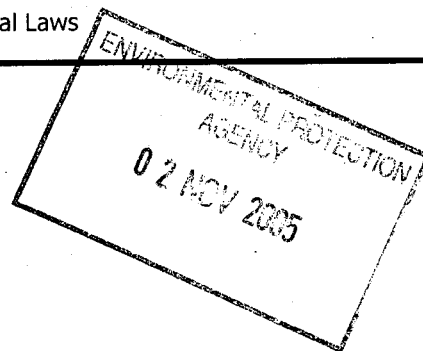


EEC *EuroLaw Environmental Consultants*

Implementing Community Environmental Laws



EuroLaw Environmental Consultants Submission

to

The Environmental Protection Agency

Re: IPPC License Application by Lagan Cement Ltd

Reg. No. 752

October 2005

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Introduction

In 2004, Lagan Cement Ltd was granted planning permission by Meath County Council to increase its processing capacity of the cement kiln from 450,000 tonnes per annum to 600,000 tonnes per annum. However, the company was unable to comply with the European Directive 2003/87/EC, which established a scheme for greenhouse gas emission allowance trading within the Community and amended the European (IPPC) Directive 96/61/EC concerning integrated pollution prevention and control. In February 2004, under the Draft National Allocation Plan (NAP) Lagan was allocated 373,655 tonnes per annum of CO₂, while it was emitting 498,165 tonnes of CO₂. EEC understands that Lagan's calculations exclude the CO₂ emissions from the two quarries and the companies Ashfelt plant located on the same site.

Accordingly, the company has decided to burn Meat and Bone Meal (MBM) is an attempt to reduce its CO₂ emissions. However as this submission will show that the EIS and the IPPC application fails to contain mandatory information and infringes several.

The Protection of the Environment Act of 2003 provides for the implementation of the European (IPPC) Directive 96/61/EC. The basic aim of the IPPC Directive is to achieve 'a high level of protection of the environment by preventing or, where that is not practicable, reducing emissions into air, water and land. This is achieved by determining and enforcing license conditions based on Best Available Technology (BAT). The submission will show that the IPPC application fails to contain information that is mandatory under the IPPC Directive.

Article 2 (2a) of the European (EIA) Directive 97/11/EC states that Member States may provide for a single procedure in order to fulfil the requirements of this Directive and the requirements of Council Directive 96/61/EC of 24 September 1996 on integrated pollution prevention and control. Article 9 (2) of the (IPPC) Directive 96/61/EC states that in the case of a new installation or a substantial change where Article 4 of Directive 85/337/EEC applies, any relevant information obtained or conclusion arrived at pursuant to Articles 5, 6 and 7 of that Directive shall be taken into consideration for the purposes of granting the permit. This submission will show that the EPA does not have an EIS in compliance with the provisions of the European (EIA) Directive 85/337/EEC as amended by Directive 97/11/EC.

The European (Waste) Directive 75/442/EEC also covers IPPC activities involving the disposal or recovery of waste. This includes all specified waste management activities plus some others. This submission will show that Lagan intends to take MBM waste from counties outside the North East Region. The submission will show that this infringes Articles 5 and 7 of the (Waste) Directive and contravenes the North East Region Waste Management Plan

On 3rd May 2005, the Department of the Environment, Heritage and Local Government issued a Circular to local authorities and the EPA concerning the Minister's policy directions. EEC has registered a complaint with the European Commission concerning this amendment by the Minister (Mr. Roche) under Section 60 of the Waste Management Acts, 1996-2003. This submission will clearly why the Minister's amendment infringes Article 7 of the waste Directive and therefore Lagan cannot legally take waste from another Region.

Infringements of the European (EIA) Directive 97/11/EC

The following is the minimum that a developer must provide under the provisions of Article 5 of European (EIA) Directive 97/11/EC.

