

Noeleen Keavey

From: Laura Murphy <[redacted]>
Sent: 17 May 2017 15:08
To: Noeleen Keavey
Subject: Re: W0184-02 Enva Ireland Limited, Clonminam Industrial Estate, Portlaoise, Co Laois
Attachments: EPA Submission_170517.pdf

Dear Ms. Keavey,

I appreciate your bringing this oversight to my attention and affording me ample time to respond.

Please find attached, my submission pertaining to EPA determination that Appropriate Assessment is required on the licence review for Enva Ireland Limited.

I trust you will keep me informed of all future developments or correspondence relating to this submission and pertaining to the Enva license review process in general.

Kind regards,
Laura Murphy

On 20 April 2017 at 16:52, Noeleen Keavey <n.keavey@epa.ie> wrote:

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Ms Laura Murphy

20 April 2017

Re: Review of Industrial Emissions Licence W0184-02, ENVA Ireland Limited

Dear Ms Murphy,

We refer to the above matter and your submission dated 11 July 2016.

You will know that, on 6 December 2016, the Agency made its proposed determination, indicating that it proposed to grant a revised licence subject to specific conditions. You were directly notified of this by correspondence dated 6 December. You did not make any objection to the proposed determination before the given deadline of 11 January 2017.

Please be advised that, earlier, on 10 October 2016, the Agency made a determination under regulation 42 of the European Communities (Birds and Natural Habitats) Regulations 2011 (SI No. 477 of 2011) that appropriate assessment is required. Although promptly published on the Agency's website, you were not directly notified of this determination. We apologise for the administrative oversight.

Accompanying this letter is a copy of the Agency's determination that Appropriate Assessment is required on the licence review for Enva Ireland Limited, Clonminam Industrial Estate, Portlaoise, County Laois in respect of an activity at Clonminam Industrial Estate, Portlaoise, County Laois.

Having regard to the mentioned oversight, in the interests of natural justice, the Agency will permit you to make a written submission to the Agency within **twenty-eight days** in relation solely to the attached determination that Appropriate Assessment is required.

If you wish to make a submission, please do so by replying to this email or by sending it by prepaid post to the headquarters of the Agency, or by leaving the submission with an employee of the Agency, **at the headquarters of the Agency in Wexford** during office hours, i.e., 9.00am to 5.00pm Monday to Friday. A valid submission must be received at the headquarters of the Agency **before 5.00pm on the applicable date**. The latest date for submission by you is 5.00pm on **Wednesday 17 May 2017**.

If you have no comments to make in relation to this review, there is no requirement for you to reply to this email.

**SUBMISSION ON THE APPROPRIATE ASSESSMENT UNDER
REGULATION 42 OF THE EUROPEAN COMMUNITIES (BIRDS
AND NATURAL HABITATS) REGULATIONS 2011, (SI NO. 477
OF 2011) IN RELATION TO THE LICENCE REVIEW OF ENVA
IRELAND LIMITED, CLONMINAM INDUSTRIAL ESTATE,
PORTLAOISE, CO .LAOIS.**

1. The River Barrow and River Nore Special Area of Conservation has been designated to protect various types of habitats including alluvial forest, petrifying springs, and other specified habitats. Its designation protects species listed in Annex II of the directive, namely the sea, river and brook lampreys, the crayfish, the twaite shad, atlantic salmon, otter, the marsh snail, the Killarney fern, freshwater pearl mussel, and the Nore freshwater pearl mussel, of which this SAC is the only site in the world where this species exists. The surface water from ENVA discharges into the river Triogue, which discharges into the River Barrow and River Nore SAC. In effect the river Triogue connects the ENVA site to the SAC.
2. Under the habitats directive, the Natura Impact statement (NIS) is an important part of the appropriate assessment. In the decision of *Balz and Heubach v. An Bord Pleanala*, it was clear that the appropriate assessment must include not simply an examination of the NIS, but also the responses to it and submissions from interested parties.
3. It is also clear that the conclusion that there is no impact on the integrity of a European site must be arrived at beyond reasonable scientific doubt.

4. Details of the conservation status of each qualifying interest of the River Barrow and the River Nore SAC, alongside the generic threats and pressures facing those habitats and species are discussed in the submitted NIS, pg 18 -26. This information is based on out of date information from 4 years ago and does not contain a rigorous scientific baseline study of the current conservation status and impact on protected species.
5. An assessment of the potential effects of storm water run-off from the ENVA site on the achievement of conservation objectives of the River Barrow and River Nore SAC is undertaken in the NIS, pg 29-54. The known location of species is based on out of date information from 6 years ago and does not contain a rigorous scientific study of the current distribution of the species in the River Barrow and River Nore SAC.
6. The Nore Freshwater pearl mussel *Margaritifera margaritifera durrovensis* in the River Barrow and River Nore SAC is the only site in the world where this species exists. In the assessment of effects of surface water discharge on the conservation objectives of the River Barrow and River Nore SAC it is stated in NIS page 53 that "No impacts predicted as a result of surface water discharge from the ENVA site and/or site operations as this species is confined to the River Nore, having no hydrological connectivity to the ENVA site". The surface water from ENVA discharges into the river Triogue, which discharges into the River Barrow and River Nore SAC. In effect the river Triogue connects the ENVA site to the SAC. The statement in the NIS is clearly erroneous and no assessment of this endangered species has been undertaken.
7. Freshwater white-clawed crayfish *Austropotamobius pallipes* clawfish has been recorded at the closest 2 km from the ENVA site, with page 8 NIS stating

