

Date: 11/8/2010

Mssrs. Pat and John Long

Fee due for Objection: €126. Paid on Line

We refer to the Proposed Determination (Your Ref IPPC Licence Register No. P0720-03) issued to Mr. Robert Dowley which we fear could and believe would affect our rights or freedom to acquire pig manure from Robert Dowley's pig farm for our use and benefit. In common with all farmers we keep records in relation to our farms as required by the Nitrates Regulations.

We may well request a supply of pig manure from Mr Dowley's pig unit on one or more occasions this year, and in future years, but we do not have to give advance notice of our requirements to him, or to the EPA or to any authority.

We are very concerned and annoyed about the statement, demands or requirements in Condition 6.2 in combination with Schedule C.6.2 ("*Lands used for Landspreading*" and the line

"Facility :Any site or premises used for the purpose of recovery or disposal of waste"

in the glossary (page 2 of the PD), clearly indicates or implies that any land of ours on which we may use pig manure that we may acquire from Dowley's pig farm would be labelled or be deemed to be some kind of a "waste" or site of a "facility" when in fact it would not be any such place or any such thing.

We do not use our land for "landspreading" any material whatsoever, and the licence applicant certainly does not and will not use our land for any purpose at all no matter how much of our fertiliser we may decide to acquire in the form of pig manure from him. We want the EPA to either remove Schedule C.6.2 from the licence when granted or change the label / title to *"Lands in the installation used by the licensee for Landspreading"*, so as to make it clear that it would refer only to land controlled by the licensee in the installation where the licensed activity is carried on. This is a very important matter for us.

We are similarly very concerned about the content of Conditions 8.10, 8.11.1, 8.11.2, 8.11.4, 8.11.6, and 8.11.7, as all those conditions that appear to relate to the use by us on our lands of any animal manure we may acquire from the licensed installation, would seek to impose on us a non-statutory burden that would interfere significantly and unacceptably with details of statutory responsibilities, obligations and entitlements that are ours under the Animal By-products Regulations and the nitrates Regulations (SI252 of 2008, SI 253 of 2008, EC 1774/2002 and SI 101 of 2009). Also, conditions 8.11.3, 8.11.5 and 8.11.8 are a statement of some of the statutory obligations on all Occupiers of Holdings in relation to their use of fertiliser on their respective holdings. Their presence in a fertiliser supplier's licence is not relevant to us. While we would like to believe that condition 8.10 and the previously listed parts of condition 8.11 are not intended to have any relevance to us or our acquisition of fertiliser from the Dowley farm or to our use of any such manure we may acquire, we are not at all satisfied that the conditions as drafted are not intended by the EPA to impose an extra non-statutory burden on us in relation to our purchase or acquisition of pig manure from Dowley's farm.

We do not need EPA approval, we will not seek any approval from the EPA and we do not allow anyone seek such "approval" for us either. We don't need to give maps or other plans in relation to our lands to the EPA or to the EPA or any authority as a basis for getting a supply of fertiliser, and we do not need permission or prior approval of any authority to fertilise our land to grow our crops, or to choose or acquire manure from Dowley's farm to lawfully fertilise our land.

We want the EPA to remove Condition 8.10 from the licence when granted, as it is not applicable or relevant to the control of the deposition of animal by-product fertiliser on farmland on account of obviously referring to our land (not associated in any way with the activity / installation to be licensed) in relation to any pig manure we may acquire from that installation, and on account manure of farmed animals being excluded from the scope of the Directive on Waste (2008/98/EC).

We want the EPA to remove Condition 8.11 from the licence when granted or alternatively modify the text of all parts of the condition to make it very clear that each

part of the condition would refer only to land controlled by the licensee in the installation where the licensed activity is carried on. This is a very important matter for us.

We are not looking for any licence and we know we do not need any licence to fertilise our land with animal by-product pig manure if and when we choose that fertiliser to satisfy our crop requirement for N and P.

We do not want to have any entitlements that we know we now enjoy taken from us as a condition of being supplied with animal by-product pig manure with which to fertilise our land.