1. Description of the project, including in particular:
 - a description of the physical characteristics of the whole project and the land-use requirements during the construction and operational phases;
 - a description of the main characteristics of the production processes, for instance, nature and quantity of the materials used;
 - an estimate, by type and quantity, of expected residues and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation, etc.) resulting from the operation of the proposed project.
2. An outline of the main alternatives studied by the developer and an indication of the main reasons for his choice, taking into account the environmental effects.
3. A description of the aspects of the environment likely to be significantly affected by the proposed project, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the inter-relationship between the above factors.
4. A description of the likely significant effects of the proposed project on the environment resulting from:
 - the existence of the project;
 - the use of natural resources;
 - the emission of pollutants, the creation of nuisances and the elimination of waste,
 - the description by the developer of the forecasting methods used to assess the effects on the environment.
5. A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment.
6. A non-technical summary of the information provided under the above headings.
7. An indication of any difficulties (technical deficiencies or lack of know-how) encountered by the developer in compiling the required information.

Article 4(2) of the (EIA) Directive provides that "*Projects of the classes listed in Annex II shall be made subject to an assessment, in accordance with Articles 5 to 10, where Member States consider that their characteristics so require.*" The proposed development involved a substantial change where Article 4 of the (EIA) Directive applied and in compliance with Article 9 (2) of the (IPPC) Directive 96/61/EC the EPA shall be taken into consideration any relevant information obtained or conclusion arrived at pursuant to Articles 5, 6 and 7 of the (EIA) Directive for the purposes of granting the permit. The EIS only deals with the burning of Meat and Bone and failed to contain a significant amount of the above mentioned information which is the minimum that a developer shall supply in order to give effect to the provisions of Article 5 of European (EIA) Directive 97/11/EC.

The information provided for in Article 5(2) of Directive 85/337/EEC is the minimum that a developer must provide. A failure to provide this information would mean that the overall environmental impact assessment would be legally flawed. (*European Commission 1998*)

The EIS failed to contain the following mandatory information

- ♦ The EIS fails to identify, describe and assess in an appropriate manner, in accordance with Articles 4 to 11, the direct and indirect effects of a project on the following factors:-
 - human beings, fauna and flora;
 - soil, water, air, climate and the landscape;
 - material assets and the cultural heritage;
 - the interaction between the factors mentioned in the first, second and third indents.

The EIS failed to include the negative, direct or indirect impacts that the cement plant is having on human beings. There was no assessment of the socio economic impacts, or the significance of this development on the local population i.e. economic activity, social considerations, tourism, land use, leisure activities, health and safety, traffic etc. There is no description of the existing local water resources, their location, designations or uses and no baseline data on water quality etc. The project will seriously impact on groundwater levels in the area because extraction took place below the groundwater table. The EIS failed to identify that residents are totally dependent on water from their private wells for drinking and/or their livelihoods. That several wells have gone dry as a result of the development and non compliance with planning conditions.

- ♦ The EIS failed to contain a description of the physical characteristics of the whole project. The site on which the cement plant is located covers over 200 hectares and contains two quarries (*a shale and limestone quarry*), both of which supply raw materials for the cement manufacturing process. The EIS fails to contain a description of the impact of these developments.
- ♦ The EIS failed to contain a description of the aspects of the environment likely to be significantly affected by the proposed project. In particular, the significant adverse effects arising from equipment failure, or unusual environmental conditions such as flooding accidents and emergencies, which could cause environmental pollution to the surrounding environment. The EIS failed to identify that Lagan Cement is presently infringing European Directive 2003/87/EC, and the European (IPPC) Directive 96/61/EC, by emitting 498,165 tonnes of CO₂, having been allocated only 373,655 tonnes of CO₂ per annum by the EPA under the in the Draft National Allocation Plan (NAP) of February 2004.
- ♦ The EIS failed to contain an adequate non-technical summary of the information required under the provisions of Article 5 (3) (a) (b) (c) and (d). The fundamental objective of the non-technical summary in an EIS is to allow the public to participate in the decision-making process, pertaining to developments like the proposed development which can cause significant adverse effects. A failure to provide an adequate non-technical summary is also an infringement of Article 6 (2) of the European (EIA) Directive 97/11/EC, which states that Member States shall ensure that any request for development consent and any information gathered pursuant to Article 5 are made available to the public within a reasonable time in order to give the public concerned the opportunity to express an opinion before the development consent is granted.

