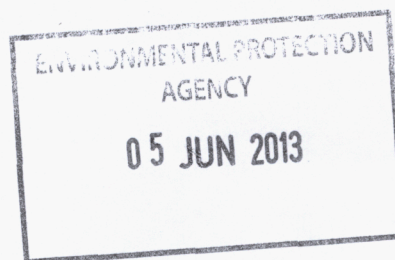


Kilshannig House

Cratloe Wood

Cratloe

Co. Clare



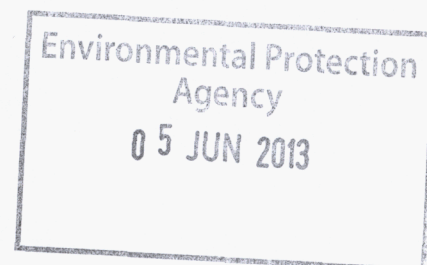
Office of Climate Licensing and Resource Use

EPA Headquarters

PO Box 3000

Johnstown Castle Estate

Co. Wexford



4 June 2013

Objection to Proposed Licence P0012-05, Roche Ireland Limited

Dear Sirs,

I wish to object to the granting of a proposed licence on the following grounds.

The Agency is not authorised to grant a licence to what is an illegal activity by the licensee in the holding of discovered hazardous waste equating to four and a half thousand truckloads (URS, 90,000 tonnes) in an unlined pit named H2 beneath a water table, in a European designated Seveso protected zone of which my property is part and against the advice of the licensees' own advisors.

Hazardous waste is not meant to exist at the Roche landfill. Outside this review, the licensee and the Agency have both been warned by the licensees' own advisors that the placing of a cap on H2 will not prevent the "unforeseen future incident" (URS, 2005). This is a real danger to employees intending to work in and visitors to the Clarecastle Industrial and Business Park in the protected zone and appears to endorse the warning expressed by the Supreme Court in a previous Roche Ireland licence decision as H2 is now well capable of causing "injury to health, damage to the environment and constitute a public nuisance" (Murphy, J. 1999). H2 will also clearly delay the commencement of works at the Clarecastle Industrial and Business Park in the Seveso zone in which the H2 hazardous waste pit exists as evidenced by the Clare County Council planning decision 11849 of the 24 February 2012.

In not declaring the existence of H2 to a previous oral hearing , two High Court Judicial Reviews and a Supreme Court Judicial Review , I believe that "the conduct of the licensee and the supervision of the Agency" (Murphy,J. 1999) has been less than satisfactory. This non declaration by the licensee contributed to the granting of a licence by the Agency which would not otherwise have been granted.

Inspector Observations

The inspector is of the impression "the landfill references in the current licence and Roche public declarations relate to the engineered landfill which ceased accepting waste in 2005". This is not correct. No distinction was made by the licensee to the inspector or members of the public in the written submission made by the licensee in preparation for the oral hearing. The licensee stated at that time:

"The objectors appear to have misunderstood the design of the existing landfill which is on the planning files of Clare County Council. It does not have a concrete base. The site is laid on an alluvial clay base of low permeability covered by a layer of sand, followed by a HDPE liner, a further layer of sand and yet another HDPE liner and a third layer of sand. There is leachate collection underneath the bottom HDPE liner and between the two liners to check for liner leakage of either liner in either direction" (Barry, 1996).

The licence inspector in his final report accepted the above statement by the licensee as follows:

"The company operates a double lined on site landfill with leachate collection and treatment in the wastewater treatment plant" (O'Brien, 1996)

However I can advise the inspector that "the waste in the H2 area was deposited in unlined pits (up to 3.4 m deep) with no facilities for leachate interception and collection. In some areas the wastes are emplaced below the water table" (URS, 2005). In addition I can advise the inspector that at least two other pits at the licensee's facility in Clarecastle (Cell 1, 4) possess only a single lining and at least three other pits (Cell 2, 3A, 3B) possess no lining at all (URS, 2005).

It is not acceptable that the inspector to the licence review excuses herself from entering into the review process the fact that the H2 hazardous waste unlined pit exists in a European Commission designated Seveso protected zone, declaring Seveso is not part of her brief.

It is not acceptable that the inspector to the licence review excuses herself from entering into the review process the effect H2 has on the commencement of works at the Clarecastle Industrial and Business Park, declaring Planning is not part of her brief.

It is not acceptable that the inspector to the licence review excuses herself from entering into the review process the expert opinion of the licensee's own consultants URS that capping of H2 "is considered to be of limited benefit as the chemical/process waste in some areas is emplaced below the water table" (URS, 2005) and that "capping would not provide Roche with a reduction of liability in the event of an unforeseen future incident" (URS, 2005). The inspector declares the decision to cap H2 is not part of her brief.

It is not acceptable that the inspector to the licence review ignores monitoring data from boreholes 216, 21 and 702.

It is not acceptable that the Agency destroys evidence of seven previous breaches of an IPC licence by the licensee, resulting in members of the community having no knowledge of each of the seven breaches.

