



OF

**LICENSING &
RESOURCE USE**

Licensing Programme Memorandum

TO:	Laura Burke
FROM:	Yvonne Furlong
DATE:	2 nd December 2009
RE:	Request for a Technical Amendment to Licence Reg. No. W0111-01, held by South East Recycling Company Limited at Carrigbawn, Pembrokestown, Wexford

South East Recycling Company Limited (SERCL) operates a waste transfer station, at the above address. They are licensed to accept up to 13,500 tonnes of waste per annum. SERCL was first granted a waste licence on 24 January 2001. In June 2006, SERCL applied for a licence review, which was later withdrawn. In February 2007, SERCL again applied for a review of their licence, which was subsequently refused on the following grounds:

1. The applicant has not demonstrated to the satisfaction of the Agency, that the expansion in operations applied for in the licence application review will be carried out in accordance with the conditions of a revised licence if granted.
2. The Agency is not satisfied, based on the current infrastructure at the facility and non compliance with requirements of the existing licence to provide the necessary infrastructure to carry on the waste activities, that the best available technologies as described in Section 40(4)(c) of the Waste Management Acts, 1996-2005 will be used in the expanded waste activities.
3. The Agency is not satisfied that the applicant will manage an increased waste input and ensure that the necessary protective measures are taken so that operations at the facility will not cause or lead to environmental pollution.

In September 2009, the Office of Environmental Enforcement (OEE) issued a memo to the Environmental Licensing Programme requesting a technical amendment to SERCLs existing waste licence W0111-01. The OEE is seeking the technical amendment for two reasons; to amend the hours of operation and to regularise the discharges to sewer from the existing site.

Background to foul water discharge to sewer

Condition 7.4.1 of the existing waste licence states that the licensee shall maintain a wastewater treatment system in accordance with Condition 4.12.1. Condition 4.12.1 states that within 18 months of date of grant of licence (i.e. by 24/07/02), the licensee shall provide and maintain a wastewater treatment system to cater for sewage and foul water arising on the facility. This treatment system has not been installed to date. It was noted on an OEE audit in June 2009 that the licensee is discharging foul water to sewer with the agreement of Wexford County Council, under Discharge Licence to Sewer SS/S047/02, issued to Sewmar Ltd. (t/a South East Recycling Company Ltd.) on 15/08/05.

A meeting was held between SERCL, Wexford County Council and the EPA on the 19th November 2009. At this meeting SERCL requested that the incorporation into the current licence of discharges to sewer from the facility be carried out under technical amendment. At the meeting Wexford County Council indicated that they had no difficulty, at present, with SERCL discharging to the Sanitary Authority sewer.

Given that SERCL had already received a waste licence from the Agency in 2001, attention must be drawn to the provisions of The Environmental Protection Agency (Extension of Powers) Order, 1994 (S.I. No 206 of 1994). This order had the effect of transferring from local authorities the power to licence discharges to sewers (and to waters) for facilities that are required to apply for and/or hold a waste licence. In this case, any such licence for a discharge to sewer can only be granted by the Agency. Therefore, the discharge licence SERCL obtained from Wexford County Council has no legal effect. Furthermore, the current discharges to Wexford County Council's sewer are unauthorised.


I refer also to *Section 52* of the Waste Management Act (1996) and the associated provision under *Section 97* of the Environmental Protection Agency Acts (1992) (as amended by *Section 15* of the Protection of the Environment Act 2003). The procedures in relation to the licensing of discharges to sewers for a facility requiring a waste licence are set out therein (at subsection 99E). I note that the Agency has not obtained the consent of the Sanitary Authority for discharges from SERCL to the Sanitary Authority's sewer.

The bringing of the discharges from SERCL facility into legal compliance cannot be achieved through a technical amendment of the current licence under section 42B of the Waste Management Acts 1996 to 2008. Section 42B allows the Agency to make technical amendments to a waste licence under very specific circumstances. The requested changes at the SERCL facility do not conform to any one of the three statutory basis upon which a technical amendment can be carried out. Furthermore, the Waste Managements Acts specify that the Agency and the Sanitary Authority must enter into a formal, transparent statutory process in order to confirm that consent has been given legally for discharges from a facility to the Sanitary Authority sewer. This process has not been executed, and must be so executed before the current licence can be rectified to provide for the current effluent disposal arrangements.

Based on the information available to the Environmental Licensing Programme to-date, it appears that the discharges from the SERCL facility to the Sanitary Authority sewer are unauthorised and not in compliance with either the current waste licence, or with the Waste Management Acts.

Recommendation

I recommend that South East Recycling Company Limited be informed that the proposed changes to their licence cannot be made through a technical amendment. I also recommend that South East Recycling Company Limited be advised to consider all their options as a matter of urgency. If they conclude that a review is required, SERCL should submit same to the Agency as a matter of urgency.


Yvonne Furlong
Inspector
Office of Climate, Licensing & Resource Use