The EIS states that the only proposed development is the change of fuel and that the cement manufacturing process will in all other ways remain unchanged, and the existing level of cement production (600,000 tonnes per annum) will be maintained. The EIS states that the ashes from the MBM can be used as part of the cement production. Notwithstanding this in compliance with the European (EIA) Directive the overall project must be subjected to an environmental impact assessment in accordance with Articles 5 to 10 of the European (EIA) Directive 97/11/EC.

Non-compliance with IPPC Directive 96/61/EC

Article 8 of the (IPPC) Directive states that without prejudice to other requirements laid down in national or Community legislation, the competent authority shall grant a permit containing conditions guaranteeing that the installation complies with the requirements of this Directive or, if it does not, shall refuse to grant the permit. Under Section 83 (5) (a) (i) to (v) and (vii) to (x) of the Environmental Protection Agency Acts 1992 and 2003 (as defined in Section 1 of the Protection of the Environment Act 2003), the EPA shall not grant a licence or revised licence for an activity unless it is satisfied that the operation of the plant meets certain requirements.

Article 6 of the (IPPC) Directive states that Member States shall take the necessary measures to ensure that an application to the competent authority for a permit includes a description of:

- the installation and its activities,
- the raw and auxiliary materials, other substances and the energy used in or generated by the installation,
- the sources of emissions from the installation,
- the conditions of the site of the installation,
- the nature and quantities of foreseeable emissions from the installation into each medium as well as identification of significant effects of the emissions on the environment,
- the proposed technology and other techniques for preventing or, where this is not possible, reducing emissions from the installation,
- where necessary, measures for the prevention and recovery of waste generated by the installation,
- further measures planned to comply with the general principles of the basic obligations of the operator as provided for in Article 3,
- measures planned to monitor emissions into the environment.

An application for a permit shall also include a non-technical summary of the details referred to in the above indents.

2. Where information supplied in accordance with the requirements provided for in Directive 85/337/EEC or a safety report prepared in accordance with Council Directive 82/501/EEC of 24 June 1982 on the major-accident hazards of certain industrial activities or other information produced in response to other legislation fulfils any of the requirements of this Article, that information may be included in, or attached to, the application.

The IPPC license application by Lagan fails to contain adequate information to ensure compliance with European (IPPC) Directive. In particular, the application and/or the further information fails to contain the following mandatory information in order to give effect to the IPPC Directive.

- The EIS for this proposed incineration of waste is legally flawed, because it failed to contain a significant amount of the information specified under Article 5 of the (EIA) Directive 97/11/EC. Therefore, the EPA does not have the information supplied in accordance with the requirements provided for the European (EIA) Directive 97/11/EC.
- Neither the EIS nor the IPPC application included a non-technical summary of the details referred to in the above indents. The EPA requested further information from Lagan and a "Revised Non-technical Summary". However the information contained in the revised non technical summary was technical and not in compliance with Article 6 of the IPPC Directive. In addition, there was no non technical summary of the further information which was very technical.

- The IPPC application (p 56) states that Lagan store 10, 000 tonnes of coal and use 70, 000 tonnes per annum. In March 2004, Lagan appealed the EPA decision under the Proposed Allocation of Greenhouse Gas Allowances to allocate Lagan 373,655 tonnes of CO₂ per annum. Section 10 of the EIS (Climate), states that the total emissions of the existing activity are 498,165 tonnes of CO₂. The EIS (Section 3) states that the initial replacement rate for coal may be as low as 10%, with a phased increase up to a maximum of 45%. This means that the company will exceed its allocation of CO₂ emissions by at least 124,510 tonnes per annum. In addition, the company has not included the emissions from its other intensive industrial activities on this site, In particular, the 2 quarries and the Ashfelt plant.
- Lagan has failed to identify where and how much clinker is created or if it is transferred between different plants and/or grinding stations. This is necessary for to establish the correct quantification of the plant's performance indicators. For example, the clinker factor of a grinding station will be distorted if a major source of clinker (internal or external) is neglected.
- The IPPC application contains the following table of locations of sources of MBM relative to Lagan Cement Ltd, Kinnegad, Co. Meath.

