



**OFFICE OF  
LICENSING &  
GUIDANCE**

**REPORT OF THE TECHNICAL COMMITTEE ON  
OBJECTIONS TO LICENCE CONDITIONS**

<b>TO:</b>	Directors	
<b>FROM:</b>	Technical Committee	<b>- LICENSING UNIT</b>
<b>DATE:</b>	8 July 2004	
<b>RE:</b>	<b>Objection to Proposed Decision for Oxigen Environmental Ltd. Waste Reg: 152-2.</b> Robinhood Industrial Estate, Robinhood Road, Ballymount, Dublin 22.	

<b>Application Details</b>	
Type of facility:	Waste Transfer and Recycling Facility
Class(s) of activity:	3 <sup>rd</sup> Schedule: Classes 11 and 13 (P) 4 <sup>th</sup> Schedule: Classes 2, 3, 4 and 13
Location of activity:	Robinhood Industrial Estate, Robinhood Road, Ballymount, Dublin 22.
Licence application received:	24/12/02
PD issued:	27/2/04
First party objection received:	22/3/04
Third Party Objection received	None received
Submissions on Objections received:	Not applicable

**Company**

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). Class 13 of the Third Schedule is the principal activity.

The site (about 5000 m<sup>2</sup>) 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.

Two submissions were received in relation to the application and these were considered by the Board at PD stage. The original inspector recommended that the Board of the Agency refuse to grant a revised licence to Oxigen Environmental Ltd for

their Waste Transfer and Recycling Facility at Robinhood Industrial Estate, Ballymount, Dublin 22. The Board approved the recommendation to refuse to grant a revised waste licence and a proposed decision refusing all activities applied for was issued on 27 February 2004, with the three reasons for the proposed decision.

### **Consideration of the Objection**

The Technical Committee, comprising of Malcolm Doak (Chair) and Johnathan Derham, has considered all of the issues raised in the Objection and this report details the Committee's comments and recommendations following the examination of the objection.

This report considers the one valid first party objection as set out below:

### **First Party Objection**

The objection consists of a cover letter (dated 21 March 2004) addressed to the Agency and signed by the Directors of Oxigen Environmental Ltd., and a three page report with four attachments:

*Attachment 1: Company Profile - Oxigen Environmental Ltd.;*

*Attachment 2: Management Structure Robinhood Facility;*

*Attachment 3: Letter dated 15/3/04 from Dublin City Council to Oxigen Environmental Ltd. re Baling Capacity Dublin Region;*

*Attachment 4: Fax letter from South Dublin City Council to Oxigen Environmental Ltd. re tonnages and loads transferred to Arthurstown Landfill in February 2004.*

The cover letter states that the Directors wish use the facility for the baling of municipal waste only, and will install a weighbridge, and if approved many of the issues raised in the reasons for the proposed decision will no longer apply and the operation of the site will be more streamlined.

#### *Technical Committee's Evaluation*

The Technical Committee (TC) notes that the cover letter offers no detail as to which of the five classes of waste activities the company wishes to cease with regards to the existing waste licence (152-1 [granted on 18 December 2001]) nor does the letter provide a rationale for such an extreme change. A description of potential annual tonnage reductions in the light of the facility becoming a baling station only are discussed in Ground 3 below.

The main report attached to the letter relates directly to the Agency Proposed Decision of 27 February 2004 and the three individual reasons for refusal, by offering a response to each reason. The TC will address the report and the first two attachments as Grounds 1 to 3, and the report's concluding remarks as Ground 4. It is the TC's opinion that Attachments 3 and 4 are not relevant to this objection:

## **GROUND 1**

### *Proposed Decision Reason 1:*

*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.*

Oxigen Environmental Ltd states it has been in the waste management business since 1988, it holds waste licences for two facilities (152-1 and 144-1) as well as five local authority waste permits. The company notes that its business plan in 2001-2003 was to acquire smaller waste operations and process the arising increasing tonnages at Ballymount which soon required an expansion for which this waste licence review and planning permission is sought - the waste licence application review was received in late December 2002. Furthermore in 2003 the facility carried on various upgrade construction activities to meet the anticipated waste tonnage increases and because of an early order installed and operated the baler (which is one of the aspects of this licence review) outside the current licence terms. In summary the company states that due to site development work it was unable to fully comply with licence conditions and found itself in a 'Catch 22' situation where increased waste tonnages were taken in without adequate waste infrastructure. The company confirms that all waste infrastructure will be in place.

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

The Technical Committee (TC) considers the applicant has not responded to the proposed decision Reason 1 in a satisfactory manner other than discuss the commercial pressures the company suffered due to an increase in waste tonnages, with vague compliance plans. The TC regards the onset of waste tonnage handling pressures was entirely voluntary and self-inflicted. The facility had no regard to the terms of the existing waste licence increase (as discussed in detail in the inspector's report attached to the proposed determination). The objection has not prepared a schedule detailing how and when the corrective actions will be completed and the non-compliances rectified for the existing licence. Furthermore the documentation is inadequate in order for the TC to assess whether the applicant/objection has addressed the Agency's concern stated in the proposed decision Reason 1.

### ***Recommendation***

No Change
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## **GROUND 2**

### *Proposed Decision Reason 2:*

*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.*

Oxigen Environmental Ltd asserts that due to site development work it was unable to fully comply with licence conditions. The company reports it ceased to accept waste at the facility on 26 February 2004 in order to make way for construction activities at

the facility. The company has a highly qualified management team and the change of waste activity to a baling station only will mean the issues of non-compliance in the first licence will no longer be a concern. The short CVs of three personnel are attached as Attachment 2 – a review of such shows two of the staff have MSc degrees, 4 years experience and have each completed the FAS Waste Management course.

***Technical Committee’s Evaluation***

The Technical Committee (TC) considers the applicant has not responded to the proposed decision Reason 2 in a satisfactory manner other than present staff profiles in paragraph form. The applicant has failed to convince the TC that management at the facility have put in place appropriate measures to deal with the processing, transfer, recording and traceability of waste received and transferred from this facility, 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.

***Recommendation***

No Change
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**GROUND 3**

*Proposed Decision Reason 3:*

*The Agency is not satisfied based on the size of the facility, 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.*

Oxigen Environmental Ltd indicates that its new business plan is to carry on the activities of a baling station only, in a new high standard building ranging up to a maximum tonnage of 160,000tpa, and that the facility shall be covered by hardstanding with high specification drainage.

***Technical Committee’s Evaluation***

The Technical Committee (TC) considers the applicant has not responded to the proposed decision Reason 3 in a satisfactory manner other than discuss its new business plan of operating a baling station only in very general and vague terms. The TC regards the proposed waste tonnage increase with the baling station reductions are not compatible with the existing facility’s areal extent which is currently only authorised to process 24,600 tonnes per annum. Of note, the application proposed to reduce the facility area at the northern boundary for a road realignment project, and so the areal extent of the facility is to be further reduced. The applicant does not supply sufficient information to address the concerns raised in the reason for the refusal.

***Recommendation***

No change
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#### **GROUND 4**

*Oxigen Environmental Ltd repeats much of the above in its concluding remarks but states their facility has not been the subject of any complaints from neighbours or the general public.*

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

The Technical Committee (TC) notes these remarks.

#### **Overall Recommendation**

It is recommended that the Board of the Agency does not grant a revised licence to the applicant:

- (i) for the reasons outlined in the proposed determination.

Signed

Dated:

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Malcolm Doak, Inspector

for and on behalf of the Technical Committee