

Josephine Kennedy

From: Jack O'Sullivan [jackosullivan2006@gmail.com]
Sent: 03 March 2011 16:56
To: Licensing Staff
Subject: Observations on behalf of the Ballinasloe Environmental Alliance; EPA Reference P0045-06.
Attachments: BEA-093 Complete Observations to EPA 03-Feb-11.pdf

Observations on behalf of the Ballinasloe Environmental Alliance in Relation to the Proposed Decision by the EPA to Refuse an IPPC Licence to Premier Proteins (2000) Ltd, Ballinasloe, County Galway; EPA Reference P0045-06

Please find attached our observations on the other appeals received.

Best regards,

Jack O'Sullivan

**Environmental Management Services
Comhairleoirí Comhshaoil
Environmental and Planning Consultants**

Outer Courtyard,

Tullynally,

Castlepollard,

County Westmeath.

Loc8 Code: MJM-20-W96

Telephone 044 966 2222

Fax 044 966 2223

E-mail jackosullivan2006@gmail.com

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ENVIRONMENTAL MANAGEMENT SERVICES

Observations on the Other Objections Submitted to the Environmental Protection Agency in Relation to the Application by Premier Proteins (2000) Limited for a Review of the Company's Integrated Pollution Control Licence

IPPC Licence Register Reference P0045-06

**SUBMITTED ON BEHALF OF THE
BALLINASLOE ENVIRONMENTAL ALLIANCE**

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Environmental Management Services

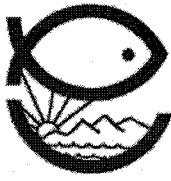
**Outer Courtyard, Tullynally,
Castlepollard,
County Westmeath, Ireland**

Telephone 044 966 2222

Fax 044 966 2223

E-mail jackosullivan2006@gmail.com

03 March 2011



Environmental Management Services
Comhairleoirí Comhshaoil
Environmental and Planning Consultants

Outer Courtyard, Tullynally, Castlepollard, County Westmeath
Clós Seachtrach, Tulaigh an Eallaigh, Baile na gCros, Co. an Iarmhí
Telephone 044 966 2222 Fax 044 966 2223 E-mail jackosullivan2006@gmail.com

03 March 2011

Office of Climate, Licensing and Resource Use,
Environmental Protection Agency,
PO Box 3000,
Johnstown Castle Estate,
Co. Wexford.

Dear Sir,

**Observations on behalf of the Ballinasloe Environmental Alliance on the
Other Objections Submitted to the Environmental Protection Agency in
Relation to the Application by Premier Proteins (2000) Limited for a Review
of the Company's Integrated Pollution Control Licence**

IPPC Licence Register Reference P0045-06

In response to the Agency's letter dated 3 February 2011, and to the Agency's invitation to submit observations on two other objections circulated by the Agency on the same date, please find enclosed our observations on behalf of the Ballinasloe Environmental Alliance.

We support the Agency's decision to refuse to issue a revised IPPC licence, and therefore we ask the Agency to underpin, strengthen and expand the reasons for refusing to grant a revised IPPC licence.

The address of the Ballinasloe Environmental Alliance is:

**c/o Ms Anita Killeen,
Hon. Secretary, Ballinasloe Environmental Alliance,
9 Riverside View, The Pines,
Ballinasloe,
County Galway.**

Yours sincerely,

Jack O'Sullivan

Environmental Management Services

BEA-091 Ltr to EPA with observations, 03-Mar-11

ENVIRONMENTAL MANAGEMENT SERVICES

Application by Premier Proteins (2000) Limited for a Review of the
Company's Integrated Pollution Control Licence

IPPC Licence Register Reference P0045-06

OBSERVATIONS ON BEHALF OF THE BALLINASLOE ENVIRONMENTAL ALLIANCE ON THE OTHER OBJECTIONS SUBMITTED TO THE ENVIRONMENTAL PROTECTION AGENCY

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ENVIRONMENTAL MANAGEMENT SERVICES

Application by Premier Proteins (2000) Limited for a Review of the Company's Integrated Pollution Control Licence

IPPC Licence Register Reference P0045-06

OBSERVATIONS ON BEHALF OF THE BALLINASLOE ENVIRONMENTAL ALLIANCE ON THE OTHER OBJECTIONS SUBMITTED TO THE ENVIRONMENTAL PROTECTION AGENCY

1. INTRODUCTION

On 06 January 2011, the Environmental Protection Agency issued a proposed decision to refuse the application by Premier Proteins (2000) Limited, Poolboy, Ballinasloe, County Galway, for a review of the company's current Integrated Pollution Prevention and Control Licence (Reference P0045-05). The Agency's proposed decision was welcomed by the Ballinasloe Environmental Alliance and by Ballinasloe Town Council as well as by local residents and members of the public.