It is not acceptable that the inspector disregards the advice of the licensees' own advisors URS and promotes a watch and see approach to determine if the toxic plume expands stating "upon cessation of the active management methods, monitoring data will be required to be trended to demonstrate that the plume is not expanding" (Donlon, 2013) and "the RD requires trend assessment of the monitoring data to verify that the plume is not expanding" (Donlon, 2013). The licensees' own advisors state "Monitored Natural Attenuation is essentially a continuation of the current monitoring program in wells around the H2 landfill. The aim of MNA would be to document stable or improving groundwater quality around the H2 area (as was the case up to 2001) to the satisfaction of the regulators, as an alternative to active intervention. However contaminant concentrations in leachate samples taken from the 2005 trial pits continue to show elevated concentrations of volatile organics (solvents), semi-volatile organics (phenolics) and heavy metals 25 years after the cessation of landfilling in the H2 area, despite extraction of contaminated groundwater from this area for several years. It is therefore likely that MNA would have to be continued for decades in order to meet regulatory requirements, with no reduction of the risk of an unforeseen future incident such as the drum rupture which occurred near well 216 in 2001, which could lead to future regulatory enforcement". The licensees' advisor continues, "MNA is likely to require extensive monitoring of the H2 area for a considerable timeframe and, while attractive as a low cost option initially, does not give Roche a long term reduction in the risk of a potential larger release and is not consistent with EPA guidance" (URS, 2005).

European Commission DG Environment

It is not acceptable that the inspector ignores EU CHAP and EU Pilot status placed by the European Commission DG Environment on H2 since 2011. The Commission DG Environment, Head of Compliance Promotion Governance & Legal Issues has instructed the writer to advise the Agency of the following:

1: A third party, not affiliated to the Agency, Clare County Council or Health and Safety Authority is to be engaged by the Agency to advise best method for the excavation and removal of the buried hazardous waste out of the designated Seveso protected zone.

2: The Closure Restoration and Aftercare Management Plan (CRAMP) as presently exists for the landfill is not fit for purpose and is based on an incorrect assumption made by the licensee to the Agency that the H2 unlined hazardous waste pit can be built on and the site can be sold for future industrial use. The inspector is fully aware that no construction can take place above the H2 hazardous waste pit. The inspector yet again excuses herself declaring "the after use of the H2 area and the landfill is outside the scope of the CRAMP and the scope of licensing" (Donlon, 2013).

3: EU Pilot is the final attempt by the Commission, prior to launching formal infringement proceedings under Article 258 of the Treaty.

Effect of Hazardous Waste Pit H2 on Industrial and Business Site in Seveso Protected Zone

It is not acceptable that the inspector ignores the opinion of Clare County Council, Executive Planning Office regarding the effect of H2 on the Clarecastle Industrial and Business Park, also located in the designated Seveso protected zone. In the application to extend an appropriate period of a Planning Permission to the Park and the stated reason of H2 waste excavation and removal, the Council states "it is considered there are circumstances outside the applicants control which militated against the carrying out of substantial works pursuant to this permission" (Quinn et al, 2012).

All employees and visitors to the Park will be required by law to be notified in advance that they are operating in a hazardous waste zone in which an "unforeseen future incident" (URS, 2005) may occur and will be required to be provided with a copy of the revised planning permission to the Park site, relating to H2. This makes the site and the proposed units unsalable pending the excavation and removal of H2.

Of note is a previous appeal by the licensee in 2002 to development on the site of the Park. In its appeal to An Bord Pleanála (PL03/126815) the licensee argued:

- Seveso is compromised due to Roche proximity to the Park
- Expansion of the Roche facility is severely curtailed by its landfill, the cul de sac both Roche and the Park share and the River Fergus
- Roche can only expand through the Park site

The inspector to An Bord Pleanála accepted the Roche argument and stated:

"Having regard to the location of the appeal site within close proximity to Roche Ireland Ltd, and the relevant European Community and Republic of Ireland laws governing the control of major accident hazards involving dangerous substances, it is considered that the proposed development would lead to a restriction on the long term potential for the future expansion of the Roche facility, contrary to the intent and provisions of such laws. The proposed development would therefore be contrary to the proper planning and development of the area". (Byrnes, 2002)

Specific Direction by Licensee own Advisor URS

It is not acceptable that the inspector ignores the written opinion of the licensees' own advisor URS, who has explicitly advised the licensee and the Agency that capping H2 is not appropriate, nor is monitored natural attenuation. The licensee must excavate and remove the H2 hazardous waste as follows:

"In terms of reducing or eliminating the long term environmental liability associated with material

deposited in the unengineered H2 area, excavation and removal of the chemical/process wastes involving segregation and re-use of uncontaminated fill material overlying the chemical/process waste) is proposed as it:

- Removes the source of leachate generation and groundwater contamination of the H2 area
- Does not require indefinite operation, maintenance and monitoring
- Eliminates uncertainty relating to impacts of possible future incidents, or changes in regulatory approach, which affect options where the waste mass remains in-situ:
- Facilitates re-use of the H2 area for other purposes such as expansion of the plant”(URS,2005)

Polluter Pays

It would appear the licensee does not wish to furnish the cost of the excavation and removal of H2 hazardous waste out of the designated Seveso protected zone preferring it seems to engage another advisor as follows:

“RPS was commissioned to review remedial options for the hazardous waste cell prepared by the company’s advisors, who had proposed to remove significant quantities of hazardous waste off site at considerable cost” (Madden et al, 2012).