Condition 6 – Control and Monitoring

Condition 6.2 & table headed "*Lands Used for Landspreading*" in Schedule C.6.2

We object to this proposed condition and Schedule as drafted because of the obvious inclusion of our lands and any lands like ours (that is lands that we may fertilise with pig manure we may acquire from Dowley's farm). In the lands you obviously allege wrongly are "*Lands Used for Landspreading*" as the implied requirement for the applicant/licensee to monitor and control some of our farmlands and holding as proposed in condition 6.2 and in the table headed "*Lands Used for Landspreading*" in "Schedule C.6.2 – Ambient Monitoring" in the Proposed Determination. That seems to be the same proposed requirement as is set down in more specific terms in proposed condition 8.11.4. We doubt if the applicant claimed or stated anything in the application that even suggests that either he (the applicant) or us ever "uses" or "uses" any land for "landspreading" or for any action associated with the deposition of manure or any other fertiliser on farmland. We assert that the matter to which we object in the strongest possible terms is entirely based on misunderstanding and/or misinterpretation and/or misrepresentation of the relevant facts in relation to the lawful supply of manure to us for our use and benefit, as was clearly stated in the Application for a licence and as is fully provided for in Article 3(b) in S.I. 252 of 2008 and Article 20 in Regulation EC/1774/2002 (as amended), and in S.I. 253 of 2008 (including Article 7). Condition 6.2 and the associated Schedule should be removed from the licence because it clearly and unnecessarily refers to any and all holdings like ours that are farmed and fertilised completely independent of the pig farm to which the licence and its conditions apply. The fact that we may regularly or occasionally acquire pig manure / fertiliser from Dowley's pig rearing installation does not give that fertiliser supplier any access to, or control over our lands and does not make our lands part of any "landbank" for the purpose of the proposed IPPC licence. In order to remove an obvious threat to us and our lands, and to remove obvious conflicts with

legislation known to the EPA and under which our acquisition and use of pig manure and all other fertilisers are governed, it is necessary that Condition 6.2 and Schedule C.6.2 be either removed from the licence when granted or be redrafted to make it clear that they apply only to persons and lands that are controlled by and are within the scope of the licence. We request that the EPA respond to this request by making it perfectly clear that we, our lands and our farming are outside the scope of the IPPC licence to which this objection relates and are not subject to any monitoring or control under the IPPC licence, and that the requirements proposed in Condition 6.2 and Schedule C.6.2 are applicable only to the applicant for the licence and land in the installation to be controlled under the licence.

The applicant/licensee has no authority to **either access or control or monitor** lands in our or any farmers' / customers' holdings. The applicant/licensee cannot perform the soil sampling and testing indicated in that table in Schedule C.6.2 as being required of him by the proposed licence. He cannot require us or any customer to carry out such sampling and testing. Such sampling and testing and interpretation of the results of any such sampling or testing that we may do are all matters for us; not for our suppliers of pig manure or any other fertiliser. The records and documents in relation to fertiliser movements (including animal manure movements) into and/or out of the holding that are required to be maintained by the occupier of each and every holding in the State are prescribed in Article 23(1) in S.I. 101 of 2009. We believe that the Agency knows that Conditions of the applicants licence cannot impose any burden on persons who are lawful customers for manure and that it is wrong for the Agency to propose or include any such conditions in the applicant's licence. Management of fertiliser acquisitions and their use of fertilisers on customers' holdings is a matter for each customer. That is clear state policy as provided for in S.I. 252 of 2008; S.I. 253 of 2008 and S.I. 101 of 2009. Those are not matters for either control or influence by conditions in the licence when granted. How could such conditions be complied with by any licensee?

Condition 8.10. Slurry/Manure as fertiliser or as waste. We object to this proposed condition in the strongest possible terms. We believe the proposed requirement that:

Slurry manure shall be considered to be a manure or fertilizer when recovered as defined in the Waste Management Acts 1996 to 2008 and as agreed by the Agency.

is a wrong and inappropriate text that the applicant licensee cannot assess or administer on lands (such as ours) that he neither owns or controls. It is a statement rather than a condition, and it has no place as a condition of the licence.

There is no manure discarded on our lands. We understand that the deposition of waste on land with benefit to agriculture is a waste recovery operation. However, in relation to

pig manure that is by-product by reference to the Animal By-products Regulations (S.I. 252 of 2008 and Regulation EC/1774/2002) and to the Directive on waste (2008/98/EC: Recitals 12 and 22 and Articles 2 and 5), the deposition of by-product pig manure on land to supply fertiliser nutrients as provided for and as controlled under the Nitrates Regulations (S.I. 101 of 2009 and Directive 91/676/EEC) is lawful use of the manure and is not a waste recovery activity. Those Regulations, not the Waste Management Acts referred to in the proposed condition 8.10 are the basis of the system under which the deposition and use of pig manure on farmland by farmers in general (including customers for pig manure), is governed. We respectfully put it to the Agency that neither the Waste Management Acts nor "as agreed by the Agency" apply to his customers' deposition and use of pig manure from his installation on their land which deposition and use is required to be in accordance with the terms prescribed in Fertilisers and Soil Improvers Order (S.I. 253 of 2008) and the Nitrates Regulations (S.I. 101 of 2009). The statement that "*Slurry manure shall be considered to be a manure or fertilizer when recovered as defined in the Waste Management Acts 1996 to 2008 and as agreed by the Agency*" is not relevant to this applicant or to this pig rearing installation because it is wrong to infer that the use of manure of any farmed animals by deposition on our farmland is subject to control under the Waste Management Acts. Accordingly, it is necessary that Condition 8.10 either be deleted from the licence, or be replaced with the reference to the Waste Management Acts substituted by a reference requiring that manure transferred from the installation for use, be in accordance with terms and standards prescribed in S.I. 253 of 2008 and S.I. 101 of 2009.

