

INSPECTORS REPORT ON A LICENCE APPLICATION

TO:	Directors	
FROM:	Pernille Hermansen	- Licensing Unit
DATE:	20 February 2004	
RE:	Application for a Revised Waste Licence from Oxigen Environmental Ltd, Licence Register 152-2	

Application Details	
Type of facility:	Waste Transfer and Recycling Facility
Class(es) of Activity (P = principal activity)	3 rd Schedule: Classes 11 and 13 (P) 4 th Schedule: Classes 2, 3, 4 and 13
Quantity of waste proposed to be managed per annum:	Up to 230,000 tonnes per annum over a five year period
Current licence limit	24,600 tonnes per annum.
Classes of Waste:	Household, commercial, industrial and construction and demolition wastes.
Location of facility:	Robinhood Industrial Estate, Robinhood Road, Ballymount, Dublin 22.
Licence application received:	24/12/02
Third Party submissions:	Two submissions
EIS Required:	Yes
Article 14 Notices sent:	22/05/03 (Art14(2)(b)(ii)01PH) 2/09/03 (Art14(2)(b)(ii)02PH)
Article 14 compliance date:	7/10/03
Article 16 Notices sent:	22/05/03 (Art16(1)01PH)
Article 16 Compliance date:	16/01/04
Site Inspection:	14/01/03 Site Notice complies with Article 8. Non-compliances issued. Inspectors: Peter Carey, Eamonn Merrimann 16/01/04 Several non-compliances issued. Inspectors: Peter Carey, Pernille Hermansen

(1) Introduction:

This report relates to an application by Oxigen Environmental Ltd. for a Review of the existing Waste Licence (Reg. No. WL 152-1 issued 18/12/01). Classes 11 and 13 of

the Third Schedule and Classes 2, 3, 4, and 13 of the Fourth Schedule were applied for in the application. Class 13 of the Third Schedule is the principal activity.

The site (about 5000 m²) is located in an established industrial estate surrounded on all sides by industrial and commercial enterprises. Residential dwellings are located within 100 m of the eastern site boundary.

The facility is currently licensed to operate a waste transfer station accepting 24,600 tpa of non-hazardous waste. In the review application the applicant proposes to initially accept 60,000 tpa increasing to 230,000 tpa over a five year period. A more detailed discussion of the reasons for a review is detailed below in Section 3.

The enforcement of the existing waste licence (WL 152-1) has been problematic (see below).

It is recommended that the application for a revised waste licence, at the new tonnages, be refused for the reasons outlined below.

(2) Compliance History

The Agency has issued ten notifications of non-compliance to the applicant in relation to waste licence compliance (WL 152-1). The Agency's site inspection and audit reports repeatedly confirm that in respect of the existing licensed operation;

- the facility is poorly managed and
- the applicant is not operating the facility in accordance with the conditions of the licence and as should be expected by the standards of the industry.

The main non-compliance issues are as follows:-

1. use of facilities not agreed by the Agency;
2. keeping of incomplete waste records;
3. exceeding annual waste tonnage;
4. infrastructure not installed as required by the licence;
5. failure to comply with facility operations requirements, and
6. exceeding emission limit values given in the licence.

These items are addressed in more detail below.

1. Use of facilities not agreed by the Agency

Facility audits dated 04/12/02 and 08/10/03 and Site Inspections dated 14/01/03, 06/03/03, 14/05/03, 11/07/03 16/01/04, 11/02/04 indicates the applicant has used the following facilities which were not agreed by the Agency: a) Walter Hendy's facility at Enfield in Meath, b) FGH (Frank Hevey) Facility in Co. Meath, c) Cavan Waste Disposal in Co. Cavan, d) Crumb Rubber Ltd in Co. Louth, e) Calor Gas in Dublin and f) Arthurstown Landfill. The sending of waste offsite to facilities not agreed by the Agency was recorded as a non-compliance with Condition 5.4 in the Agency non-compliance notices (NC10PC dated 12/02/04, NC09PC dated 9/02/04, NC08PC – relating to audit of 08/10/03, NC07PC dated 28/07/03, NC06PC dated 27/05/03, NC05PC dated 24/04/03, NC02PC dated 09/01/03 relating to audit of 04/12/02). The applicant has been repeatedly informed in the notices of non-compliance and during all

site inspections/audits not to send waste to facilities, which have not been agreed by the Agency.