In response to the Agency's proposed decision, objections were received from:

- Premier Proteins (the licensee and the applicant);
- Poolboy Community Development Council (submitted by Mr Brian Dolan, Chairperson of the Council); and,
- Ballinasloe Environmental Alliance (submitted by Environmental Management Services on behalf of the BEA).

In addition, members of the Ballinasloe Town Council instructed the Town Clerk, Mr Mark O'Donnell, to write to the Agency expressing support for the Agency's proposed decision, as follows:

"Having discussed the issue at the monthly Council meeting on 11th January, the members of Ballinasloe Town Council have asked me to convey their full support for the proposed determination to refuse the revised IPPC Licence for the reasons as outlined in the notification letter, primarily the history of non-compliance with licence conditions, and the long history of odour issues and complaints regarding the operation of the facility."

The Town Council's letter, dated 25 January, was received by the Agency on 26 January 2011; and we understand from local information that the Council's support for the Agency's proposed determination was broadly welcomed in the town.

Our objection on behalf of the Ballinasloe Environmental Alliance (BEA), dated 02 February 2011, was acknowledged by the EPA on 03 February 2011 as a formal and valid objection; and the Agency also circulated to us for comment or observation the other two valid objections received.

We have now been instructed by the **Ballinasloe Environmental Alliance** to make observations on their behalf on these objections. Our observations which follow are arranged thematically under appropriate headings (in section 4), and are preceded by a summary of the principal matters raised in each objection (section 3).

2. BALLINASLOE ENVIRONMENTAL ALLIANCE

As the Agency will be aware from our objection, the Ballinasloe Environmental Alliance (BEA) was established in 2007 as a result of increasing concern about the continuing odour nuisance and other environmental problems caused by the rendering plant operated by Premier Proteins at Pollboy, and because of the frequent breaches by the company of the conditions attached to the plant's IPPC licence issued by the Environmental Protection Agency.

The Agency's proposed decision to refuse to grant a revised IPPC licence has been welcomed by the BEA, and it was agreed that an "objection" should be made to the Agency in support of the proposed decision. In response to the Agency's decision to circulate objections to all other parties, the Ballinasloe Environmental Alliance has now requested **Environmental Management Services** to make observations to the Agency on these other objections, and particularly on the objection submitted by Premier Proteins.

The Ballinasloe Environmental Alliance urges the EPA to confirm its proposed decision by issuing a final determination to refuse the application by Premier Proteins for a review of the company's current IPPC Licence, and to refuse to grant a revised IPPC licence which would allow the applicant to process a larger annual quantity of waste or a wider variety of waste streams.

The address of the Ballinasloe Environmental Alliance is:

**c/o Ms Anita Killeen,
Hon. Secretary, Ballinasloe Environmental Alliance,
9 Riverside View,
The Pines,
Ballinasloe,
County Galway.**

3. SUMMARY OF THE PRINCIPAL ISSUES RAISED IN THE OTHER OBJECTIONS RECEIVED BY THE EPA FROM THE POOLBOY COMMUNITY DEVELOPMENT COUNCIL AND FROM PREMIER PROTEINS

3.1 Objection by the Poolboy Community Development Council

The third party objection by the Poolboy Community Development Council, a copy of which we received with the Agency's letter dated 03 February 2011, raised the following issues and concerns:

