

INSPECTORS REPORT

WASTE LICENCE REGISTER NUMBER 107-1

Waste Recovery Services (Fermoy) Limited, Cullenagh, Fermoy, Co. Cork

Recommendation: The proposed decision as submitted to the Board be approved

(1) Summary:

Waste Recovery Services (Fermoy) Limited have applied to operate a waste transfer station at Cullenagh, Fermoy, Co. Cork. The waste transfer station has been in operation since 1982 and is currently an unauthorised waste activity. There is also evidence of historical landfilling at the site. A decision to grant planning permission for 'retention of the temporary change of use of farm building as a waste transfer station' was granted by Cork County Council on 31st March 2000. This grant of permission was subsequently refused on appeal on 22 November 2000 by An Bord Pleanala on the grounds of inappropriate site location and public safety by reason of traffic hazard. The waste transfer station is located in the townland of Cullenagh, approx 4 km south west of Fermoy. The facility is situated on an elevated site, in an agricultural area. There are 7 domestic residences within 250m of the facility. The National Route N8 runs in a north south direction approximately 2 km east of the site while a third class road bounds the entrance to the facility. **A plan showing the location of the facility to which the application relates is provided in Appendix 1.**

The applicant has applied to accept 6,500 tpa of non-hazardous waste. This will consist of 3000 tpa of cardboard, plastic, packaging and canteen waste, 1700 tpa of timber waste which is shredded on-site and sent for chipboard manufacture, and 1800 tpa of construction and demolition waste which is sorted and sold as fill. The majority of waste accepted at the facility is sent off-site for recycling. Classes 12 and 13 of the Third Schedule and Classes 3, 4 and 13 of the Fourth Schedule were applied for in the application. The facility is currently operating in the absence of planning permission hence all infrastructure specified in the proposed decision is required to be in place prior to the acceptance of waste at the facility.

The waste licence application was originally submitted under the name of John Dunlea Waste Management and Recycling. However, the name of the applicant was changed to Waste Recovery Services (Fermoy) Limited to satisfy the requirements of the regulations for the provision of adequate financial information. As a result of this change a further Article 8 and Article 14 notice was issued by the Agency.

The applicant has proposed to surrender the waste licence 24 months following grant of same. There are no specific plans for decommissioning and aftercare at this facility at present, however, the proposed decision requires that a proposal for a decommissioning and aftercare plan for the facility be submitted within four months of the date of grant of the Licence.

This facility was the subject of an EU complaint (P99/4478) first received by the Agency on the 29th October 1999 and subsequently on 9th August 2001. This was

addressed in correspondence from the Agency dated 4th November 1999 and 26th September 2001.

Quantity of waste (tpa)	6,500
Prescribed date for application	20/5/98
Application received	30/07/99
EIS Required	No, but requested by the planning department of Cork County Council
Planning Permission status	Permission granted by Cork Co.Co. 31/03/00 & refused by An Bord Pleanala 22/11/00 Permission granted by Cork Co.Co. 06/94 & refused by An Bord Pleanala 12/94 Permission refused by Cork Co.Co. 09/91 & An Bord Pleanala 05/92
Number of valid submissions received	19

FACILITY VISITS:

DATE	PURPOSE	PERSONNEL	OBSERVATIONS
23/08/99	Inspection of site and site notice	S. Kennelly	Site notice in accordance with Article 8 of Regulations
19/04/00	Inspection of site	S. McMahon	Waste activities being carried out on site
06/02/01	Meeting with applicant and consultant	S. McMahon	Waste activities being carried out on site
17/05/01	Site Notice check	Sinead McMahon Brian Donlon	Site notice in accordance with Article 8 of Regulations
30/08/01	Site Inspection	Sinead McMahon Brian Donlon	Large amount of pre-shredded and un-shredded timber stockpiled outside transfer building

(2) Facility Development

▪ Facility Equipment

The facility comprises an agricultural type building for waste transfer, truck turning yard, skip storage area and timber/metal storage areas. A portacabin is located to the southern margin of the site which provides office and canteen facilities. No fixed plant operates at the facility. Mobile plant equipment includes waste trucks, skips and

jumbo skips, mobile waste compactors, a slurry tanker and a manitou low-loader shovel. A mobile timber shredding plant is also on site approximately 4 times per year.