Based on the polluter pays principle the licensee is encouraged to furnish the excavation and removal costs similar to the activity currently contributed to by its parent Company Hoffman La Roche at the Bonfol hazardous waste pit in Canton Jura, Switzerland and close to its Company headquarters. The Agency will be aware that while Bonfol contains 114,000 tonnes of hazardous waste (Scharvogel,2012), the H2 hazardous waste unlined pit alone in Clarecastle contains up to 90,000 tonnes of hazardous waste (URS, 2005). There are at least eight other pits to take into account at Clarecastle (1,2,3A,3B,4,5,6,7),some of which are unlined.

Oral Hearing

The local community is not aware of the existence of the H2 hazardous waste unlined pit beneath the water table of the River Fergus and other unlined pits within the licensees’ facility. Many members of the local community that attended the last oral hearing concerning the licensee have no access to a computer, and third party objections have not been reported in the local media (Clare FM, Clare Champion) in order for residents to request a copy from the Agency.

An oral hearing is required to present the true state of the landfill to residents and previous objectors to the licensee holding a licence. All will be of the impression following the last oral hearing conducted by the Agency and based on statements made by the licensee, that no hazardous waste exists in its landfill and that the landfill pits are double lined, which is clearly not the case.

An oral hearing provides an opportunity for each member of the community to view the following reports and documents for the first time through an oral hearing which will also serve as an endorsement of the Agencies' openness and transparency policy.

- Minerex Environmental Ltd (1985)
- Alan Marples Consultants (1988-1989)
- Dames and Moore /URS (1996, 1999)
- Zetica (2005)
- URS (2005)
- RPS (2005)
- Third Party Objector Roger O'Mahony (2008-current)
- European Commission CHAP 01426 (2011)
- European Commission EU PILOT 2801/11/ENVI (2011)

An oral hearing will allow at least three additional government agencies namely Clare County Council, Health and Safety Authority and the Office of Environmental Enforcement to attend and present their own portfolios of responsibility relating to H2 for which the inspector currently excuses herself.

Previous objections to the licence contained "113 submissions" (O'Brien, 1996) received from concerned residents with additional submissions submitted by local groups such as "Care for Clare, Women of Clare, ICMSA, IFA, Liquid Milk Suppliers, Local Fishermen" (O'Brien, 1996). An oral hearing will allow each resident to view and analyse what is new information presented by the writer regarding the true state of the Roche landfill and allow each resident the right of reply.

Licence Inspector - Visit to Licensee

I note the Agency inspector to the licence review P0012-05, was shown the above ground condition of H2 by the licensee and noted "a capped and extensively landscaped landfill and H2 area" (Donlon, 2013). However the inspector does not appear to have requested nor been invited to inspect beneath the surface of H2.

I can advise the Agency that the situation is so hazardous and unstable beneath the surface of H2 that according to the licensees' own advisors URS:

"while excavating TP06 PID readings exceeded 600ppm intermittently and respirators were donned by all personnel until the excavation had been backfilled and the PID reading returned to ambient levels" (URS, 2005).

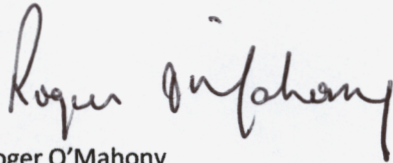
"The PID reading exceeded 1000ppm while backfilling of TP05 and all personnel left the area until the PID reading returned to ambient level. TP05 was located close to the stream in the nature area" (URS 2005).

As evidenced by the enclosed photographs (URS, 2005) the licensees' own advisors URS are well placed in directing their client Roche Ireland Ltd, to excavate and remove H2.

The Agency does not have European authority to grant a licence to this facility which allows such scenes to exist in these photographs within a designated European Seveso protected zone.

I enclose the appropriate objection fee and oral hearing fee.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Roger O'Mahony". The signature is fluid and cursive, with the first name "Roger" and last name "O'Mahony" clearly distinguishable.

Roger O'Mahony

Encl

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TP03: The waste material also included spent centrifuge cloth, blue carboys (pba acid carboys), a sweeping brush, a drum of spent filter cartridges, safety boots and blue plastic drums (contents unknown).



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Environmental Protection
Agency
05 JUN 2013

P28: Blue mauser drums in the waste material



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TP06: A strong sheen and very strong solvent odour were noted from the waste material. The PID monitoring breathing space exceeded 600ppm during excavation of the trial pit and respirators were donned until the excavation had been backfilled.