

# MEMO

**TO:** Board of Directors                      **FROM:** Dara Lynott  
**CC:**    **DATE:** 27<sup>th</sup> March, 2002  
**SUBJECT :** Waste Recovery Services (Fermoy) Ltd. Technical Committee Report

## Application details

Application Details	
Applicant:	Waste Recovery Services (Fermoy) Ltd
Location of Activity:	Cullenagh, Fermoy, Co. Cork
Reg. No.:	107-1
Licensed Activities under Waste Management Act 1996:	Third Schedule: Classes 12, 13 Fourth Schedule: Classes 3, 4, 13
Proposed Decision issued on:	23/11/01
Objections received:	13/12/01(one),20/12/01(one)
Submissions on objections received:	31/01/02(one)05/02/02(one)
Inspector that drafted PD:	Sinead McMahon

Consideration of the objections and submissions on objections  
The Technical Committee (TC)(Dara Lynott, Chairperson, Regina Campbell and Tadhg O'Mahony, committee members) has considered all of the issues raised in the Objections. This report details the Committee's comments and recommendations following the examination of the objections received on 13/12/01 and 20/12/01 and the submissions on objections received on 31/01/02 and 05/02/02.

Objections and submissions on objections received:  
One objection to the proposed decision was received (13/12/01) from Ms. Helen O Riordan, Corrin, Fermoy and one objection was received (20/12/01) from Councillor John Hussey, Fermoy UDC. Two submissions on objection were received (31/01/02) from Ms. Helen Riordan, Corrin, Fermoy and (05/02/02) from Michael O Sullivan, Parkman, Doneraile.

The issues raised in the objections are addressed below.

## Objections

### Objection Number 1 From Ms. Helen Riordan

**Objection 1, Item 1** – *"I repeat the grounds of my objection as set out in my submissions and ask the EPA reconsider these.*

### **Technical Committee's Evaluation**

The TC notes that these issues have previously been addressed by Inspector Sinead McMahon in her report to the Board for PD Register Number 107-1. In particular pages 5 to 12.

#### ***Recommendation***

**No change.**

***Objection 1, Item 2*** – *“The Application was not made nor the information furnished by the company to whom it is proposed to grant a licence.”*

### **Technical Committee's evaluation**

Waste Recovery services (Fermoy) Limited submitted their application in the name of John Dunlea Waste Management and Recycling on the 30<sup>th</sup> July 1999. The applicant wrote to the Agency on the 6<sup>th</sup> 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 were assessed and found to be in compliance with the regulations.

#### ***Recommendation***

**No change.**

***Objection 1, Item 3*** – *No Environmental Impact Statement was ever produced in connection with the application. An Environmental Impact Statement is mandatory in such an application and it would be wrong and outside the authority of the EPA and in breach of duty including statutory duty to grant a licence in the absence of an Environmental Impact Statement.*

### **Technical Committee's evaluation**

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 EIA 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.

#### ***Recommendation***

**No change.**

**Objection 1, Item 4** *“The transfer station has been operating for upward of 10 years without planning permission, permit or licence. By continuing to operate the transfer station over the years in an incorrect and improper manner and in breach of all environmental regulations and standards, Mr. Dunlea, the proprietor of the proposed licence has shown that he is “not a fit or proper person” within the meaning of the Waste Management Act. By extension any Company operated and controlled by him is “not a fit or proper person”. If the licensee or its proprietor have not adhered to any proper rules or regulations (all to the express knowledge of the EPA and Cork County Council) over all the years on the site in question, how could the proposed licensee be reasonably expected to behave in the future.*

#### **Technical Committee’s Evaluation**

The issues relating to planning permission are not a matter for the Agency. The Agency wrote to the local authority and to Mr Dunlea on a number of occasions regarding this facility prior to the submission of an application. 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. 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. All licensees are required to comply with the conditions of their licences.

#### **Recommendation**

<b>No change.</b>
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**Objection 1, Item 5** *“Despite legal Proceedings issued against the operator of this transfer station and despite numerous written and oral requests, the transfer station continues to be operated in breach of all environmental standards and in breach of the planning and waste legislation and the licensee cannot reasonably be categorised as “a fit and proper person”.*

#### **Technical Committee’s Evaluation**

Refer to the TC evaluation of Objection 1, Item 4. All licensees are required to comply with the conditions of their licences.