▪ **Facility Operation**

Waste enters and leaves the facility by way of an access road that feeds the northern end of the facility. All wastes loads are to be inspected at the point of entry to the operational yard in accordance with Condition 5.3.2. Waste is separated into timber, metal, re-usable fill, recyclable commercial/industrial waste and material for landfill disposal. Metal waste and builders rubble is stored in skips outside the transfer building. Timber is stockpiled outside the transfer building for shredding which occurs outdoors approximately every 3 months. Condition 7.6 of the proposed decision specifies that timber stockpiles shall not be not be higher than 5 meters. The only source of putrescible waste approximately 300 tpa is from commercial canteens which is loaded directly into jumbo skips within the transfer building for onward disposal to landfill.

(3) Waste Types and Quantities

The applicant has applied to accept 6,500 tonnes of waste per annum. The waste accepted will consist of approximately, 3000tpa of non-hazardous commercial waste, 1700tpa of industrial waste mainly timber and metals, 1800tpa of construction and demolition waste.

(4) Emissions to Air

Dust monitoring submitted in the application shows levels lower than 350mg/m²/day for the samples taken at each of the monitoring locations. Dust deposition limits have been specified in the proposed decision for three sampling locations, two located at the facility boundary and one location to be agreed in advance with the Agency. Dust monitoring is required twice during the period of May to September and at least once during timber shredding operations.

Putrescible waste stored overnight is required to be in covered containers within the transfer building. It shall be removed off-site within forty-eight hours of its acceptance at the facility.

Noise emission limits of 45Leq dBA for night-time and 55Leq dBA for daytime have been specified for two locations in the proposed decision, one to be located at the nearest residence and the second at the facility boundary. Opening hours of 7.00am to 8.00pm Monday to Saturday were applied for. However, night-time noise monitoring results were not submitted, hence opening hours of 8.00am to 8.00pm are specified in the proposed decision.

(4) Emissions to Groundwater

There will be no direct emissions to groundwater from the transfer station operations. The operational yard of the facility will be concreted and the fuel storage area bunded. Groundwater monitoring submitted with the application shows no evidence of

contamination as a result of the facility. Private wells in the area have been used for groundwater monitoring to date, however I consider that two dedicated monitoring wells should be installed at the facility. The location of the wells is to be agreed under the hydrogeological assessment to be carried out under Condition 11.7 of the proposed decision.

Clean roof run-off and run-off from areas other than those used for the handling and storage of waste shall discharge via an interceptor to a percolation area on-site. Run-off from the transfer building and waste handling and processing areas will be directed via an interceptor to a foul water holding tank. This foul water will then be tankered to Fermoy Urban District Council wastewater treatment plant.

(5) Emissions to Surface Water

There will be no emissions to surface water from the facility.

(6) Other Significant Environmental Impacts

A Section 52 notice was issued to Fermoy Urban District Council by the Agency. The Council have agreed to accept 9m³ per day of contaminated surface water. They have not specified emission limits, however emission limits are specified in the proposed decision.

During the course of the application process the red line boundary which defines the facility was altered in order to include an area that had previously been landfilled. Condition 11.8 requires that an independent hydrogeological assessment be submitted to the Agency with respect to this area of the site. Any recommendations from this report or any recommendations from the Agency are required to be implemented within a timeframe to be agreed with the Agency.

The proposed decision specifies that waste activities at the facility shall cease within 24 months of the date of grant of the licence. Due to the 24 month operational timeframe proposed and the fact that landfilling has taken place at the facility in the past, submission of a fully costed environmental liabilities risk assessment and a proposal for financial provision is required within 4 and 5 months respectively.