Town	Plant
Dunlavin, Co. Wickiow	Dublin Products
Nobber, Co. Meath	College Proteins Ltd
Cahir, Co. Tipperary	Munster Proteins
Ballinasloe, Co. Galway	Premier Proteins
Bunclodey, Co. Wexford	Slaney Proteins
Ballyhauns, Co. Mayo	Western Proteins
Waterford	Waterford Proteins
Castlemahon, Co. Limerick	Mahoonagh Proteins
Crossdoney, Co. Cavan	Monery By Products

College Proteins Ltd, Co. Meath (*Approved No. R911*); Premier Proteins, Co. Galway (*Approved No. R915*) and Waterford Proteins, Co. Waterford (*Approved No. R919*) are all plants processing Special Risk Materials (SRM) which is a C 1 waste. On 18th November 2004, the EPA transferred the IPC licence register number 591 from Monery By-Products to College Proteins, College Road, Nobber, Co. Meath. Considering the fact that most of the above handle hazardous (SRM) and in compliance with the proximate principle the IPPC application should clearly have state the supplier of the MBM waste.

- The IPPC application fails to identify the significant adverse effects presently taken place as a result of Lagan extracting to a depth of about 70m below groundwater level in the limestone quarry and 50m below groundwater level in the shale quarry. The application should identified that the quarrying activities are causing serious adverse effects on the ground water levels within the environs of the of the Lagan Cement plant and explain why it failed to give effect to condition 8 of An Bord Pleanala decision (PL 17. 111198) in 2000. It provided that:

"A Model Review Committee shall be established in order to test and calibrate the Groundwater model and to further investigate ground water levels and movements and conditions. The detailed arrangements for the Committee shall be subject to the agreement of the Planning Authority. Reason: To provide appropriate review and monitoring of the ground water model and of ground water drawdown.

- The IPPC application has failed to deal with the waste created from burning the MBM. The ash content of the MBM is higher than that of the conventional coal fuel and the majority of this will be retained within the cement clinker. In compliance with the European (Waste) Directive 75/442/EEC the cement clinker would have to be classified as a waste.

In this regard, a company called Fibrogen at Glanford in North Lincolnshire burns MBM and the resultant ash is currently being sent to a landfill site at Winterton in N. Lincolnshire. Given that there may be some cows with BSE feeding into the MBM (estimated at 1%), there have been concerns about whether the combustion process would effectively sterilise all the infected material. According to recent tests carried out by the Environment Agency officials on ash from one incinerator have found potentially lethal proteins in the residue. The Agency has demanded that Fibrogen 'identifies measures to improve the combustion of the material' and 'design and install' new equipment'.

The UK High Court upheld the classification of the UK Environment Agency that it remains a waste under the Waste Directive. Other Member States (e.g. Belgium and France) have also opted for retaining the waste status to maintain a tight control on the movements of secondary fuels and record keeping, as well as quality control and emissions controls