**Recommendation**

**No change.**

**Objection 1, Item 6** *“Neither Mr. Dunlea himself nor the company, which has been operating the transfer station, nor the company which made the application, John Dunlea waste management & Recycling, nor the company to whom the licence is proposed to be granted has given any or any adequate financial information to the EPA”.*

**Technical Committee’s Evaluation**

Refer to the TC evaluation of Objection 1, Item 2.

**Recommendation**

**No change.**

**Objection 1, Item 7** *“There is an onus on the licensee to show that he is a fit and proper person and in the circumstances set out above the proposed licensee must fail in this obligation.”.*

**Technical Committee’s Evaluation**

Refer to the TC evaluation of Objection 1, Items 2 and 4.

**Recommendation**

**No change.**

**Objection 1, Item 8** *“The site in connection with which the licence is sought is completely unsuitable, as it has been wrongfully used as a dump for a large variety of materials. I enclose 4 photographs (taken on the 9<sup>th</sup> December 2001) of the premises showing the extent of this dumping and 4 photographs (taken on the 8<sup>th</sup> October 2001) of the types of materials, asbestos, sheeting brought there..”.*

**Technical Committee’s Evaluation**

The facility is currently operating in the absence of planning permission. Waste is separated into timber, metal, re-usable fill, recyclable commercial/industrial waste and material for landfill disposal. Metal waste and builders rubble is currently stored in skips outside the transfer building. Timber is stockpiled outside the transfer building for shredding which occurs outdoors approximately every 3 months. The proposed decision requires all waste loads to be inspected at the point of entry to the operational yard in accordance with Condition 5.3.2. Condition 7.6 of the proposed decision specifies that timber stockpiles shall not be not be higher than 5 meters. 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. In the absence of suitable infrastructure for the handling and storage of Putrescible waste (Commercial Canteen waste) the TC is of the view that Putrescible waste should be prohibited.

### **Recommendation**

Amend Condition 1.6 to read: No Hazardous wastes liquid wastes, **putrescible wastes** or animal wastes shall be accepted at the facility .

Amend Condition 5.2.3 to read: Any waste deemed unsuitable for processing at the facility and/or in contravention of this licence shall be removed for recovery or disposal at an appropriate alternative facility. Such waste shall be stored in the Waste Quarantine Area only. The licensee shall remove waste from the Waste Quarantine Area as soon as practicable. No waste shall be stored in the Waste Quarantine Area for more than one month; **however, putrescible waste shall not be stored for a period longer than 72 hours, unless otherwise agreed by the Agency.** Waste shall be stored under appropriate conditions in the quarantine area to avoid putrefaction, odour generation, the attraction of vermin and any other nuisance or objectionable condition..

**Objection 1, Item 9** *“Where there is no planning permission for a transfer station on the site in question the EPA would be wrong, in breach of duty, including statutory duty and acting outside the scope of its authority to grant a licence to the applicant in relation to the site. The EPA is not entitled to grant any licence to operate a transfer station on this site in the absence of such planning permission.”.*

### **Technical Committee’s Evaluation**

Condition 1.3 of the Proposed Determination states that “This licence is for the purposes of waste licensing under the Waste Management Act 1996 only and nothing in this licence shall be construed as negating the licensee’s statutory obligations or requirements under any other enactments or regulations. “ In addition refer to the TC evaluation of Objection 1 items 4 & 8.

### **Recommendation**

**No further change.**

## **Objection Number 2 From Councillor John Hussey, Fermoy UDC**

The issues raised in the objection are addressed below.

### **Objection 2, Item 1**

*"I request you to refer to previous correspondence in which I have raised a substantial number of objections....."*

### **Technical Committee's evaluation**

The TC notes that these issues have been previously been addresses by Inspector Sinead McMahon in her report to the Board for PD Register Number 107-1, In particular pages 5 to 12.

### **Recommendation**

<b>No change.</b>
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### **Objection 2, Item 2**

*"I also find it extremely unusual that you would grant a decision to an individual who you have investigated and determined he was in breach of the Waste Management Act and therefore liable to prosecution. I find the EPA's conduct in this matter to be highly objectionable on the one hand you have discovered the person is breaching the legislation and on the other hand you are prepared to grant a licence to a company in which he is a shareholder."*

### **Technical Committee's evaluation**

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. 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.