- The Council is in full support and agreement with the Agency's decision to refuse the application;
- The number of formally recorded complaints made to the Agency by local residents is "grossly understated";
- The number of complaints recorded by the Agency should be compared with the number recorded in the applicant's "complaints log" at the plant;
- It is questionable whether the applicant has notified the Agency of all the complaints received from local residents;
- The non-sequential reference numbering of complaints received by the applicant has given rise to the reasonable belief that the applicant's recording of complaints is unreliable and inaccurate;
- Many occurrences of noxious odour go unreported because residents have become despondent and apathetic;
- Wind direction plays a key role in determining which of the adjoining residential areas is affected by noxious odours from the plant;
- The conviction secured by the EPA against Premier Proteins in the District Court was the result of increased public pressure; and if it were not for this intense degree of public concern, the EPA would not have enforced the conditions of the applicant's IPPC Licence;
- The Council agrees with the Agency's view that the applicant does not have the requisite technical knowledge;
- Local residents are seriously concerned about the current applications by a sister company of Premier Proteins for a waste permit and a licence from the EPA to process industrial and domestic sludge at Poolboy, and this concern was heightened by the decision of An Bord Pleanála to grant planning permission for the sludge processing plant; and,
- A copy of the Poolboy Community Development Council's submission to the Agency dated 01 November 2009 was appended, listing a significant number of issues of concern to the local community.

3.2 Objection by Premier Proteins Ltd.

The objection by the applicant, Premier Proteins Ltd., a copy of which we received with the Agency's letter dated 03 February 2011, raised the following principal issues:

- The applicant has requested an oral hearing of the objection;
- The applicant, as licensee, has achieved more than 99% compliance with the conditions of the IPPC licence (Table 1, page 2; and Table 3, page 14), and this high level of compliance is alleged to be a reflection of the company's commitment to comply with the requirements of the IPPC licence and the competence of the company's management;
- This level of compliance should not be a reason for refusing an IPPC licence;
- Numerous complaints were received in respect of a single incident, and many of the complaints were from a limited number of complainants;
- The number of complaints increased significantly after 2006 when the regenerative thermal oxidiser (RIGE) was installed (Table 2 on page 3, and Table 4 on page 16);
- After extensive efforts by the manufacturer of the oxidiser, with inputs from the licensee and various independent experts, the manufacturer was unable to improve the performance of the RIGE (page 4);
- Despite the best efforts and expertise of the manufacturer and of the various independent experts that examined and tested the RIGE, it never worked as anticipated (page 14);
- The Licensee concluded that the regenerative type thermal oxidiser (RIGE) was not suitable for treating highly odorous air streams that arise from rendering plant operations;
- This conclusion was supported by the result of legal proceedings taken in Australia by Peerless Holdings Pty Ltd against Environmental Systems Pty Ltd;
- Six other rendering facilities in Ireland had installed recuperative thermal oxidisers (RTO), and these facilities have not experienced similar odour problems;
- Premier Proteins then planned to install an RTO without going through an IPPC licence review, and the applicant states that the Agency could have permitted the installation of the RTO as a technical amendment to the existing IPPC licence;
- Instead, the Agency required the company to submit an application to review the IPPC licence;
- Premier Proteins anticipated having a reviewed licence within a few months;
- While the licence review application was under consideration, the Agency carried out 14 separate site assessments in relation to odour emissions;

- The applicant considered that this increase in monitoring offered no solution to reducing the odorous emissions, as each new visit by the EPA simply confirmed and recorded the problems being experienced;
- During the summer of 2009, intensive surveillance by the enforcement section of the Agency continued, with no positive outcome in terms of solutions to the problem or reduction in the number of complaints received;
- The applicant now asks the Agency to recognise that the proposed RTO is in fact the best available technology (BAT) and a proven solution for treating difficult high odour air streams from rendering;
- The inspector in this review has taken into account information from another part of the EPA, which was not presented to all the parties to this review and has exercised an enforcement function rather than the adjudicative function;
- The EPA is being unfair in punishing the applicant for trying to fix the problem by using the problem as a reason for refusing a licence review;
- The company has diligently considered and responded to all notifications of non-compliance issued by the Agency, and the Agency did not indicate that any of the responses submitted were unsatisfactory;
- The company's responses to these non-compliances should not now be deemed unsatisfactory, and the Agency should re-consider its decision to refuse the application;
- The applicant's conviction on 3rd September 2008 at Ballinasloe District Court for offences relating to the failure to control odours emanating from the facility was in place when the existing licence was being considered; it was not given by the EPA as a reason for refusing the existing licence and therefore it should not be identified as a reason for refusing the current application for a licence review;
- The applicant's proposal to increase the range of waste types to be processed on site would not result in any increases in the quantities of wastes processed in the cooker on the site;
- Instead, the application asked that the liquid wastes to be processed in the wastewater treatment plant should not be included with the animal by-products which are to be processed in the cooker when accounting for materials taken onto the site;
- Widening the range of wastes to be processed was not the purpose of the application for review (page 18);
- Contrary to the Agency's assertion that there is an absence of a requisite technical knowledge, the applicant asserts that the technical knowledge of the relevant staff on site is excellent and demonstrates the presence of requisite technical knowledge that is more than adequate to carry on the operation of the existing and proposed abatement equipment (page 21);
- Appended to the objection is a file of correspondence between the applicant and the Environmental Protection Agency, alleging that the Agency has placed the applicant in a difficult position by prosecuting the