(7) Waste Management, Air Quality and Water Quality Management Plans

John Dunlea is referred to in the Waste Management Plan for Cork County as being permitted (as of 1997) to landfill rubble and C & D waste in Castlelyons. Castlelyons is approximately 5km south east of the Cullenagh facility.

(8) Submissions/Complaints

19 valid submissions were received in relation to the waste licence application. An overview of all valid submissions received is provided below. This includes a

summary of all issues raised in the submissions and shows how these issues are dealt with in the proposed decision.

(A) Unsuitability of Location

- 1. The site is located in an environmentally sensitive area because of its elevation and the types of land-use surrounding it*
- 2. Corrin hill and the surrounding area is an agricultural, recreational and tourist amenity*
- 3. The wildlife, at present depleted, can be expected to re-establish*
- 4. The area is used for horse-riding, rambling and orienteering*
- 5. There are five domestic residences and a golf club within 0.4km of the site*
- 6. There is a threat to safety on the local access roads as they are dangerous and unsuitable for trucks due to their narrowness, bad bends and steep incline*
- 7. It is a very scenic area and the facility, which is easily visible from the road, is a blot on the landscape*

Response

The application was assessed in accordance with the regulations. The facility when operated in accordance with the conditions of the licence will not significantly impact on the residents, the amenities and resources within the vicinity of the transfer station. Emission Limits are set in Schedule C for the following; noise, dust deposition, discharge to percolation area and foul water prior to tankering off-site to a Wastewater Treatment Plant. These limits are based on internationally recognised best practice. The proposed decision requires monitoring of all emissions (Condition 8) and reporting to the Agency. Traffic issues are a matter for the local authority for consideration in the planning process. The licensee is required to implement a landscaping programme within 3 months of the date of grant of the licence. Condition 7.6 specifies that timber stockpiles must not be of a height greater than 5 meters. The facility is required to cease waste operations within 24 months of the date of grant of the licence.

(B) Groundwater

- 1. The effluent from Mr Dunlea's dump is allowed to seep into the ground and contaminate the Ballynatrasna aquifer*
- 2. One submittor stated that her well was contaminated*
- 3. The Ballynatrasna Aquifer is not mentioned in Mr Dunleas application*
- 4. One submission refers to a letter from Cork County Council to An Bord Pleanala*
- 5. EPA have failed to request further water testing on wells at Mr Dunleas site to establish if they have been polluted*
- 6. The health of well users could be endangered*

Response

The proposed decision specifies that foul water generated on-site shall discharge via an interceptor into a foul water holding tank prior to removal off-site to a wastewater treatment plant. The proposed decision also requires clean surface water and roof-run

off to discharge to a percolation area, to be constructed in accordance with EPA guidance. Condition 6.3 specifies that there shall be no direct emissions to groundwater from the transfer station operations. Groundwater monitoring is required under Schedule D of the proposed decision. Condition 11.7 of the proposed decision requires the licensee to carry out and submit a report on a hydrogeological assessment of the site, in particular of areas of the site that have been previously been landfilled. Any recommendations arising from this report are to be implemented within a timeframe to be agreed with the Agency. Issues raised with regard to planning authority are not matters for the Agency.

(C) Operation of the Site

- 1. Operation of the site in the absence of planning permission (Refused in September 1991 by Cork County Council, granted July 1994 on the condition that "Developer shall apply for and obtain a licence to treat/store waste in accordance with the 1979 European community (Waste) regulations" Refused by An Bord Pleanála May 1992, December 1994 and November 2000)*
- 2. Operation of the site in the absence of planning permission gives an indication of the applicants attitude to complying with legislation and hence he cannot be relied upon to follow the regulations of the Waste Management Act*
- 3. Will the Agency's Judgement be effected by the refusal of planning permission by An Bord Pleanála*
- 4. Waste activity has intensified at the site since the refusal of planning permission by An Bord Pleanála. The floor area and quantity of equipment at the site have increased.*
- 5. Operation of the site without a waste permit or licence*
- 6. Operation of the site illegally since 1982*
- 7. Operation of the site in breach of the Waste Management Act, 1996.*
- 8. Operation of the site without regard for the environment and the interests of those adversely affected*
- 9. Operation of the site in a completely unmonitored way and no monitoring regime proposed in the application*
- 10. It is a fire hazard and there is no mention of a fire-fighting system in the application, there was a fire previously at the site.*
- 11. There should be adequate access and supply of water in the event of a fire. There should be adequate facilities for the containment of firewater effluent.*
- 12. It was subject of previous enforcement action by Cork County Council*
- 13. The facility has been operating on a large scale industrial basis*
- 14. The timber pile that does not appear to diminish is an eyesore and must be a habitat for rodents.*
- 15. The facility is a pollution threat to the environment in terms of noise and litter disturbance*
- 16. The acceptability of soakaways is questioned*
- 17. Negative impacts from vehicle washing i.e., rodents, traces of organic refuse and vehicles between washing routines*