A condition requiring that the sale or supply and transfer of pig manure to farmers and that the recording of all such transfers be in accordance with terms prescribed in The Animal By-products Regulations (S.I. 252 of 2008), and the related Regulations in S.I. 253 of 2008, and in the Nitrates Regulations (S.I. 101 of 2009) would be appropriate, practical, and fully workable.

Condition 8.11. Slurry/Manure recovery by landspreading. We object to inclusion of this proposed condition in this licence because most of what it contains is not relevant or applicable to the applicant/ licensee or to his installation or the licensable activity. Please read and analyse:

8.11 Slurry manure shall only be recovered by landspreading subject to the following conditions and the prior agreement of the Agency:

by reference to the following very relevant facts:

- The proposed condition, like all other conditions must "speak to the licensee".
- Interpretation of the condition has to have regard to Condition 1 - Scope.
- Interpretation of the condition has to have regard to relevant statutory obligations, as is acknowledged in condition 1.6.

- Interpretation of the condition has to have regard to the Regulations referred to in proposed condition 8.11.5 that are binding on all those who engage in and are responsible for "landspreading" which is "*The application of slurry manure to farmland*", irrespective of whether that proposed condition 8.11.5 is in this licence or is not in it.
- The proposed condition may or would be applicable to slurry/manure recovered by the licensee by landspreading in the installation.
- How can the proposed condition if included in the licence be applicable to the licensee in relation to slurry/manure sold or supplied and transferred to us and other customers as is provided for in relevant European and National legislation (S.I. 252 of 2008, S.I. 253 of 2008 and S.I. 101 of 2009), because the "landspreading", that is the application of slurry/manure to farmland" is by the customers and is on farmlands that are obviously and necessarily outside the installation, and so are in separate holdings outside the scope of the licensee and all conditions of the licence?
- The use and the application of slurry/manure to fertilise farmland outside the installation by us and other farmer customers, which use is generally authorised and is regulated under the legislation referred to in the previous indent, is not a matter for either control or additional control by the applicant/licensee, or by or through his licence.
- The applicant/licensee does not engage in any "landspreading" in the installation and he is not the responsible party in relation to the application to our farmland of any fertilisers, including fertiliser / pig manure produced in the installation and sold or supplied by him from the installation to us in compliance with the governing legislation in S.I. 252 of 2008, and S.I. 253 of 2008 and is recorded as required under Article 23(1)(g) in S.I. 101 of 2009.

We believe that the Agency and its relevant staff know that the producers of pig manure / fertiliser and suppliers of that pig manure / fertiliser to farmers who want it for their holdings, are required by separate legislation that is independent of the IPPC system, to store it manage it and use it in accordance with prescribed standards binding on them in the context of their holdings. Equally, the Agency and its staff know that the applicant/licensee does not use in the installation any of the manure produced as an animal by-product along with the pigs that is main product for sale. In those circumstances, proposed condition 8.11 would not serve any function in his licence. It is necessary that the proposed content of condition 8.11 be deleted and not be part of the licence.

We are very concerned about the implications for Mr. Dowley of the kind of impossible regime in relation to "landspreading" that the EPA has been trying to impose on him and that the Agency has been trying to have applicants for a licence and licensees voluntarily

accept not only on their own behalf but also on behalf of their customers for pig manure. Mr.Dowley has informed us of the long history of conflict and confusion in relation to those "landspreading" and related conditions in licences that refer to and relate to "*the application of slurry manure to farmland*" where the application referred to is the statutory responsibility of, and is under the statutory control of, the **occupier of the holding** on which the slurry/manure is applied. Against that background, we request that the Agency respect all the relevant separate legislation under which the distribution and use of animal manure is so comprehensively regulated and controlled.

We recommend that the Proposed Determination in this instance be amended to respect existing legislation. We consider the Proposed Determination to be seriously flawed in relation to the conditions as addressed above, and on that account we consider it to be unfair and prejudicial to our rights and interests as farmers in who may use pig manure from this installation.

Yours Sincerely

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