company for creating odour nuisance while at the same time frustrating the company's efforts to seek a revised licence;

- The applicant asserts that a licence review should not be required for an abatement system which would improve emissions from a facility (letter dated 20 July 2010 from Arthur Cox, Solicitors, to the EPA);
- The applicant further asserts that the Agency did not "*have adequate regard to its statutory duties in carrying out its licensing activities in this instance*" (letter dated 20 July 2010 from Arthur Cox, Solicitors, to the EPA); and,
- Appended to the objection are several technical reports on the existing and proposed odour abatement systems, dispersion modelling of emissions to the atmosphere from the plant, and on odour assessment.

4. OBSERVATIONS ON THE OTHER OBJECTIONS RECEIVED

4.1 General Observations on the Applicant's Objection

From a reading of the entire objection, it becomes clear that the applicant attributes a very significant measure of blame for the present unsatisfactory situation on the Environmental Protection Agency and on the manufacturer and supplier of the existing regenerative thermal oxidiser. Nowhere in the objection is there any admission that the applicant has failed in its duty to avoid creating an odour nuisance; nor is there any admission that the applicant's ability to operate the odour abatement system is anything less than excellent. Instead, the applicant alleges that its own operating personnel are the best informed and most experienced persons to deal with the problems, and that they have the required technical knowledge.

Our observations on these assertions are:

- If the applicant had selected the most appropriate odour abatement technology, and had been able to operate it efficiently, there would be no need to apportion blame on the manufacturer and supplier;
- The applicant has avoided describing the reasons for selecting a regenerative thermal oxidiser in the first place; and, if it was unsuitable, should have known this fact, or should have carried out sufficient research before committing what must have been a very large expenditure on this technology; and,
- If the applicant's operational personnel are so experienced, and have the necessary technical knowledge, why did the odour problem persist for such a long time ?

Our general observations above will be supported by a more detailed evaluation of the applicant's objection in the following sections of this submission.

4.2 Request for an Oral Hearing

We concur with the applicant's request that the Agency should hold an oral hearing into this licence review application and the objections submitted by all parties.

4.3 General Observations on the Objection Submitted by the Poolboy Community Development Council

This objection illustrates very clearly the frustration and annoyance experienced by local residents whose quality of life has been significantly and adversely affected by odours emitted from the applicant's rendering plant. The objection, prepared by a local community, provides sufficient detail to demonstrate to the Agency that this objector has researched the application and has been careful not to overstate the case.

In fact, it would be fair to conclude that the objection relies on the evidence of local people who have experienced odour nuisance, made complaints, and have been dissatisfied with the responses received. We noted that while some residents have become despondent and apathetic about making any further complaints about the continuing odour, others have continued to believe that the licensing system (including the process of making submissions to the Agency) gives them an opportunity to express their concerns and to hope that the EPA will address these concerns by refusing to grant a revised licence.

4.4 Compliance with the Conditions of the IPPC licence

In section 1.1 of the objection, the applicant alleges that the rendering plant has achieved more than 99% compliance with the conditions of the IPPC licence (Table 1, page 2; and Table 3, page 14). The figures in these tables are then promoted as indications of the company's commitment to comply with the requirements of the IPPC licence and the competence of the company's management.