- The IPPC application fails to justify its proposals with reference to the relevant technical guidance based on a BAT assessment for the **overall cement plant**. The application fails to include an outline of the main alternatives, if any, studied by the applicant in respect of the issues which will arise in determining BAT. Determining BAT involves comparing the techniques that prevent or reduce emissions and identifying the best one in terms of the one which will have the lowest impact on the environment. In particular, the use of coal as a fuel, as Lagan intends to burn 90% coal in the initial years and gradually burn 45%. In compliance with BAT the application should have identified where the figure of 45% derived, as opposed to 25% or 75%.
- Lagan Cement Ltd manufactures both grey Portland cement and white cement. At the bottom of the pre-heater the hot material is introduced into the kiln where its temperature is gradually brought up to 1420°C (grey cement) or 1500°C (white cement).
- The MBM storage silo will be nitrogen blanketed and with a carbon filter installed on the silo vent to adsorb odours.
- Article 7 (IPPC) Directive states that Member States shall take the measures necessary to ensure that the conditions of, and procedure for the grant of, the permit are fully coordinated where more than one competent authority is involved, in order to guarantee an effective integrated approach by all authorities competent for this procedure.

In this regard, Lagan applied for planning permission to burn 50,000 tonnes of MBM starting with burning 5,000 (10%) in the initial stages. On the other hand it has applied to the EPA for an IPPC license to burn 50,000 from year one.

- The new Directive on Public Participation establishes basic procedures for public participation in important plans and programmes relating to the environment, in the sectors of waste, air pollution and protection of water against nitrate pollution. The Directive also introduces for the first time public participation in the decision-making on environmentally significant projects. To do so, it amends the Directives on environmental impact assessment and integrated pollution prevention and control. The public were not allowed the additional consultation of the public in respect to this IPPC application.

- ♦ The European Directive 2003/87/EC, established a scheme for greenhouse gas emission allowance trading within the Community and amended the European (IPPC) Directive. The application fails to identify how the cement plant and the ancillary quarries intend to comply with the Directive 2003/87/EC. As the EPA is aware Lagan is not complying with this Directive and the application has not addressed this infringement of the European Directive 2003/87/EC.
- ♦ Article 15(3) of the IPPC Directive requires the establishment of an EC inventory of principal emissions and their sources known as the "European Pollutant Emissions Register" (EPER). This will provide information to the public, help authorities to assess the effectiveness of IPPC and identify priority areas. EPER requires reporting on 50 pollutants released to air and water every three years. The first reporting year was 2003 on emissions from 2001 (or 2000 or 2002 where data from 2001 is not available). The application fails to contain this information, which is required before Lagan can obtain an IPPC license.
- ♦ The Safety, Health and Welfare at Work Act 1989, provides the foundations for the protection of the workforce and the general public from safety hazards which industrial installations like the Lagan Cement plant present. The application fails to identify the requirements under this Health Act to ensure that the IPPC and Health and Safety requirements do not impose conflicting obligations.
- ♦ The application failed to contain adequate information to ensure compliance with the European (Groundwater) Directive (80/68/EEC). In particular, it failed to include an examination of the hydrogeological conditions of the area concerned and the present adverse effects of people's wells in the vicinity of the Lagan Cement Plant.
- ♦ The Water Environment (Water Framework Directive) Regulations 2003 establishes a framework for Community action in the field of water policy. The Directive requires a new strategic planning process to be established for the purposes of managing, protecting and improving the quality of water resources. The application fails to identify what actions Lagan intends to take to fulfil its obligations under this Directive.

The system of Integrated Pollution Prevention and Control (IPPC) applies an integrated environmental approach to the regulation of certain industrial activities. This means that emissions to air, water and land, plus a range of other environmental effects, must be considered together. It also means that EPA must set license conditions so as to achieve a high level of protection for the environment as a whole. These conditions are based on the use of BAT. It is evident that Lagan Cement has not supplied sufficient information in order for the EPA to make a decision in full knowledge of the environmental effects. Lagan requires an IPPC license for the overall plant, whereas the application only deals with burning 50,000 of MBM.

Non compliance with European (Waste) Framework Directive 75/442/EEC.

As previously identified (p.5) Lagan claims that it will take MBM from 9 different rendering plants thought Ireland. However, as the following will identify this is an infringement of the European (Waste) Directive 75/442/EEC. As this misconception is the result of a policy direction made by the Minister for the Environment, Heritage and Local Government (Mr. Roche) under Section 60 of the Waste Management Acts, 1996-2003.