Use of the Walter Hendy facility:-

The operation of the Walter Hendy facility was similar to that of a landfill and the Agency (OEE – public authority enforcement) is currently dealing with complaints received in relation to this facility.

Use of the Frank Hevey facility:- Waste records examined during the audit of 08/10/03 indicate some 10,333 tonnes of construction and demolition waste was sent to the Hevey facility in 2003. At a meeting held at the Regional Inspectorate, Richview on 19/05/03, the applicant informed the Agency, that they had ceased using the Frank Hevey facility and that the waste was being stored pending agreement of a facility. A further examination of waste records show that the applicant has sent 3,903 tonnes of waste to the Frank Hevey facility, including 544 tonnes for the week 19/05/03 to 24/05/03

Agency Inspectors visited the Hevey facility, which has a waste permit from Meath Co Co, on the 27/01/03 and 16/07/03 and copies of their reports were sent to Meath CC. It is understood that Meath CC directed Mr Hevey, in 2003, to close the site immediately until all the conditions of the permit were complied with. It is noted that the council have referred the file to their law agents to institute proceedings under Section 39 of the Waste Management Act for non-compliance with the permit. Further correspondence from Meath CC was submitted to the Agency on 16/01/04 detailing that on 19/12/03 Mr Hevey was again directed to keep the site closed until all the conditions of the permit are complied with.

Use of the Cavan Waste Disposal facility:-

During the site visit on 16/01/04 the applicant provided copies of waste records for the period January 2003 to the end of November 2003 showing that the applicant has used Cavan Waste Disposal on an ongoing basis since the week commencing 22nd September 2003. The applicant had requested the use of this facility in a letter to the Agency dated 25/09/03. Further information was submitted to the Agency in correspondence dated 20/11/03 following an Agency request for further information (WAR04PC dated 8/10/03). The request to use the Cavan Waste Disposal facility is currently under assessment and has not been agreed by the Agency.

Use of Arthurstown Landfill facility:-

The site inspection report relating to the site visit of 11/02/04 records that the applicant stated that waste baled at the facility was being removed to Arthurstown Landfill (WL 4-2) which is a licensed facility but not agreed by the Agency for use by the applicant. Mr Quigley (Projects Manager) stated that the activities had commenced under the instruction of Mr Peter McLoughlin who is a director of Oxigen Environmental Ltd.

2. *Keeping of incomplete waste records*

Condition 10.2 of the current licence requires the company to keep detailed records of each load of waste arriving or departing from the facility. The records kept by the company are far from satisfactory and in particular with regard to the following: -

- Waste records have not being maintained of each load arriving at the facility or of each load removed from the facility at the time of their acceptance or removal.

- A number of weighbridge dockets bearing the same registration number of a vehicle indicate that the vehicle entered and left the facility (in one case on three occasions – copies attached) within a matter of minutes and indicate a different net load and a different off site destination for the load.
- There are discrepancies between the quantities of waste accepted at the facility and the quantities of waste being removed from the facility.

Several non-compliance notices have been issued in relation to this (see attached notices: NC09PC dated 9/02/04, NC08PC relating to audit of 08/10/03, NC07PC dated 28/07/03, NC06PC dated 27/05/03, NC05PC dated 24/04/03, NC02PC dated 09/01/03 and relating to audit of 04/12/02).

The applicant indicated to the Agency at the Site Inspection of 14/05/03 and at a meeting between the applicant and the Agency on 19/05/03, that a new recording system was to be put in place within a matter of weeks.