18. *Disregard of the relevant sub-soil and rock structures*
19. *Insufficient utilisation of the proper technologies*
20. *No qualified Engineer or Scientist on the staffing list*
21. *Is Mr Dunleas past record taken into account when determining an application*
22. *Mr Dunleas continues to operate despite a letter from the Agency on the 30/5/01*
23. *Mr Dunleas disregard for the regulations clearly demonstrates that he is not a fit and proper person to hold a waste licence*
24. *Will domestic hazardous waste be segregated, removed and safely disposed of*
25. *The transfer station is operated from early morning to late at night, Monday to Saturday*
26. *All sorts of waste is being collected in skips from a very large area which is then stored and recovered at Cullenagh*
27. *There is a serious threat to human health from the activities on the site*

Response

All applications are required to be assessed for compliance with the Waste Licensing Regulations. All licensees are required to comply with the conditions of their licences. Condition 2 requires the management of the facility by a suitably qualified and experienced manager or deputy. Condition 2 also incorporates a communication programme ensuring that the public can obtain information concerning the environmental performance of the facility. The applicant will need to make significant investment on an on-going basis in order to ensure the protection of the environment within the vicinity of the facility during development, operation and aftercare. The issues relating to planning permission are not a matter for the Agency. All works associated with the on-going development would be subject to prior agreement of the Agency as part of specified engineering works. At licensed facilities, the Agency undertake site inspections, audits and monitoring on a regular basis. An Emergency Response Procedure, which will include a risk assessment to determine the requirements at the facility for fire fighting, is required under Condition 9.2. Nuisance inspections are required weekly at the facility under Condition 8.8. Monitoring is required under Schedule D of the proposed decision. The Waste Management Act provides that the Agency shall not grant a waste licence unless it is satisfied that the applicant is a fit and proper person to hold a waste licence. Among the criteria for determining whether a person is a fit and proper person for the purposes of the Act is whether or not that person has been convicted of an offence prescribed under the Act. Based on the information provided in the application the applicant has not been convicted under the Act of such an offence. The proposed decision does not allow domestic waste to be accepted at the facility. The proposed decision provides for the acceptance of putrescible waste from commercial canteens. Condition 7.4.1 specifies that storage of this waste overnight at the facility must be in covered containers within the transfer building and in any case must be removed from the site within 48 hours. Schedule A of the proposed decision restricts the types and quantities of waste permitted to be accepted at the facility. Day-time opening hours are specified in Condition 1.7 of the proposed decision. The facility is not permitted to open during

night-time hours. The facility when operated in accordance with the conditions of the licence will not be a serious threat to human health.

