

This Report has been cleared
for submission to the Director by
the Programme Manager P. Nolan
Signed: N. Keavey Date: 22/5/08.

MEMO

TO: Laura Burke, Director **FROM:** Maeve McHugh
CC: Marie O'Connor/ Paddy Nolan **DATE:** 22/05/08

SUBJECT : Transfer of Waste Licence W0122-01 (Silver Lining Industries Irl., Ltd)

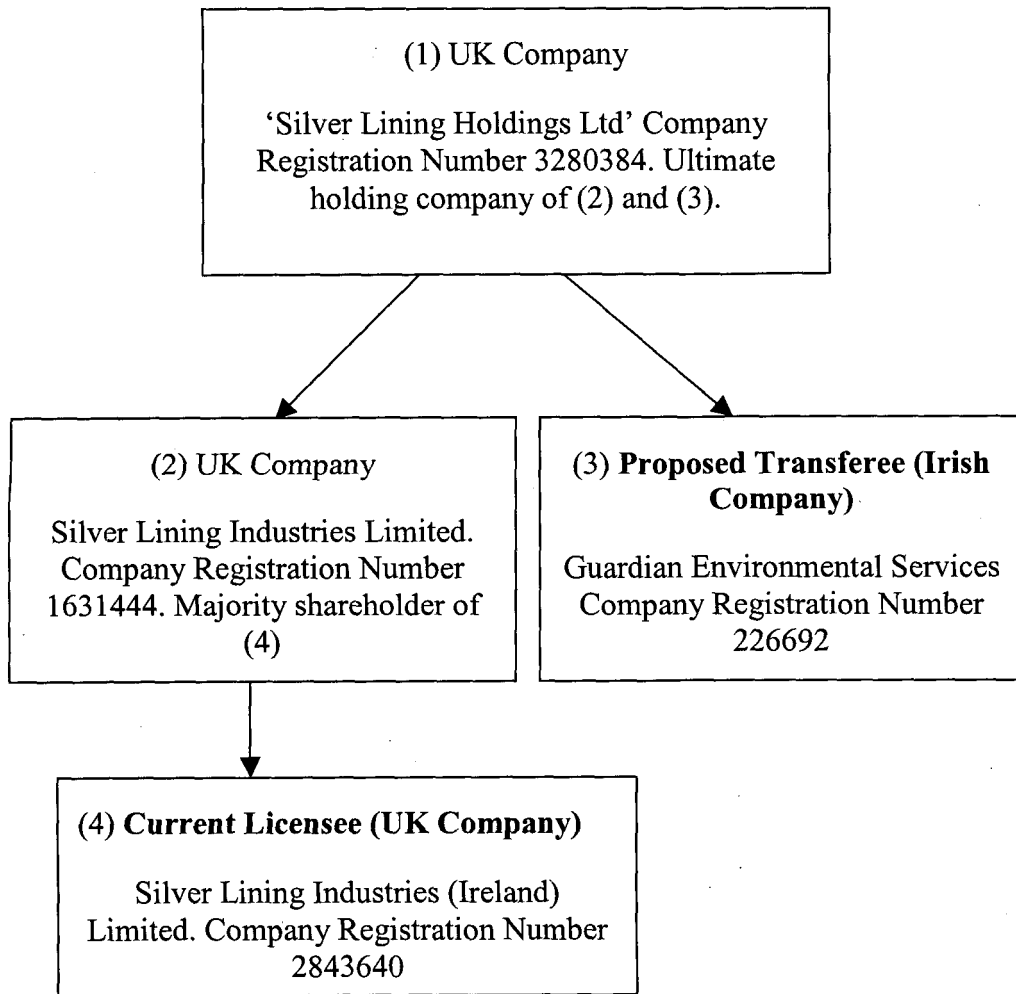
Application Details	
Transfer application received:	01/02/06
Request for updated application form:	20 July 2006 (issued by M McHugh)
Reminder letter issued re outstanding info:	21 March 2007 (issued by M O'Connor)
Revised App Form received:	16 Jan 2008 (in OEE Richview)
Site visits:	10/08/07 (OEE)

The Agency received an application for the transfer of Waste licence Register Number W0122-01 on the 8th of February 2006. The application received at that time was assessed and deemed to contain insufficient detail to allow processing and the company was requested to complete and submit a more up-to-date application form, available on the Agency's website. The company was contacted a number of times by telephone and in writing between February and July of 2006.

The updated version of the application form was received by the Agency on January 16th 2008, having been sent by Graeme Parkin of Silver Lining Industries Limited, Richmond House, Selby Road, Garforth, Leeds in the U.K to the enforcement inspector. The various attachments referred to in the application form were sent in electronic format. The enforcement inspector sent the application form to the licensing inspector (received 29/01/08) and it was copied to the relevant licensing files.

The inspector's report written at the time of licensing discussed the fact that the facility business name is not incorporated in the Republic of Ireland but is registered in the UK and Northern Ireland and that the company is registered for tax and VAT purposes in the Republic.

The applicant is of the opinion that the change associated with the licence should be a name change and not a licence transfer. However as the flow chart below shows the request is that the licensee will now be a separate company with a separate company's registered number. In my opinion, this change must necessarily be a licence transfer, regardless of the ownership of the two companies involved (licensee and proposed transferee) by a third, parent company. The flow chart below represents the relationships between the various relevant companies, as described in the licence transfer application.



I have assessed this application and I deem it to comply with the requirements of Section 47 of the Waste management Acts (1997 to 2007):

- The application was jointly made i.e. by both the current licensee and the proposed transferee (S.47(2));
- The application was made on the prescribed application form (in January 2008). A cheque for €5,000 was submitted with the original, incomplete application to transfer on 1st February 2006. This is the appropriate fee as

per Article 43(2) of the Waste Management (Licensing) Regulations (S.I. 395 of 2004).

- The applicants have provided information to show that the two companies, i.e. the licensee company and the proposed transferee company, are under the ownership of the same parent company. The inspector's report accompanying the licence also discusses the fact that the facility is very dependent (financially) on the parent company in the UK (Silver Lining Industries Ltd.). I am therefore satisfied, in accordance with Section 47(4) of the Waste Management Acts (1996 – 2007) that the proposed transferee would, if he or she were an applicant for the licence, be regarded by the Agency as a fit and proper person to be granted under Section 40 a like waste licence to the licence concerned.
- As the company will be operated by the same management after the transfer has taken place I am satisfied that the proposed transferee has the requisite technical knowledge to carry on that activity in accordance with the licence and that they are fit and proper in accordance with Section 40(7) of the Act.
- Section 47(2)(6) of the Act states that 'A person to whom a waste licence is transferred under this section shall be deemed to have assumed and accepted all liabilities, requirements and obligations provided for in or arising under the licence or revised licence, regardless of how and in respect of what period, including a period prior to the transfer of the licence, they may arise'. In the section of the application form requesting that the applicant make a statement to this effect the applicant commented that the section was not applicable because the ultimate holding company remains unchanged and both the Managing Director and the Site Manager continue to run the business as they content that is it is purely a name change. Nonetheless I am satisfied that, upon the transfer of the licence the requirements of Section 47(2)(6) will apply.

Recommendation:

Contrary to the opinion of the company in my estimation a waste licence transfer is necessary in this case and the requirements for a transfer of the licence, including the payment of the appropriate fee, have been met. I am satisfied that, given the circumstances, the proposed transferee would, if he or she were an applicant for the licence, be regarded as a fit and proper person to be granted a like licence for the activities concerned. I recommend that the transfer of Waste licence Register number W0122-01 to Guardian Environmental Services.