During the site inspection of 11/02/04 the applicant was not able to provide waste records for the two weeks previous to the inspection when requested (see NC10PC dated 12/02/04 and SI07PC). Furthermore the Agency noted that no weighbridge staff were present at the facility and was informed by the applicant that they had moved to the new Oxigen facility on Kylemore Road and would be present part time at the licensed facility (WL 152-1).

3. *Annual waste tonnage accepted exceeds that specified in the licence*

Condition 1.4 of the licence restricts the quantity of waste to be accepted at the facility to less than 25,000 tonnes per annum. At the site visit on 16/01/04 the applicant provided records up to the end of November 2003 showing a total waste intake of 29,766 tonnes and the removal of 31,479 tonnes of waste from the facility. Also the applicant was unable to provide a breakdown of the annual tonnages for the different categories specified in Schedule A of the waste licence.

4. *Infrastructure not installed*

Drainage System:- During the site visit on 16/01/04 the surface and foul water drainage infrastructure as required by the licence had not been installed by the prescribed date of 18/12/02 (Condition 3.12.1). This was also recorded as a non-compliance in several notifications issued by the Agency (9/02/04 (NC09PC) 28/07/03 (NC07PC), 27/05/03 (NC06PC), 24/04/03 (NC05PC), 09/01/03 (NC02PC).

Waste Transfer Building:- Improvements to the transfer building, which should have been carried out by 18/12/02 (Conditions 3.5.2 and 3.13.1) have not been carried out to date.

During the site visit on 16/01/04, it was noted that the western section of the proposed new transfer station building had been constructed and that a baler, which is subject of this licence review, had been installed in this new building. Details on how waste activities under Waste Licence Reg. No. 152-1 are to be handled/processed in the proposed transfer station building have been requested in a number of Agency notices (e.g. Ref. RF04PC dated 29/01/03 and Ref. RF05PC dated 19/02/03) but have not yet been received.

Site Surfaces:- The hardstanding surfaces as required by the licence have not been installed by the prescribed date 18/09/02 (Condition 3.5.2). Large cracks were observed in the hardstanding surfaces at the site inspection of 16/01/04 and the yard area was muddy. This was also noted at the two audits carried out at the facility (on 4/12/02 and 8/10/03) and recorded as a non-compliance in a notifications issued by the Agency (NC08 relating to audit of 08/10/03).

5. *Failure to comply with facility operations*

Waste Handling: During the audit of 08/10/03, waste, which the Agency was informed, was street sweepings, was being accepted and handled in a manner not agreed by the Agency. This waste, which is not construction/demolition waste was deposited in an area adjoining the waste transfer building and was not deposited on the floor of the waste transfer building. At the site inspection of 11/2/04 soil, street sweeping including liquid waste were observed deposited adjacent to the existing transfer building (SI07PC). This is a non-compliance with Condition 5.2.3 of the licence, and was subject to non-compliance notices dated 28/07/03 (NC07PC) and 12/02/04 (NC10PC).

During the site inspection of 11/02/04 mixed household waste was being deposited on the floor of the proposed transfer building and waste was being baled in the baler unit. The baling of waste is subject to the waste licence review and is not catered for in the current licence. This was recorded as a non-compliance in NC10PC dated 12/02/04. The last non-compliance notice issued by the Agency (NC10PC) states that all waste activities that are not covered or agreed under the current licence (WL 152-1) shall be ceased.

6. *Exceeding emission limits*

The monitoring results submitted in 2003 show exceedances of the emission limit values given in Schedule C of the current licence. The tables below detail the parameters that exceeded the emission limit values set in Schedule C. These are non-compliances with Condition 6.1 of the existing licence. Breach of emission limit values were recorded as non-compliances in the Agency notices dated 24/04/03 (NC05PC) and 15/11/02 (NC01).

Sewer

The parameters suspended solids exceed the emission limit value on all four monitoring occasions and the parameter COD exceed the emission limit value on one occasion.

Parameter	ELV	March	July	October	December
COD (mg/l)	6000	78	740	7525	660
Suspended Solids (mg/l)	2000	2056	2470	3607	2158

Surface water

The parameter suspended solid exceed the emission limit value on several occasions at both monitoring locations TSW1 and TSW2. The parameter mineral oil exceed the emission limit value on one occasion at monitoring location TSW2.