### **Recommendation**

<b>No change.</b>
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### **Objection 2, Item 3**

*"I find the decision An Bord Pleanala in which they refer to the danger of traffic by the use of vehicles using this site to be a compelling reason why the site should not be utilised or given a licence. As you are fully aware no planning permission*

*exists in respect to this site. If the applicant cannot be trusted to respect the planning laws how can he be expected to comply with the waste management Act 1996.”*

#### **Technical Committee’s Evaluation**

The application was assessed in accordance with the regulations. The facility is currently operating in the absence of planning permission. The issues relating to planning permission including traffic related issues are not a matter for the Agency.

#### **Recommendation**

**No change.**

#### **Objection 2, Item.4**

*“Furthermore the entire site is totally unsuitable to the proposed use it is an area of scenic beauty and its further development is a threat to the region and the facilities in the region including the golf course and residential accommodation.*

#### **Technical Committee’s Evaluation**

The application was assessed in accordance with the regulations. Emission Limits have been 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. 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. All licensees are required to comply with the conditions of their licences.

#### **Recommendation**

**No further change.**

#### **Submission on Objections**

##### **Submission Number 1 – From Ms. Helen Riordan**

#### **Submission 1, Item 1**

*“Waste Recovery Services (Fermoy) Limited has failed to make an application to Cork County Council within the Prescribed time for a waste collection permit and continues to operate as if one is not required. This is another example of the respect the Directors of this company has for rules and regulations.”*

#### **Technical Committee’s Evaluation**

Condition 1.3 of the proposed determination states that the licence does not negate the licensee's statutory obligations or requirements under any other enactments or regulations. Condition 5.4.1 requires that waste sent off-site shall only be conveyed by a waste contractor agreed by the Agency.

**Recommendation**

**No change.**

**Submission 1, Item 2**

*"It is very clear from documentation, which the Agency has, that a large amount of effluent is produced every week at Cullenagh, yet none of this effluent is removed to the wastewater treatment plant in Fermoy. The EPA allows this effluent to be discharged to ground instead."*

**Technical Committee's Evaluation**

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 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.

The proposed determination requires the provision and maintenance of a septic tank treatment system at the facility for the treatment of sewage arising on-site. Any percolation area must satisfy the criteria set out in the Wastewater Treatment Manual, *Treatment Systems for Single Houses*, published by the Environmental Protection Agency.

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. The TC is of the view that foul/ surface water handling system should be in place as soon as possible to avoid risk of environmental pollution and no later than 4 months.

**Recommendation**

**Amend Condition 3.10.1 to read** Within **four** months of the date of grant of the licence the licensee shall carry out the following works to the foul/surface water handling system at the facility:



**Submission 1, Item 3**

*“Despite the EPA receiving a legally flawed Environmental Impact Statement the EPA has made a proposed decision to grant a waste licence for this development”.*

**Technical Committee’s Evaluation**

Refer to the TC evaluation of Objection 1, Item 3.

**Recommendation**

**No change.**

**Submission 1, Item 4**

*“Despite all the letters, submissions and objections over a number of years to the EPA, the EPA has allowed Mr. Dunlea to continue operating illegally at Cullenagh”.*

**Technical Committee’s Evaluation**

Refer to the TC evaluation of Submission 1, Item 4.

**Recommendation**

**No change.**

**Submission 1, Item 5**

*“The EPA ignores the fact that the waste is still being recovered and stored at Cullenagh which is in breach of the Waste Management Act 1996. By allowing this to happen the Environmental Protection Agency has clearly shown how incapable, incompetent, and negligent the Agency is, when it comes to protecting the Environment”.*

**Technical Committee’s Evaluation**

Refer to the TC evaluation of Objection 2, Item 4.

**Recommendation**

**No change.**

**Submission on Objections**

**Submission Number 2 – From Mr. Michael O’Sullivan**

**Submission 2, Item 1**

*“We understand that our client is not subject to legal proceedings of any nature in relation to a waste transfer facility at Cullenagh, Fermoy.*

We understand that our client has co-operated fully with requests for information and with Site visits by the EPA at all times in the course of this waste application. An EIS was prepared for the Cullenagh site on 29 November 1999. The asbestos identified in a Dunlea Skip at Patrick Street, Fermoy on 8 October 2001 did not enter the transfer station. “

**Technical Committee’s Evaluation**

Information noted by TC

***Recommendation***

**No change.**

Signed:

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Dara Lynott  
Technical Committee Chairperson