The Minister confirms that one of the fundamental components of policy in regard to the regulation of the movement of waste is the application of the proximity principle. However, relevant authorities, in preparing waste management plans, determining the necessary statutory authorisations and in regard to other associated waste management functions, should recognise that the application of the proximity principle does not entail interpreting administrative waste management planning boundaries in such a manner as to inhibit the development of waste infrastructure which will support the attainment of national waste management policy objectives through the rational development and use of such infrastructure

The following will show that if the Minister wishes to prepare a National Waste Management Plan waste can be recovered or disposed in any Region, or if local authorities when preparing their Waste Management Plans can include the counties in which it wishes to send or receive waste. However, when the counties have prepared their Regional Plan it cannot accept waste created from outside that Region. The following will show that the North East Regional Waste Management Plan and all other Regional Plans are adopted, accordingly Lagan cannot take waste from outside the North East Region.

The European (Waste) Directive 75/442/EEC also covers IPPC activities involving the disposal or recovery of waste. This includes all specified waste management activities plus some others. This means that, in the case of such activities, the EPA must apply IPPC in a way that achieves the "relevant objectives" of the Waste Framework Directive. The "relevant objectives" also involve implementing a number of plans, which includes Waste Management Plans. Article 7 of the (Waste) Directive, states that in order to attain the objectives referred to in Article 3, 4 and 5, the competent authority or authorities referred to in Article 6 shall be required to draw up as soon as possible one or more waste management plan.

The North East Region, which encompasses the administrative areas of counties Meath Louth Cavan and Monaghan, under the provisions of Section 22 (3) of the Waste Management Act 1996, adopted a Waste Management Plan in August 2001. The same Region has drafted the Waste Management Plan for 2005-2010. The draft plan states that the policy on inter regional movement of waste has been reinforced by the recent Policy Direction issued by the Minister under Section 60 of the Waste Management Acts, 1996-2003. That it's the policy of the Local Authorities in the Region to develop possibilities for cooperation with their counterparts in Northern Ireland. In particular the opportunities of utilising waste recovery facilities to cater for waste generated in the North East Region or Northern Ireland will be examined.

EEC has registered a complaint with the European Commission concerning this amendment by the Minister (Mr. Roche) under Section 60 of the Waste Management Acts, 1996-2003. It should be noted that in 1999 the European Commission took Ireland to European Court of Justice (Case C-461/99) for infringements of Article 7 of European (Waste) Directive 75/442/EEC, Article 6 of European (Hazardous Waste) Directive 91/689/EEC and Article 14 of the European (Packaging Waste) Directive 94/62/EC. In April 2005, the European Court of Justice (ECJ) in Case-C-494-01 ruled that the Irish authorities infringed Articles 4, 5, 8, 9, 10, 12, 13 and 14 of the European (Waste) Directive 75/442/EEC as amended by Directive 91/156/EEC. On 30th June 2005, the same Minister (Mr. Roche) in reply to questions raised in the Dail stated that the European Commission is currently in correspondence with his Department in respect of 56 cases relating to infringements of European Directives and reasoned opinions have been received in 30 of these cases.

In May 2003, exactly 2 years before the Minister made the policy direction the European Commission published a methodological guidance note for "*Preparing a Waste Management Plan*". These guidelines aim to provide a tool for waste management planning and promote the development of more coherent and appropriate planning practices across the European Union Member States, in compliance with the requirements of the relevant European legislation.

The guidelines state that waste management plans must contribute to ensuring that the capacity and the nature of collection and treatment systems are in line with the waste to be managed. Accordingly, before starting the planning, the scope of the plan must be defined. This must include considerations of the following issues:

- What is the geographical coverage of the plan, National, Regional or Local?
- Which waste streams will be included in the plan?
- Which sectors will be included in the plan?
- What is the time scale of the plan?