Parameter	ELV	February	March	April	July	October	December
Suspended Solids*	30	-	85	13	42	30	12

(mg/l)							
Suspended Solids** (mg/l)	30	542	66	-	11	-	-
Mineral Oils** (mg/l)	5	9.6	1.35	-	4.5	-	-

* Monitoring location TSW1

** Monitoring location TSW2

Noise

Noise Monitoring carried out on 27/06/03 indicate noise emissions at four boundary locations and one noise sensitive location exceed the noise emission limit values.

Location	ELV dB(A)	L _{Aeq, 30min} dB(A)
N1	55	59
N2	55	69
N3	55	80
N4	55	68
NSR1	55	70

Dust

At the monitoring location D2 the dust emission limit value was exceeded at all three monitoring surveys.

Location	ELV	May – June	June - July	September – January
D2 (mg/m²/day)	350	752	1028	642

On the instructions of the Board of the Agency a letter (GEN02PC) was issued on 22/12/03 stating that the Agency was very concerned with the applicants licence compliance for WL 152-1 and that legal proceedings had been initiated. Furthermore the Agency advised the applicant that it would seek to revoke or suspend the waste licence (WL 152-1) unless the applicant could show substantial progress in the immediate future on implementation of the licence requirements. The report (SI07PC) relating to the site inspection carried out on the 11/02/04 states that the applicant has not responded to the letter (GEN02PC) which outlined the Agency's concern with applicant's compliance record and the applicant has not prepared a schedule detailing how and when the corrective actions will be completed and the non-compliances rectified, as required by above referenced Agency letter. Furthermore it is detailed in the inspection report (SI07PC) that based on the inspection the Agency does not consider that substantial progress is being made at the facility.

(3) Amendments to the Existing Licence requested in the application for review.

The amendments requested by the applicant to conditions of the existing licence are detailed below.

- a) **Increase in the allowed annual tonnage of waste to be accepted at the facility.**
The applicant proposes to initially accept 60,000 tpa increasing to 230,000 tpa over a five year period. The applicant is currently licensed to accept 24,600 tpa.

- b) **Revision to the hours of operation.** The applicant proposes to operate the facility twenty-four hours per day, seven days per week.
- c) **Inclusion of Class 2 of the Fourth Schedule of the Waste Management Act, 1996.**
- d) **Change of Facility Boundary.** The applicant has proposed to reduce the facility area by moving the northern boundary back when SDCC carries out a proposed realignment of the road adjacent to the facility.

(4) Facility Development

The facility infrastructure has changed since the current licence was issued.

The current licence (WL 152-1) required the applicant to assess the structural state of the existing transfer building and to carry out necessary improvements within twelve months of the licence being granted. Since the granting of the licence the transfer building has been demolished and replaced with a temporary three-walled roofed structure. At the last three site visits the temporary building has been observed to be in a very poor structural condition with the cladded walls being pushed out in several places and the floor of the building is not an impermeable hardstanding surface. The applicant has been granted planning permission (November 2002) for demolition of the existing transfer building and for erection of a proposed new transfer building.

The applicant has started the construction of the new transfer building allowed for under specified engineering works Condition 3.2 and Schedule B of the current licence (WL 152-1).

(5) Waste Types and Quantities

The existing licence limits acceptance of waste at the facility to 24,600 tonnes per annum. The applicant has applied for a phased increase initially starting at 60,000 tpa increasing to 230,000 tpa over a five year period.

The non-compliances noted during site visits and audits strongly indicate that the applicant is having serious difficulties managing the current allowed waste intake of 24,600 tpa in accordance with their licence (WL 152-1) (see Section 2 above). In addition the new proposed transfer building (about 1760 m²) and the yard area are too small to handle the proposed waste quantities up to 230,000 tpa.