We would observe that this table has no relevance, as there is no description of the parameters or the data from which the applicant has derived these compliance percentages. For example, the table alleges a compliance rate of 99.60 % in 2008, a year when the applicant received 274 complaints to the plant about odour nuisance beyond the site facility and non-compliance with the conditions of the IPPC licence.

Secondly, it may be equally asserted that failure to comply with a licence condition is not less serious because the applicant has complied with other, and generally less onerous, conditions. If the applicant's argument were to be applied to compliance with, for example, the Road Traffic Acts, a motorist could use in his or her defence, when convicted of dangerous driving, that he or she has fully complied with all other requirements of the Acts, such as maintaining lights, brakes, fitting of seat belts, etc. This example of *reductio ad absurdum* shows, we suggest, the inappropriateness of the applicant's argument.

Thirdly, we would observe that the most appropriate person or organisation to judge whether or not the applicant is in compliance with conditions attached to the IPPC licence, is the Agency itself. We would observe that any attempt made by the applicant, no matter how well intentioned, to judge its own performance in relation to compliance or non-compliance with IPPC licence conditions, is inappropriate and should not be accepted by the Agency.

Fourthly, we would suggest that, since the conditions attached to the IPPC licence are not expressed as percentages, but as an obligation to be fulfilled in its entirety, it is even more inappropriate to express compliance in terms of percentages, as the applicant has attempted to do.

4.5 Focus by the Applicant on Resolving the Issues

Section 1.1 of the applicant's objection maintains that the company was seriously focussed on the task of resolving the issues with the poor performance of the regenerative thermal oxidiser (RIGE), but there appears to be little evidence of any positive result from the company's efforts.

For example, the managing director of the factory, Mr Noel Ryan, in a meeting with the Pines Residents Association prior to the 27th of October 1998 gave a guarantee to the outgoing Chairperson of the Association that works to be carried out "*would end once and for all this problem*" and he gave a definite date for resolving the odour issue.

A letter to Mr Ryan dated 27 October 1998 from the Chairperson of the Pines Residents Association, Dr John Dunne, outlined the assurance given by Mr Ryan. The Pines Residents Association is now well into its second decade of complaints to the company, which we would suggest is a good indication of the company's ability to deal with the issue and their lack of focus in this area.

4.6 Numbers of Complaints Made and Recorded

In our objection to the Agency, dated 02 February 2011, we submitted that Premier Protein's rendering plant at Poolboy gave rise to a long series of complaints about odour, stretching over several decades; and the report dated 14 December 2010 by the Agency's Inspector who examined the applicant's request for a review of the plant's IPPC licence confirmed our observation. In addition, we pointed out in our objection that:

- the odour complaints listed in Appendix 1 to the Agency's proposed determination were made by some 51 individually named complainants, clearly indicating the widespread nature of the odour nuisance; and,
- the number of complaints is far greater than recorded by the Office of Environmental Enforcement; and we attached a log of complaints about odour emissions from the Premier Proteins plant, prepared by just one member of the Ballinasloe Environmental Alliance, and covering the period 09 June 2009 to 24 December 2010.

In section 1.1 of the objection document, the applicant states that:

"it should also be noted that on some occasions numerous complaints were received in respect of a single incident, and also that many of the complaints originated from a limited number of complainants. This is not to say that they were unjustified, merely to better define the nature and extent of the complaints"

It is our observation that the above quotation illustrates the applicant's view of the residents and neighbours affected by the odour problem. Contrary to the company's assertion that numerous complaints regarding the one incident serve to dilute or diminish the nature and extent of the problem, the statement reveals the actual scale of problem, by demonstrating its wide ranging detrimental effect across several housing estates and communities.

The applicant's attitude towards neighbouring residents and members of the public is further shown by the company's assertion that *"many of the complaints originated from a limited number of complainants"*, as if to suggest that a few malicious individuals were behind a significant number of complaints.

We would observe that this assertion cannot be correct, and that the number of complaints presented in the applicant's Table 2 (on page 3) and Table 4 (on page 16) is a serious under-estimation of the real number of complaints made by local residents and the members of the public.