“However the most current record (10/08/2006) was within 4 km of the site on the Triogue River.” This is later contradicted in the NIS on page 47 which states “No impacts are predicted as there will be no loss of habitat/species as a result of surface water discharge from the ENVA facility. This is due to the distance between the ENVA site and the downstream location of the ENVA site (closest know distribution c. 14 km)”. There is no current scientific surveys undertaken in the area to assess the distribution of this endangered species, instead the NIS is relying on out of date information from 6 years ago from the Nore SAC.

8. Desmoulin’s whorl snail *Vertigo mouslinsiana* has been recorded within 2 km of the ENVA site. “No impacts are predicted as there will be no loss of habitat/species as a result of surface water discharge from the ENVA facility. This is due to the distance between the ENVA site and the downstream location of the ENVA site (closest know distribution c. 103 km)”. There is no current scientific field surveys undertaken to assess the distribution of this endangered species, instead the NIS is relying on out of date information from 6 years ago from the Nore SAC.
9. The Portlaoise Waste Water Treatment Plant (WWTP) discharges into the river Triogue north of Portlaoise. According to the NIS, the EPA inspectors report for the WWTP estimated that based on a background level of 6 mg/l of suspended solids, and continuous emissions of suspended solids at the emission limit value of 35 mg/l, this would result in a downstream concentration of 24.8 mg/l. The freshwater fish directive limit is 25 mg/l for suspended solids. This provides only 0.2 mg/l headroom based on *average* background levels with emissions from the WWTP at the emission limit value.

10. The Portlaoise WWTP 2016 AER shows monitoring levels of 23 mg/l of suspended solids downstream in the river Triogue (22/12/2016). This is within 2 mg/l of the 25 mg/l freshwater fish directive. The Biochemical Oxygen Demand (BOD) has been monitored at 3.7 mg/l up stream from the WWTP (23/08/2016), breaching the Freshwater Fish Directive level of 3 mg/l by 23 %.
11. According to the Inspectors report it is evident that rainwater is becoming contaminated before being discharged from the installation, with maximum levels from SW1 chemical oxygen demand (COD) of 227 mg/l, and suspended solids of 59 mg/l. There are no measurements, monitoring or any scientific analysis of the discharges of total organic compounds or BOD.
12. There is reasonable scientific doubt that the impact of these discharges from ENVA are having an adverse effect on the river Triogue.
13. The Triogue converges 13 km downstream with the River Barrow and the River Barrow and River Nore SAC.
14. Given the measured high levels of suspended solids and biochemical oxygen demand in the river Triogue, there is reasonable scientific doubt on the impact assessments of species 13 km downstream such as the white-clawed crayfish, Sea lamprey, Brook lamprey, River Lamprey, Twaite Shad, and Atlantic Salmon. The Freshwater pearl mussel depend on salmonids for dispersal of glochidia, and any such impact on the salmonids will affect the conservation of the Fresh water pearl mussel.
15. The proposed mitigation measures are heavy on unreasoned assertions with no rigorous scientific evidence or data provided in relation to these measures.
16. The ENVA site is based on a locally important Karstified Aquifer, and the vulnerability of this aquifer beneath this site is classified as high. On the east of

the EVNA site, the ground slopes gently towards the river Triogue, 1.2 km away. As published by the EPA, the contribution from karstified aquifers to surface water can be up to 80 or 90 %. Groundwater ultimately discharges to springs and rivers that may be affected if the aquifer is polluted.

17. Ground water monitoring results as published in 2016 by ENVA indicate numerous breaches of Interim Guideline Values (IGV) or Ground Threshold Value (GTV) at the site.

Parameter	Result	IGV/GTV	% above IGV/GTV
Aliphatics C10-C44 Q4	174 ug/l	10 ug/l	1640 %
Chloride Q3	213 mg/l	30 mg/l	610 %
Manganese Q3	1.22 mg/l	0.05 mg/l	2340 %
Total 16 PAHs Q3	0.56 ug/l	0.1 ug/l	460 %
Benzo(a)pyrene Q3	0.04 ug/l	0.01 ug/l	300 %
Vinyl Chloride Q1	1.1 ug/l	0.365 ug/l	200 %
Cyanide Q3	9 ug/l	10 ug/l	-

18. There remains reasonable scientific doubt as to the effect of the contaminated ground water at the ENVA site on the river Triogue, and the impact on protected species on the River Barrow and River Nore SAC.

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