The applicant has put forward various proposals for the use of the covered area next to the transfer station referred to as the inert waste area. These include tipping and sorting of waste types such as street sweepings and gully flushings besides construction and demolition waste. The street sweepings and gully flushings cannot be classified as inert waste. This has previously been the concern of Non-compliance notice issued by the Agency (Ref. NC07PC) and the applicant has been requested to submit waste acceptance procedures for these two waste types under the current licence (152-1). The Agency has not yet received these procedures.

(6) Emissions to Air

Emissions to air from the facility include odours, dust and noise.

Odours

There have been no odour complaints related to the facility. The applicant has submitted details on potential odour emissions from the facility based on odour modelling. The modelling indicates that without abatement there is the potential to cause odour nuisances beyond the site boundary. The applicant proposes to install a spray system to be used with chemicals to abate odours.

Dust

Dust has been noticed to give rise to nuisances at the facility at several of the site visits carried out by Agency staff. Dust monitoring results show a large exceedance of the emission limit value specified in the current licence at the monitoring location D2. This monitoring location is located close to the temporary transfer building. The dust monitoring report states that a number of sources might attribute to the elevated level measured, including construction works carried out at the site and outside the facility boundary, heavy traffic passing by the site as well as the waste handling operations.

Noise

There have been no noise complaints relating to the current activities being carried out at the site. Noise monitoring was carried out in June 2003 and the results show that the emission limit value specified in the current licence is exceeded at four facility boundary locations (L_{Aeq} : 59 – 80 dB(A)) and one noise sensitive location (L_{Aeq} : 70 dB(A)). It is concluded in the report that the waste handling operations and noise generated by trucks associated with the facility contribute to the overall noise climate in the area. The report states that the most significant noise source on site, at present, is the simultaneous operation of items of plant in the eastern part of the site near the temporary transfer building.

(7) Emission to Groundwater

The applicant has proposed to install a hardstanding surface in the yard. This was already required to be installed within nine months of the date of grant of the current licence (WL 152-1) but no improvements to the yard surface have been carried out (see Section 2 above).

(8) Emission to Waters

The current waste licence (WL 152-1) required the applicant to carry out a list of improvements to the surface and foul water drainage system within twelve months of the date of grant of the licence (Condition 3.12.1 of WL 152-1). No improvements have yet been made to the surface or foul water drainage systems by the applicant and this has been noted as a non-compliance on several occasions by the Agency (as mentioned in Section 2 above).

Emission to Sewers

Foul sewer monitoring shows that the emission limit value for suspended solids is elevated for all monitoring occasions during 2003. The applicant attributes this to dirt from inside the pipe being dislodged.

The applicant proposes that wastewater from the vehicle wash area and the transfer building floor including the waste quarantine area as well as surface water run-off from the weighbridges shall be discharged to the foul sewer. The proposal also details that the drainage from the covered waste area will be discharged to the foul sewer via a settling tank.

A letter was issued to the Sanitary Authority (South Dublin County Council) under Section 52 of the Waste Management Act 1996 on 5/9/03 in relation to the discharge from the facility to sewer. A response was received from the South Dublin County Council on 6/02/04.

Emission to Surface Waters

The surface water drainage system discharges to the Robinhood stream via a site culvert. The stream is a tributary of the Camac River which is a salmonid catchment.

Surface water monitoring, carried out by the applicant in 2003, shows the parameter suspended solids exceeded the emission limit values at both monitoring locations. In February the parameter mineral oil (9.6 mg/dm³) exceed the emission limit value at TSW2. The letter from SDCC attached to the monitoring report submitted 23/4/03 states that a considerable amount of groundwater enters the pipeline at manhole B (TSW1). The applicant reasons that the elevated suspended solids levels are caused by the groundwater entering the drain and states that results showing low levels of suspended solids after heavy rainfall verify this. More likely the measured low levels of suspended solids are caused by dilution as more water would seep into the pipe during periods with heavy rainfall. Indicating that the actual level of suspended solids in the surface water emissions from the facility is elevated.

(9) Other Significant Environmental Impacts

None

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

The plans for the region have been considered during the assessment of this review application for a waste licence.