For example, Table 2 shows the level of complaints in 2004 as 15; yet we can state that just one member of the Ballinasloe Environmental Alliance (BEA) recorded 12 complaints to the plant in that year. In the 6 month period from January to June 2000 the factory received 45 complaints from 19 different individuals. This puts Table 2 in context regarding the level of complaints going back a decade; and 45 complaints from 19 different individuals cannot be seen as coming from a limited number of complainants. Neither can 161 complaints from 51 different individuals between 01 July 2009 and 24 November 2010 (as listed by the Agency) be interpreted as coming from a limited number of complainants.

The applicant's objection states that the number of complaints increased significantly after 2006 when the regenerative thermal oxidiser (RIGE) was installed, and this rise in the number of complaints is attributed to the poor performance of the RIGE. Yet, as we intend to show in the next section (4.7 below) of our observations, there is no clear evidence of such a direct connection between the installation of the RIGE and the number of complaints. It is also possible that other changes in the rendering plant and the odour abatement system, occurring at the same time, but not properly investigated, could be a cause of the very significant rise in the number of complaints about odour.

We would also observe that the company's response to complaints was less than satisfactory, with nearly all complainants receiving no more than a brief letter stating that *"all abatement systems were operating normally"* at the time of the complaint.

4.7 Best Available Technology, or Less Optimal Technology

In 2005, the applicant gave an assurance that the regenerative thermal oxidiser (RIGE) was the Best Available Technology (BAT); but the objection by the applicant now states that the RIGE was not suitable for treating the very highly odorous air streams that arise from the rendering plant operations. This change in perception is attributed to the allegation that, after extensive efforts by the manufacturer of the oxidiser, with inputs from the licensee and various independent experts, the manufacturer was unable to improve the performance of the RIGE (objection, page 4), and the RIGE never worked as anticipated (objection, page 14).

We would observe that the most obvious conclusion to be drawn from these statements by the applicant is that:

- a) the applicant did not carry out enough research before selecting the appropriate type of thermal oxidiser to achieve the necessary degree of odour abatement;
- b) the wrong type of equipment had been selected;
- c) the RIGE had been wrongly specified;
- d) the data given to the manufacturer of the RIGE about the emissions from the rendering plant were incorrect; or,
- e) the RIGE was being operated incorrectly.

As we pointed out briefly in section 4.1 above, the applicant has not given the precise reasons for selecting a regenerative thermal oxidiser; and we are therefore driven to the conclusion that the selection process was faulty. In support of this, we would quote the applicant's own assertion that six other rendering facilities in Ireland had installed recuperative thermal oxidisers (RTO), and these facilities have not experienced similar odour problems.

We might also question why the applicant did not consider other types of thermal oxidiser, for example those which use a catalyst to break down the volatile organic substances which are the cause of much of the odour produced by the rendering plant. Catalytic oxidisers convert volatile organic compounds (VOCs) to carbon dioxide and water at much lower temperatures than thermal oxidisers by using a catalyst inside the combustion chamber, and they also work very efficiently.

We might also point out that Regenerative Thermal Oxidisers use two or more ceramic heat transfer beds (as described in the applicant's objection) that act as heat exchangers, and the equipment can often recover 90 to 95% of the heat generated by oxidation. A Recuperative Thermal Oxidiser, which the applicant now wishes to install, uses a plate, shell, tube, or other conventional type of heat exchanger to heat the incoming air, and these systems can recover only 50% to 75% of the heat generated by oxidation.

Included in the applicant's objection is a document entitled "*Premier Proteins Proposal for Recuperative Thermal Oxidiser*", containing a description of a

Regenerative Thermal Oxidiser, which consists of ceramic lined steel towers connected at the top by an oxidation chamber. The ceramic lining serves to protect the steel shell from the temperatures found in the process, and each tower contains a mass of ceramic media to provide heat transfer and storage. The process description states that the towers are used alternatively:

"At start-up the plant is pre-heated by burner input and the addition of ambient air through an automatic damper. The plant is isolated from the effluent stream by an automatic damper at this stage. This allows the Oxidiser to reach its set operating temperature prior to the input of effluent gases. When the Oxidiser has reached its preset temperature and the process is ready, the odour laden gas is passed, via purpose made dampers, up through the first tower, gaining heat from the pre-heated ceramic mass in that tower thereby starting the Oxidation process. The preheated effluent gas then passes into the combustion chamber and through the burner section causing the total flow to be raised to the full oxidation temperature thereby releasing any energy from the pollutants to the process. The cleaned gas then passes down through the second tower, giving up energy to the ceramic mass in that tower.

