

Sub (2)

A&L Goodbody

our ref | NMCH/AVF

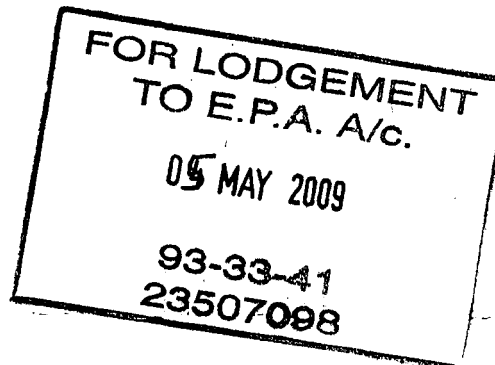
your ref |

date | 1 May 2009

By Post and By Fax (053 9160699)

Environmental Protection Agency
PO Box 3000
Johnstown Castle Estate
Co Wexford
FTAO Marie Harris

Our Client: Irish Packaging Recycling Limited
Application for a waste licence WO263-01



Dear Sirs,

We refer to the letter of 25 March 2009 to the Agency from John Quinlivan of South Dublin County Council (the "Council"). We take serious issue with the erroneous suggestion in that letter that our client, Irish Packaging Recycling Limited, has not fulfilled the requirements of the Waste Management (Licensing) Regulations 2004 (the "2004 Regulations").

Article 13 of the 2004 Regulations sets out the conditions whereby certain applications to the Agency are to be accompanied by an environmental impact statement (EIS). That section requires an application for a waste licence "where development is proposed to be carried out", being development for the purposes of a waste recovery activity, to be accompanied by an EIS if it either falls within a class of development specified in the Planning and Development Regulations 2001 requiring submission of an EIS, or if it is a sub-threshold development for which a planning authority has required an EIS. It is clear that this section encompasses proposed development only, for which an EIS is required through planning legislation.

The current licence application is not for a proposed development, but is for an existing activity that has been in operation since 1984 (prior even to the enactment of the Environmental Impact Assessment Directive (Directive 85/337/EEC) in 1985). The activity now needs a waste licence only because of the lowering of the thresholds for waste recovery activities contained in the Waste Management (Facility Permit and Registration) Regulations 2007. Our client's existing activity is not subject to the EIS requirements set out in article 13(1) of the 2004 Regulations.

We must presume that the Council is aware of the provisions of article 13. In such circumstances, familiar as it is with our client's current activity, it is difficult to understand the Council's submission.

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S.C. Hamilton	J.H. Hickson	J.G. Grennan	S.M. Doggett	S. O'Riordan	K.P. Allen	N. O'Sullivan	S. Ó Cróinín	M.F. Barr	A. Roberts	D. Main
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M.T. Beresford	C.E. Gill	J. Coman	C. Duffy	K.A. Feeney	D. Glynn	A.C. Burke	A. McCarthy	M.L. Stack	M. Dale	M. Traynor
P.M. Law	J.A. O'Farrell	P.D. White	D. Solan	M. Sherlock	C. Rogers	J. Given	J.F. Whelan	B. Walsh	N. Coyne	
S.W. Haughey	E.M. Fitzgerald	V.J. Power	E.M. Brady	E.P. Conlon	G. O'Toole	D. Widger	D.R. Conlon	A.M. Curran	C. McCourt	
P.J. Carroll	B.M. Cotter	L.A. Kennedy	P.V. Maher	E. MacNeill	J.N. Kelly	C. Christle	J.B. Somerville	P.D. Walker	R. M. Moore	
Consultants:	J.R. Osborne	T.V. O'Connor	Professor J.C.W. Wylie	A.F. Browne	P.J.F. Taylor	M.A. Greene	A.V. Fanagan			



suggesting an EIS is required. Unfortunately, our client is concerned that the real motivation for the Council's letter is to seek to interfere with our client's legitimate business. As you may be aware, our client's parent company Nurendale Limited, trading as Panda, has recently concluded High Court proceedings they brought against the Council and the other three Dublin Authorities in the Region by way of a Judicial Review of the Council's decision to vary the Waste Management Plan on the basis the variation was aimed at removing competition in domestic waste collection in the Region. Our client is concerned that this letter from the Council is simply the latest effort by the Council, as a competitor, to seek to hinder our client in the carrying out of its business.

We respectfully request that the Agency disregard the Council's letter, as it is clear from the statutory provisions of the 2004 Regulations that no EIS was in fact required to be submitted with the current licence application.

Yours faithfully

Alc Goodbody

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M-6972522-2

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A&L Goodbody

date | 1 May 2009

total pages | 3

from | A&L Goodbody

our ref | NMCH/AVF TBA

to | Environmental Protection Agency

fax number(s) | 053 9160699



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Application for a waste licence WO263-01

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RECEIVED	
Time	15:57
01 MAY 2009	
Signature	<i>S. Steup</i>
Environmental Protection Agency, HQ, P.O. Box 3000, Johnstown Castle Estate, Co. Wexford.	

fax cover sheet

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