(11) Submissions

Two valid submissions were made in relation to this application as set out below.

- 1. Submission from Cormac McCarthy, Fisheries Environmental Officer, Dublin District, The Eastern Regional Fisheries Board dated 24/01/03. The letter states that the surface water from the facility will discharge to the Robinhood stream and this stream is a tributary to the Camac River, a salmonid catchment. It is emphasises that the mitigation measures outlined in the EIS should be fully implemented to protect the stream. In addition it should be ensured that no wash water from the vehicle wash enters the surface water drainage system. Also that it would be prudent to carry out daily visual check on all surface water discharges as well as a carrying out the surface water monitoring for the parameters set out in the existing licence (WL 152-1). The*

Eastern Regional Fisheries Board has no objections to the redevelopment if the mitigation measures in the EIS are adhered to.

Comment

None

2. *Submission from Joanna Troughton, Environmental Health Officer, South Western Area Health Board dated 31/7/03. The letter states that the Environmental Health Service has received no complaints regarding the current operation of the site and that they have no further comments to make.*

Comment

None

(12) Reasons for the Recommendation
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Based on the compliance history and the size of the facility, I am not satisfied that the applicant will be able to manage an increased waste input at this facility and also ensure that necessary protective measures are taken that operations at the facility will not cause or lead to environmental pollution.

Having regard to the requirements of Section 40(4)(b) of the Waste Management Act 1996, it is my opinion that the applicant has not demonstrated to the satisfaction of the Agency, that the expansion in operations applied for will be carried on in accordance with licence conditions of a revised licence if granted. The level of non-compliance with the conditions of the current licence is such that there is a real and likely danger that such non-compliance will cause significant environmental pollution.

The applicant has failed to convince the Agency, to the extent necessary to satisfy the provisions of Section 40(4)(d) of the Waste Management Act 1996, that any person or persons employed by him to direct or control the carrying on of the expanded activity to which the application relates, has or have the requisite technical knowledge to carry on the proposed expanded activity in accordance with any proposed licence. The need for appropriate measures to deal with the processing, transfer, recording and trace ability of waste received and transferred from this facility is a prerequisite for the granting of a licence and the applicant has failed to demonstrate to any reasonable extent that they can carry on the activity at the tonnages of waste set out in the application. This is evidenced by the fact that the applicant has failed to demonstrate that they can comply with current licence requirements, which relates to a fraction of the tonnages set out in this application.

Having regard to the principle of precaution (c.f. Section 52(2)(b) of the EPA Act 1992), and having regard to the compliance history at the applicants existing facility, I am not satisfied that the applicant has presented or demonstrated reasonable grounds for believing that he could carry on the expanded activity in a manner that would not cause significant environmental pollution. The applicant has not demonstrated the ability to manage the existing facility (WL 152-1) to an acceptable standard, and therefore the granting of a licence permitting an increase in the amount of waste accepted on site is premature at this time.

Having assessed all the documentation, particulars and information submitted with this application and taken into consideration the compliance history of this facility I recommend that a revised licence be refused for Classes 11 and 13 of the Third Schedule and Classes 2, 3, 4 and 13 of the Fourth Schedule as applied for in the application.

Signed: _____

Dated: _____

Pernille Hermansen
Inspector,
Office of Licensing and Guidance

APPENDIX 1

Attached Documentation

- Audits of 04/12/02 and 08/10/03
- Site Inspections of 14/01/03, 06/03/03, 14/05/03, 11/07/03, 16/01/04 and 11/02/04.
- Non Compliances NC01 dated 15/11/02, NC02 dated 09/01/03 relating to the audit of 04/12/02, NC03 dated 29/01/03, NC05 dated 24/04/03, NC06 dated 27/05/03, NC07PC dated 28/07/03, NC08PC relating to the audit of 08/10/03 and NC09PC dated 9/02/04, and NC10PC dated 12/02/04.
- Waste Records copied at audit of 08/10/03.
- Letter from Meath County Council dated 12/11/03 and 15/01/04.
- Site inspections of Heveys.