After a preset period of time (typically 90-120 seconds) when the ceramic mass in tower 1 has been cooled and the outgoing tower 2 has been heated, the gas flow is swapped such that the effluent enters the newly heated tower (in this case tower 2). Further energy as required from the burner is added as per the first cycle and the cleaned gas exits via tower 3, thereby recovering heat. After leaving the exit tower the cleaned exhaust passes through purpose made dampers to the chimney. This process continues; the gas flow periodically swapping its route through the oxidiser controlled by a pre-set programme."

We can see from this description that the Regenerative Thermal Oxidiser is a complex item of equipment, but it should not be beyond the capability of any well-trained process engineer to operate it, especially as the alternation between the ceramic system is controlled by a computer.

However, the description raises two questions:

- i) why is there such a detailed description of the **Regenerative** Thermal Oxidiser in a report entitled "*Premier Proteins Proposal for **Recuperative** Thermal Oxidiser*"; while there is no equivalent description of a Recuperative Thermal Oxidiser; and,
- ii) the same document contains a reference to the odour removal efficiency of the boilers (99.99%), but there is no evidence given to support this figure.

The Agency will be more aware than ourselves of the various alternatives which could more effectively treat the odorous off-gases from the rendering plant, and the above observations are intended only to indicate such possibilities.

Nevertheless, the question must be asked – why did the applicant select an odour abatement system which is then considered unsuitable for its purpose? Apart from the applicant's probable failure to consider the issues listed a) to e) at the beginning of this section, we would suggest that the Regenerative Thermal Oxidiser may have been selected because of its ability to recover more thermal energy, and it would therefore be cheaper to operate.

4.8 Legal Proceedings in Australia

The applicant further states that his conclusion is supported by the result of legal proceedings taken in Australia by Peerless Holdings Pty Ltd against Environmental Systems Pty Ltd.; i.e., that the system installed was not fit for its purpose, and that the applicant was misled by the manufacturer.

However, we would observe that this Australian example goes back to 1997 when the commissioning of that particular RIGE was agreed. It was much later, in 2005, when Premier Proteins commenced the process of installing their RIGE in Ireland. Given the company's assertion that the level of expertise available to it on site was of the highest order, we may legitimately ask why the applicant selected and installed a system which already had been found unsuitable in Australia many years earlier.

This information about the shortcomings of the RIGE system should have been readily available to any suitably qualified person examining or selecting the best available technology (BAT) within their own industry. Contrary to the company's assertion that the *Peerless Holdings* case somehow bolsters their argument, it in fact weakens it, unless Premier Proteins are pleading that they were naive and misled by the manufacturers of a system which years earlier was proven to be not fit for purpose.

4.9 District Court prosecutions for Breaches of the Licensee's IPPC Licence Conditions

In her report dated 14 December 2010, the Agency's Inspector noted that there were two successful District Court prosecutions in relation to breaches of the Licensee's IPPC licence conditions.

In the most recent of these cases, brought before the Court in Ballinasloe in May 2008, Premier Proteins was charged with four offences based on breaches of the company's IPPC Licence conditions. The applicant pleaded guilty to two of these charges, and admitted breaching conditions of its IPPC licence by:

- failing to control odours emanating from the facility; and,
- directing off-gases to alternative treatment options without the prior agreement of the Agency.

The applicant's objection (section 1.3, page 12) states that "*the company pleaded guilty to both charges levied against it at the court hearing in question, and had so pleaded prior to the court date*", thereby suggesting that there were only two charges made by the Agency against the applicant. Whether or not

this was an attempt to mislead the reader we shall leave it to the Agency to judge. However, we would point out that this was the second occasion when the company was convicted in the local courts.

