

Subject: FW: Waste Licence Application W0129-03, Murphy Environmental Hollywood Ltd

From: Paddy Boyle [mailto:paddyboylrush@hotmail.com]
Sent: 07 August 2012 11:07
To: Wexford Receptionist
Subject: Waste Licence Application W0129-03, Murphy Environmental Hollywood Ltd

Mr Frank Clinton
Programme Manager
Environmental Licensing Programme
Environmental Protection Agency
Headquarters PO Box 3000
Johnstown Castle Estate
County Wexford
August 7th 2012

Re: Waste Licence Application W0129-03, Murphy Environmental Hollywood Ltd

Dear Mr Clinton,

I refer to your letter dated 11th July in response to my email to Ms Laura Burke DG on 18th June 2012.

I strongly disagree with your interpretation of the Agency's obligations under Articles 14 and 16 of the Waste Management (Licensing) Regulations 2004.

Firstly, it is not an adequate defence to maintain that the sole purpose of Article 14 or 16 is to benefit the applicants by bringing them into compliance with the Regulations. Both Articles 14 and 16 incorporate a '*specified period*' within which the applicant must provide a response. Important objectives to be recognised in setting the '*specified period*' are the desire to control the overall length of the process (and hence the cost to third parties) and the need to gather the necessary environmental information in a manner that complies with obligations set out in the IPPC Directive and Aarhus Convention to allow the public early and effective opportunities to participate in the decision making process.

The Regulations provide for the Agency to use its judgement and experience to define a '*specified period*' that is considered reasonable in duration for the purpose of gathering the required information. Should there be a legitimate need to extend this '*specified period*' then there is scope within the Regulations for the applicant to state its case to the Agency for extending the '*specified period*' and for the Agency to adjudicate on such an application and extend the period if it sees fit. There is no facility in the Regulation allowing the applicant to ignore the '*specified period*' as happened in the case of the Article 14 Response submitted by MEHL. Neither is there scope in the Regulation for the Agency to adopt a position that "*such periods are not strictly enforced*" as described in your letter. What happened in the case of the MEHL Article 14 is contrary to the wording and purpose of the Regulation, i.e. illegal.

Furthermore, in relation to the Article 16 request to MEHL, while the Agency is correct in saying that a response was submitted within the '*specified period*' this response did not contain any of the material information requested by the Agency. Therefore the matters required to be addressed under Article 16 were not addressed within the time allowed. The Agency has now seemingly accepted that the applicant will not comply with the requirements set down in the Article 16 request and will instead conduct an exercise of its own design to gather information of its own choosing within a timeframe of its own making. This is completely unreasonable and unacceptable to neighbours who, for what is already an excessive period of time, have been bearing the worry of this proposal to build a hazardous waste facility on our doorsteps and over our water supplies and the significant financial cost associated with engaging in this process in order to protect our health and our properties.

On 11th July 2012, the Agency issued a new Article 16 to the Applicant. This was an opportunity for the Agency to swiftly seek within a new '*specified period*' the significant body of geological information that had been omitted from the Article 16 of 23rd March 2012. The Agency decided not to do this, so rubber-stamping the applicant's decision to provide this information within its own timeframe and to its own scope

and thereby further prolonging the duration of the process and the anxiety / costs to third parties. I will be making a separate submission to Mr Brian Meaney and Dr Ford on the significant importance to the process of the (now ignored) geological information requested on 23rd March and have requested a meeting at which to present and discuss these and other relevant matters which I presume the EPA are currently processing. On 20th June 2012, Ireland became the latest country to ratify the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters of the United Nations Economic Commission for Europe (UNECE).

This means that the Environmental Protection Agency is now obliged to uphold the principles therein, including the parts of Article 6 quoted below:

"2. The public concerned shall be informed, either by public notice or individually as appropriate, early in an environmental decision-making procedure, and in an adequate, timely and effective manner, inter alia, of...

(b) The nature of possible decisions or the draft decision; ...

(d) The envisaged procedure, including, as and when this information can be provided:...

(iv) An indication of the public authority from which relevant information can be obtained and where the relevant information has been deposited for examination by the public;...

(vi) An indication of what environmental information relevant to the proposed activity is available; "

The Agency has an obligation to apply the Regulations in a manner that is fair to third parties, not just the applicant. We contend that the 'specified period' provided for in Article 14 and Article 16 protects certain interests of third parties and so cannot be simply ignored by the applicant and the Agency.

We agree that under the legislation that there is no *obligation* for the Agency to reject the application.

However, considering the rights of the third parties, and in the clear absence of any commitment by the applicant to provide in a timely fashion the necessary environmental information, the Agency has within its powers the option to immediately recommend refusal of this proposed development on the grounds of insufficient information.

In relation to the three private meetings held between the applicant and the Agency, it is very difficult to see from the two sets of minutes that have been posted online what aspects of the meeting could not have been dealt with in a (or more) effective manner by an exchange of letters between the parties. Perhaps you could explain this to us? Also, we would very much appreciate it if you could arrange as soon as possible to post online the minutes of the private meeting(s) held between the applicant and the Director of Licensing.

Finally, in relation to the posting of minutes of private meetings can we remind you that "minutes" are just that. They are not a full reflection of what exactly was discussed or agreed by both parties, exclude the public to potentially important details, and therefore constitute bias towards the applicant.

Yours sincerely

Patrick Boyle, BE, on behalf of Hollywood and District Environmental Group

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