION WITH DEVELOPMENT AS PROPOSED BY LICENCE AND PLANNING APPLICATION REFERENCE NUMBER CORK 04131196, GRANTED BY AN BORD PLEANALA

There is a direct contradiction between the licence proposal which provides for both the hazardous and municipal waste incinerator and the planning application which proposes a hazardous waste incinerator, which would allow the development to proceed on the basis of the construction of a hazardous waste incinerator only, leaving the municipal waste incinerator to be resolved as a second phase of the project. The licence also proposes a "Community Recycling Park" as an integrated park which has been specifically excluded in the An Bord Pleanala decision. This creates an irreconcilable contradiction with what has been purportedly approved in the EPA's proposed licence.

11 INADEQUATE CONSIDERATION OF STACK HEIGHT

We consider that there has been inadequate consideration of the safety of the proposed stack height of 55m over the 5.77m OD ground level. Given the lack of local climatological and air current data accompanying the EIS, there is inadequate information to establish the dispersal pattern from emission fumes from the proposed stack. This means that there is an inadequate modelling basis to assess the proposal. In particular, there is failure to consider the location of the town of Cobh, which is 1 km across the harbour from the application site and directly in the path of south-westerly prevailing winds for the site. Cobh is a town of distinctive hill-slope topography, rising to a level of 80m. There is a serious concern with regard to emission impact on the town of Cobh which has not been addressed, either in the Environmental Impact Statement, nor by the EPA.

We request that an Oral Hearing be held on this proposal.

Yours sincerely



IAN LUMLEY
Heritage Officer

Enclosure: *Irish Times Report of 5 November 2004*

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Waste plant site is inappropriate, says Minister

O'Dea questions proposal to locate incinerator at Ringaskiddy near Naval Service base in Co Cork

BARRY ROCHE,
SOUTHERN CORRESPONDENT,
IN HAULBOWLINE, CORK

The Minister for Defence, Mr O'Dea, has said he does not believe Ringaskiddy is "an appropriate location" for a proposed hazardous waste incinerator.

Mr O'Dea did not wish to get involved in the detail of the case, as it was currently before the courts in the form of a judicial review of An Bord Pleanála's decision to give planning for the incinerator. But he said he believed that Ringaskiddy was not a suitable location.

"I understand that there was particular problems with the zoning and the members of Cork County Council took the view that the zoning didn't allow such a facility there. Now obviously it's been overruled by An Bord Pleanála, which is of course independent of government," he said.

"The licence was issued by the EPA, which is also independent of government, and the matter has gone to the courts, which are most certainly independent of government. But just as an outsider coming in here for the first time, it looked to me a quite inappropriate location," he said.

Mr O'Dea said he was fully supportive of the Government's policy on waste management and its recognition of the need for incineration, but the question was where to locate such facilities, and he didn't believe that Ringaskiddy was the most appropriate.

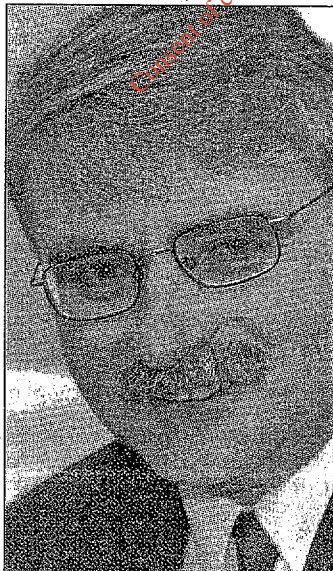
He explained that he formed the view primarily because of the proposed incinerator's proximity to the Naval Service base at Haulbowline and the National

Maritime College at Ringaskiddy. But he stressed that he did not wish to be seen to interfere with the case before the courts.

"I know all about incineration and I know the value of incineration. I know the necessity of incineration. But surely there is some more suitable location. Maybe there isn't, I don't know. It seems odd."

His comments were welcomed by Cork Harbour Alliance for a Safe Environment, whose spokeswoman, Ms Linda Fitzpatrick, said the group was "very pleased that a senior Government minister is seeing sense".

She added: "It is a highly inappropriate location. That was highlighted by the Bord Pleanála



Mr O'Dea: ruled out proposal to use SSIA funds for a ship replacement programme

senior planning inspector and it was highlighted again last week when it was flooded, and it fails the WHO guidelines on siting hazardous incinerators."

Mr O'Dea made his comments on his first visit to the Naval Service base at Haulbowline, where he officially opened a new €2.5 million storage facility.

He also ruled out a proposal by his predecessor, Mr Michael Smith, to use SSIA funds for a ship replacement programme.

"The idea of using the SSIA's to re-equip the Navy doesn't make any sense to me," said Mr O'Dea, adding that he planned to invest in new equipment for the Defence Forces through direct provision in accordance with the estimates and through selling Department of Defence property.

He said a committee within the Department was compiling a portfolio of properties that could be sold.

He said he was confident that this would bring in funding which would continue to be ring-fenced for re-investment in the Army, Naval Service and Air Corps.

He said he was aware that the LE Eimear would need to be replaced in 2007 and that the Naval Service was formulating a series of proposals on what type of vessel it would like to replace her.

He said he would study the submission carefully.

"The question is what do we replace her with - do you replace her with something more multi-purpose? Any ship now is a big capital investment and we want to make sure that for the sake of a couple of extra million euro we get the best possible value for every euro we're spending."



Latvian Ms Inga Jakovela (left) and L booklet by the IFA and the Equality A

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SEÁN MACCONNELL,
IN SALLINS, CO KILDARE

Mr John Dillon of the Irish Farmers Association yesterday pledged to ensure fair treatment for migrant workers on Irish farms.

Mr Dillon made his remarks at the launch of a booklet, *Equality and Migrant Workers on the Farm*, in Co Kildare yesterday.

The booklet was published to mark Anti-Racist Workplace Week, which was a joint initiative with the Equality

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An Taisce seeks tram service and bus lanes

Kerry waste bye-law 'technical' to compl

ANNE LUCEY

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