Also, in April 2004, the European Court of Justice in joined cases C-53/02 and C-217/02, clarified what should be included in plans to be drawn up in accordance with Article 7 of the European (Waste) Directive 75/442/EEC, as amended by Directive 91/156/EEC. According to the Court, Article 7 must be interpreted to mean that the management plan or plans to be drawn up by the competent authorities of the Member States under that provision must include either a geographical map specifying the exact location of waste disposal sites or location criteria which are sufficiently precise to enable the competent authority responsible for issuing a permit under Article 9 of the Directive to determine whether the site or installation in question falls within the management framework provided by the plan.

Article 5 (2) of the (Waste) Directive provides that a network must also enable waste to be disposed of in one of the nearest appropriate installations, by means of the most appropriate methods and technologies in order to ensure a high level of protection for the environment and public health.'

The North East Waste Management Plan (NEWMP) contains a figure (map 3) outlining the geographical coverage of the plan. It clearly shows the Region to include counties Meath Louth Cavan and Monaghan. Accordingly, Lagan cannot take waste from another Region. On 20th April 2004, Meath County Council refused permission to PF Dixon Plant Hire Ltd for a waste recycling facility. Reason 1 stated having regard to the Waste Management Plan for the North East Region 2001, which has a long term objective of acceptance of residual waste originating within the North East region, the Planning Authority are of the opinion that the proposed development, in its current form, by reason of its target areas of acceptance of waste material from outside the North East Region

In addition, the Protection of the Environment Act, 2003 amended Section 40 of the Waste Management Act of 1996, by inserting the following paragraph after paragraph (c) of subsection (4):

"(cc) the activity concerned is consistent with the objectives of the relevant waste management plan or the hazardous waste management plan, as the case may be, and will not prejudice measures taken or to be taken by the relevant local authority or authorities for the purpose of the implementation of any such plan"

In 2003, was granted permission to incinerate 150,000 tonnes of waste per year at Carranstown, County Meath. This company applied to take waste from outside the North East Region, but both Meath County Council and An Bord Pleanála refused permission to allow it acceptance of waste material from outside the North East Region. Accordingly, this is the facility that is designated to incinerate the waste in the North East Region, Waste Management Plan.

Conclusion

This submission has identified that the IPPC license application and the EIS submitted by Lagan Cement Ltd is legally flawed for the following reasons:-

- Article 9 (2) of the (IPPC) Directive 96/61/EC states that in the case of a new installation or a substantial change where Article 4 of Directive 85/337/EEC applies, any relevant information obtained or conclusion arrived at pursuant to Articles 5, 6 and 7 of that Directive shall be taken into consideration for the purposes of granting the permit. This submission shows that the EPA does not have an EIS in compliance with the provisions of the European (EIA) Directive 85/337/EEC as amended by Directive 97/11/EC. The EIS failed to contain the minimum information that is mandatory in compliance with the provisions of Article 5 of the European (EIA) Directive 97/11/EC.
- Lagan states that it intends to take waste from rendering plants outside the North East Region which is an infringement of Article 7 of the European (Waste) Framework Directive 75/442/EEC.
- The IPPC application fails to contain information that is mandatory under Article 6 of the (IPPC) Directive.
- The IPPC application has failed to deal with the fact that the ash content of the MBM is higher than that of the conventional coal fuel and the majority of this will be retained within the cement clinker. In compliance with the European (Waste) Directive 75/442/EEC the cement clinker will have to be classified as a waste.
- The application fails to show compliance by Lagan of Article 15(3) of the IPPC Directive concerning reporting on 50 pollutants released to air and water every three years. This report was due in 2003 on emissions from 2001 (or 2000 or 2002 where data from 2001 is not available). This information is mandatory before EPA can grant a license.
- The proposed development contravenes the amended Section 40 of the Waste Management Act of 1996, in that it is not consistent with the objectives of the Waste Management Plan.

David Malone
30th October 2005