(D) Misleading/Inaccurate content in the application

1. *Double the number of properties are being affected by the transfer station than are implied in the application*
2. *Page IV of the EIS states that there are no discharges to groundwater and that washwater from the washing of trucks and skips and washing of the transfer building floor is taken to the Fermoy wastewater treatment plant periodically. The submitter states that the yard is not concreted so all effluent has been discharging into the ground since 1982. Also there was a fire at the site and all the firewater went directly into the ground*
3. *Page 3 of Section E1 of Article 16 states that "Gully emptyings are suctioned by way of hose into a portable vacuum tank and removed directly to the treatment works for disposal*
4. *Effluent was seen spilling from Mr Dunleas slurry tanker which was being brought to the Cullenagh site. This is contrary to the information given in Article 12 D.2 Facility Operation of the application*
5. *From an EPA site visit report of 20th May 1998 it was clear that hazardous waste was stored in a very careless manner and no effort was made to prevent the groundwater from being polluted*
6. *References to the terms commercial and industrial waste are vague (the submitter would have liked to have seen a list of the businesses and the actual substances handled at the transfer station)*
7. *No financial information has been provided in relation to John Dunlea Waste Management and Recycling. Financial Information was submitted in the name of Waste Recovery Services (Fermoy) Limited. This is a new company therefore a new application should be submitted. Also Mr Dunlea failed to notify the EPA of the new company*
8. *A submission made by the chairman of Fermoy Urban District Council states that there is no agreement amongst Councillors in the UDC Chamber for receipt of contaminated water or other chemicals to the wastewater treatment plant in Fermoy*

Response

The application submitted by the applicant was assessed under the regulations and found to be in compliance. Condition 9.4.4 specifies that all private wells within 250m of the facility be included in the monitoring programme. In the event of the facility having a significant adverse effect on the quantity or quality of the water in these wells an alternative supply must be provided by the licensee.

Condition 6.3 of the proposed decision specifies that there shall be no direct emissions to groundwater from the transfer station operations. Condition 3.5.2 specifies that hardstanding shall be installed at the site while Condition 3.11 specifies that foul water shall be directed to the foul water storage tank. Condition 5.7 of the proposed

decision specifies that foulwater stored in the foul water holding tank shall be tankered off-site to Fermoy Urban District Council wastewater treatment plant or another treatment plant to be agreed in advance with the Agency. Condition 11.7 of the proposed decision requires the licensee to submit a report of a hydrogeological assessment of the site, in particular of areas of the site that have been previously been landfilled. Any recommendations arising from this report are to be implemented within a timeframe to be agreed with the Agency. Schedule A of the proposed decision specifies the types and quantities of waste permitted to be accepted at the facility. Liquid waste or hazardous waste is not permitted to be accepted at the facility. Condition 10.2 of the proposed decision requires that a record of each load entering the facility be maintained. This includes the type, quantity, name of producer and carrier, and name of person checking the load. Waste Recovery services (Fermoy) Limited submitted their application in the name of John Dunlea Waste Management and Recycling on the 30th July 1999. The applicant wrote to the Agency on the 6th April 2001 requesting that the name of the applicant be changed from John Dunlea Waste Management and Recycling to Waste Recovery services (Fermoy) Limited. The Agency requested the applicant to erect a new site notice, publish a new newspaper notice and submit relevant information (including financial information) to satisfy Article 12 of the regulations. Both notices and Article 12 information submitted was assessed and found to be in compliance with the regulations. Two letters were received by the Agency with regard to the discharges from the site to Fermoy UDC wastewater treatment plant. Mr Dunlea submitted a letter from Brendan O’Gorman, Fermoy UDC Town Engineer, stating that the treatment plant would be able to cater for a daily discharge of 9m³ of contaminated surface water from Mr Dunleas facility. Maurice Manning, Fermoy UDC Town Clerk, also submitted a letter to the Agency stating that they consented to the discharge of surface water and surface washwater to Fermoy UDC wastewater treatment plant. The proposed decision requires that foul water from the facility be tankered off-site to Fermoy UDC wastewater treatment plant or to another treatment plant to be agreed in advance with the Agency.

