



Tybroughney,
Piltown,
Co. Kilkenny.
06/09/2010

Response under Article 30 of the Licensing Regulations 1994 to 2008, to EPA letter dated 12/8/2010 granting opportunity to comment on Third Party objection by Mr. Paul Joy, Mr William Phelan, Mrs. Madeline O Brien, Mr. Dermot Cunningham, Messers John and Pat Long.

Relevant IPPC Reg No.: P0720-03.
Applicant's Name Robert Dowley
Comment by: Robert Dowley
Location of the activity: Tybroughney, Piltown, County Kilkenny.

Dear Sirs,

I refer to the Proposed Determination issued to me for my pig rearing facility at the above address. I have read and studied the objection made by Mr. Paul Joy, Mr William Phelan, Mrs. Madeline O Brien, Mr. Dermot Cunningham and Messers John and Pat Long to certain proposed conditions in the Proposed Determination. I comment on their objection as set down below.

I support and agree with everything they have said and claimed in relation to the transfer of manure from my installation to farmers who are and/or to farmers who may be customers for manure regularly or occasionally.

For the avoidance of doubt, I repeat that the system and arrangements in place for the management of manure in the pig rearing installation to be licensed, and for the lawful transfer of manure to customers who seek a supply from the installation is:

- Collect all manure in tanks in the manner required by statute as prescribed in S.I.101 of 2009, thus preventing any discharge or leakage from the installation,
- Store all manure temporarily in the tanks pending sale or supply and transfer to customers, in response to customer demand, as Animal By-Product fertiliser, as is provided for and authorised by

statute under S.I. 252 of 2008 and S.I. 253 of 2008, in the knowledge that use by customers is required to be in compliance with standards prescribed by statute in S.I. 253 of 2008 and S.I. 101 of 2009, and

- Record all transfers of manure from the installation as is required by Article 23(1)(g) in S.I. 101 of 2009 and maintain the records for inspectors.

I wholeheartedly agree with the content of the objection made jointly by Mr. Paul Joy, Mr William Phelan, Mrs. Madeline O'Brien, Mr. Dermot Cunningham and Messers John and Pat Long.- The legislation referred to in the previous paragraph confers certain entitlements in "normal" circumstances as well as responsibilities on the "occupier" of every farm "holding" in the state. In so far as the conditions that include the word "landspreading" or the words "All landspreading" or "all lands" or include the term "Nutrient Management Plan" or "nutrient management plan" or "nutrient management plans" or the include the term "NMP", refer to customers plans in respect of customers' lands, I state clearly again that all matters in relation to the production and the implementation of such plans in respect of customers' or potential customers' holdings or lands are the statutory responsibility of those customers as Occupiers of those holdings or lands. I am not, and I cannot be, responsible for such matters that are obviously addressed in the "landspreading" and related conditions to the person responsible for that "landspreading", which person or indeed persons are simply lawful customers who are "occupiers" of completely separate holdings that are entities independent of me and independent of my activity and independent of my installation and will not be subject to either me or any conditions in my licence when granted. They are persons who are not required to acquire any specific prior approval or prior permission to either acquire or use any lawful fertiliser, including pig manure from any source.

Assurance for the Agency with regard to customers' lawful use of any and all fertiliser they may acquire from me and my installation is in the statutory requirements and standards in SI 253 of 2008 and SI 101 of 2009 with which all customers and potential customers are required to comply.

The Agency and any Agency staff are mistaken if they have formed any opinion or drawn any inference or conclusion that is contrary to my description and the Third Party Objector's description in relation to my authority over or responsibility for the production or implementation of nutrient management plans or for any part of the "the application of

slurry/manure to farmland" on lands that are not mine and are not within the scope of the licence.

Conditions in an IPPC licence issued to me are, and I believe must be interpreted as being addressed to me, and so they "speak" to me. Accordingly, the subject matter of requirements set down in a condition must be a matter that is my responsibility and is within my sphere of influence or is under my control in relation to the activity to be licensed. I am advised, and I believe that conditions in my licence must also respect entitlements and responsibilities of third parties (persons like my customers for manure in this case, with whom I engage in lawful trade) by not imposing, pretending to impose or seeking to impose any requirement on any party other than the licensee.

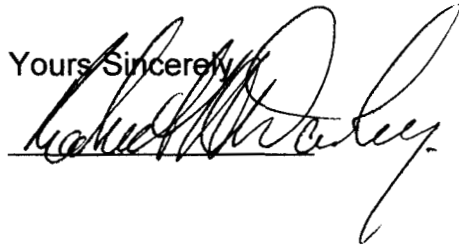
I expect all conditions in a licence to me to deal only with matters that are under my control. I expect that this expectation will be respected by the Agency in Licence Reg No P0720-03 if and when granted.

Accordingly, I request again, and I expect in the interest of clarity, and for the avoidance of doubt, and to eliminate risk of criminal prosecution for alleged non-compliance with a licence condition or licence conditions in relation to landspreading and/or an "NMP" for which I am not and cannot be the responsible person, that the "landspreading" and "NMP" Conditions and Schedule C.6.2 will either be deleted from the licence when granted, or be amended to make it clear that the "landspreading" to which they refer is any "landspreading" that would be carried on by the licensee in the installation, and that the "NMP" referred to would be an "NMP" that would be the statutory responsibility of the licensee and would relate specifically to any land in the installation to which slurry/manure may be applied by the licensee.

As there is not within the installation, any land with a crop requirement for fertiliser, and as there will be no "*application of slurry/manure to farmland*", that is "*landspreading*", carried on or to be carried on in the installation, it seems clear and rational that the "landspreading" and "NMP" conditions and Schedule C.6.2 should be deleted from the licence and that other associated conditions should be amended as may be necessary following such deletion. That deletion is necessary so as to remove from the licence the unnecessary and inappropriate reference to the standard farm practice, that is the "*application of slurry/manure to farmland*", which will be carried on by others using manure/fertiliser they are entitled to acquire and will lawfully acquire by lawful sale or supply and purchase and transfer from me and my installation for use in fertilising land in circumstances where that transfer is generally authorised under EC/1774/2002 and SI 252 of 2003 without need for any specific permission or approval and that use in the users' hands is required to

comply statutory standards applicable to the users and their respective holdings as provided for in SI 253 of 2008 and SI 101 of 2009, all of which I believe is already known to the Agency.

Yours Sincerely

A handwritten signature in black ink, appearing to read "Robert M. Bailey", written over a horizontal line.

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