

Objection

Objector:	Mr Eoin Brady
Organisation Name:	FP Logue
Objector Address:	8-10 Coke Lane, Smithfield, Dublin 7, Co. Dublin.
Objection Title:	Objection #OS011420 - 3rd party objection for Reg No:[P1073-02]
Objection Reference No.:	OS011420
Objection Received:	10 December 2023
Objector Type:	3rd Party
Oral Hearing Requested?	No

Application

Applicant:	MSD International GmbH t/a MSD Ireland (Dunboyne Biologics)
Reg. No.:	P1073-02

See below for Objection details.

Attachments are displayed on the following page(s).

Our Reference: EJB/178/03086
Your Reference: P1073-02

10 December 2023

By electronic submission via epa.ie

Environmental Protection Agency

Our client: Friends of the Irish Environment CLG
Address of client: Kilcatherine, Eyeries, Co Cork, Ireland. P75 CX53
RE: Objection to Proposed Determination on IE Licence P1073-02
Installation: MSD International GmbH (Dunboyne Biologics)
Address: Piercetown, Dunboyne, County Meath.

A Chara,

We refer to the Proposed Determination issued by the Agency on this matter of 13th November 2023.

We have studied carefully the Inspector's report in support of the Proposed Determination (Linda Dalton O'Regan) and in particular the response to our submission which is detailed at page 14 *et seq.*

We appreciated that the Inspector has given a comprehensive response to our submission. However in our respectful submission, the Inspector's Report does not address the core submission made on behalf of our client. In essence that submission is that members of the public concerned including non-governmental organisations such as our client, as part of an EIA process on a proposed licensable activity, have the right to know the identity of substances which will be emitted to water from the licenced activity.

We do not believe that there is a right to commercial confidentiality in relation to emissions of pollutants to water. We consider that this position is supported by the case-law. There is no basis in law, in our submission, for the EPA to regard itself as somehow empowered to assess relevant information concerning emissions to water, while refusing to disclose that information to the public concerned in an EIA process.

In Case c-535/18, *IL v Land Nordrhein-Westfalen*, the CJEU held:

Article 6 of Directive 2011/92 must be interpreted as meaning that the information to be made available to the public during the procedure for approving a project must include the data that

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are necessary in order to assess the effects of that project on water, in the light of the criteria and requirements laid down in, inter alia, Article 4(1) of Directive 2000/60.

The assessment required to be conducted under Art 4(1) of the Water Framework Directive (WFD) in the EIA process must be by reference to Annex V of the Directive which includes the criteria "*Pollution by other substances identified as being discharged in significant quantities into the body of water*". It is beyond question, that there are emissions of pollutants proposed in this Licence application in the form of process effluent, which the Proposed Determination is proposing to regulate by way of Emission Limit Values. We are not of course aware of the precise quantities of substances being discharged, but it is fair to assume that significant quantities are involved.

Thus our client maintains its objection to this proposed Licence. We confirm that we rely on the reasons set out in our original submission of 9th August 2023 as reasons for objecting to the Proposed Determination.

What is proposed by the Agency in respect of this Licence application is in effect that the public are required to place its trust in the Agency that it will make the correct decision in relation to emissions to water. Our client has no reason to distrust that the Agency will perform its duties correctly and protect the public interest. However, the approach of the Agency is not in our opinion in compliance with the law which requires the identity of substances being emitted to water to be identified to the public in the EIAR process.

Accordingly, in our respectful submission the Agency does not have jurisdiction to grant this Licence as there has been a failure to conduct a lawful Environmental Impact Assessment.

We therefore urge the Agency not to confirm the Licence.

Yours faithfully



FP LOGUE