(E) Future Development

- 1. Commercial incentives will lead to a future application for planning permission and renewal of a waste management licence.*
- 2. Unable to believe that the transfer station will return to agricultural use as proposed in the application.*
- 3. Since Mr Dunlea has ceased collecting domestic waste the submitter wonders which part of his waste processing business will be increased in volume.*
- 4. Fear that an incinerator will be installed at the site.*
- 5. Increased volume of traffic due to expansion of the transfer station.*
- 6. Can a licence be transferred from site to site*
- 7. Can a time limit be put on the licence*

Response

Waste Recovery Services (Fermoy) Limited have applied to accept of 6500 tonnes of waste per annum. Any significant increase in this figure will require an application for review of the licence. The types and quantities of each category of waste allowed to be accepted at the facility are specified in Schedule A. The applicant neither applied nor is licensed to install an incinerator at the facility. Condition 6 of the proposed decision requires a decommissioning and aftercare plan to be submitted within 4 months of the date of grant of the licence. Traffic issues are a matter for the local authority. A waste licence is site specific. The proposed decision requires that all waste activities at the facility cease within 24 months of the date of grant of the licence.

(F) Enforcement action on Mr Dunlea

- 1. No effective enforcement action has been taken by The EPA or Cork County Council.*
- 2. A number of submissions ask what action the EPA has or intends to take relating to this unauthorised waste activity*
- 3. One submitter asks if the EPA intend to prosecute Mr Dunlea as he is openly in breach of the law*
- 4. The Bona Fides of the EPA is questioned as they are considering a waste licence application while knowing the applicant is in breach of the Waste Management Act*
- 5. The EPA is not applying its mind properly to its responsibilities under the legislation and that it is fully aware that an individual before it is committing gross, flagrant and obvious breaches of the Waste Management Act while an application for Licence is under consideration*
- 6. One submitter states that they have written to Cork County Council many times in relation to Mr Dunleas illegal activity but that Cork County Council state that it is the responsibility of the Agency*
- 7. One submitter states that they lodged a complaint to the EU in relation to the facility. They also state that they will be making a further submission to the EU Commission as the EPA is circumventing the constraints provided to them in the Waste Management Act by not ensuring a prosecution*

Response

The Agency wrote to the local authority and to Mr Dunlea on a number of occasions regarding this facility. The waste licence application for the facility came about following this correspondence. The Agency also wrote to the Local Authority and Mr Dunlea after receipt of a waste licence application, the most recent letter to Mr Dunlea being the 30 May 2001. The primary responsibility for enforcement of environmental protection legislation at the facility remains with the local authority in the period before the Agency decides on the waste licence application. This facility was the subject of an EU complaint (P99/4478) first received by the Agency on the 29th October 1999 and subsequently on 9th August 2001. This was addressed in correspondence from the Agency dated 4th November 1999 and 26th September 2001.

(G) EIS/EIA

The following issues were raised by submitters with regard to the EIS.

- 1. Why was an EIS not required?*
- 2. Why was the EIS submitted not in compliance with the European EIA Directive?*
- 3. An Bord Pleanála deemed that the physical planning section of the EIS failed their assessment hence the EPA should not grant a licence for the facility*
- 4. One submitter states that they were told by the Agency that an EIS was not required for the facility. She states that this is incorrect and that the Agency should request an EIS that complies with the EIA regulations of 1989*
- 5. The Environmental Impact Study submitted failed to contain the minimum information mandatory under the EIA Directive 85/337/EEC*
- 6. Public excluded from participating in the development due to the inadequate EIS*
- 7. Concerns regarding submission of an EIS to the planning authority and concerns regarding provision of information on the EIS by the planning authority were raised by one submitter*

Response

An EIS is not required for this facility under the threshold limits specified in the first schedule of the 1999 EIA regulations. However, an EIS was submitted by the applicant to the Planning Authority under the Local Government (Planning and Development) Acts and this was also submitted to the Agency as further information for the waste licence application. The EIS submitted to the Agency was assessed in accordance with the regulations. Following further information submitted as requested by the Agency, the EIS was found to be in compliance with the regulations. The planning aspects of the facility are a matter for the planning authority.

Two Submissions were received from Dúchas stating that they had no concerns or objections to the granting of a licence for this facility.

Signed _____

Sinead McMahon
Inspector
Environmental Management and Planning

Dated:

APPENDIX 1

LOCATION PLAN

FACILITY LAYOUT MAP