4.10 Criticism of the Environmental Protection Agency's Approach to the Odour Problem

A very significant portion of the applicant's objection is taken up with allegations that the Agency has acted unfairly against the applicant and did not have "*adequate regard to its statutory duties*" (letter dated 20 July 2010 from Arthur Cox, Solicitors, to the EPA). Specifically, the applicant alleges that:

- The inspector has taken into account information from another part of the EPA, which was not presented to all the parties to this review and has exercised an enforcement function rather than the adjudicative function;
- The EPA is punishing the applicant for trying to fix the problem by using the problem as a reason for refusing a licence review;
- The company has diligently considered and responded to all notifications of non-compliance issued by the Agency, and the Agency did not indicate that any of the responses submitted were unsatisfactory; and,
- The company's responses to these non-compliances should not now be deemed unsatisfactory, and the Agency should re-consider its decision to refuse the application.

Having examined the correspondence appended to the applicant's objection (and even taking into account the possibility that the applicant was 'selective' in providing copies of this correspondence), we cannot agree with the applicant's assertion that the Agency was acting unfairly. At worst, the Agency may have been too meticulous in requiring a very significant amount of detailed information from the applicant; but this is perfectly understandable, given the history of non-compliance and the degree of public concern.

The applicant's objection also alleges that the Office of Environmental Enforcement should somehow have been more lenient or should have carried out less frequent monitoring during the period when the company's application to install an allegedly better odour control equipment was being considered by the Agency. If this argument were to be accepted, it would lead to a situation where a licensee in breach of IPPC licence conditions, and causing environmental damage or public nuisance, could use a review application in order to temporarily escape full compliance with a current licence. It is our observation that, if this were allowed to happen, the Agency would be in breach of its own statutory duty.

4.11 The Applicant's Responses to Notifications of Non-Compliances

The applicant's objection (Section 1.2) contends that the company has diligently considered and responded to all notifications of non-compliance issued by the

Agency, and the Agency did not indicate that any of the responses submitted were unsatisfactory.

From the perspective of the BEA and its individual members the overriding theme from the company has been one of denial that the problem existed or exists. Nothing has demonstrated to us that the company acknowledged the problem, in fact the contrary is the case.

It is our observation that the question of whether or not the applicant has responded appropriately to notifications of non-compliance is a matter for the Agency to decide.

4.12 Application by an Associated Company for a Sludge Processing Plant on the Same Site

In section 1.5 of the Objection, the applicant has suggested that the number of complaints from members of the public has risen in 2008 to 2010 because *"public attention was drawn to the [rendering] facility by a high profile planning application by a separate sister company to construct a waste processing facility adjacent to this site"*.

On the contrary, Premier Proteins has drawn attention to itself by its abysmal record of non-compliance with its IPPC licence, particularly in regard to odour emissions. The Ballinasloe Environmental Group considers that the One51 Group, which is the parent company of Premier Proteins and OneBio (the applicant for the sludge processing plant), further displayed its contempt for the people of Ballinasloe by attempting to construct a highly contentious sludge processing plant in a location where members of the public were continually experiencing the adverse effects of malodours from the rendering plant.

The large increase in the level of complaints, as set out in Table 4 on page 16, may be more attributable to the increasing frustration of the people of Ballinasloe towards the odour nuisance caused by Premier Proteins, than to the RIGE worsening the situation. This was combined with a realisation that they, i.e., the people of Ballinasloe, by making complaints, could actually do something about it. The odour problem had existed for decades but now some people were no longer willing to accept it, and therefore the increasing number of complaints may be said to more accurately reflect the nature and extent of the problem.

5. CONCLUSIONS

Having examined the applicant's objection, we see no reason to disagree with the proposed decision of the Environmental Protection Agency to refuse to grant a revised waste licence to Premier Proteins, and we would urge the Agency to be firm in its decision.

On behalf of the Ballinasloe Environmental Alliance, we would observe that the aim of, and the driving motivational force behind, the BEA is simply to create an

environment free of the pollution caused by the Premier Proteins 2000 Ltd plant. The people of Ballinasloe would like to be able to enjoy the pleasure of their own homes and gardens and the facilities the town offers without being constantly subjected to malodours from this rendering plant. The Ballinasloe Environmental Alliance believe that this is a basic right and a very reasonable request. The BEA contends that the inability of the applicant's management to control odours from the facility within the terms of their IPPC licence has been, and still remains the greatest threat to their own workforce and to local residents and members of the public.

Jack O'Sullivan

Environmental Management Services

On behalf of the

Ballinasloe Environmental Alliance

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