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Initials: *ML*



**OFFICE OF CLIMATE,
LICENSING &
RESOURCE USE**

INSPECTOR'S REPORT ON A LICENCE REVIEW

TO:	DIRECTORS	
FROM:	Michael Owens	OCLR - Licensing Unit
DATE:	31 August 2009	
RE:	EPA-initiated review of a waste licence for Kerry County Council, North Kerry Landfill, Muingnaminnane, Tralee, County Kerry - Licence Register No. W0001-04	

Application Details

Type of facility:	Landfill
Class(es) of Activity (P = principal activity):	4 th Schedule: 2, 3, 4, 10, 11 & 13 3 rd Schedule: 2, 4, 5 P, 6, 7, 11, 12 & 13
Quantity of waste managed per annum:	35,000 tonnes
Classes of Waste:	Household, commercial, construction and demolition, industrial non-hazardous solids, Biodegradable waste for composting.
Location of facility:	Muingnaminnane, Tralee, County Kerry
Licence review initiated:	18/06/09
Third Party submissions:	2 (17/07/09 & 28/07/09)
Licensee submission:	16/07/09
Article 16(3)(a)(i) Notification	27/07/09
Article 16(3)(a)(i) Reply	19/08/09
EIS Required:	No
New or existing facility (i.e. operational pre- or post-16 July 2001)	Existing
Site Inspection	None

On 18th June 2009, the Environmental Protection Agency initiated a review of the waste licence relating to the landfilling activities at North Kerry Landfill, Muingnaminnane, Tralee, County Kerry waste licence register number W0001-04. The review was initiated by writing to the licensee and placing a newspaper notice in the Irish Independent. The reasons for initiating the review are as follows:

- Section 46(2)(b) of the Waste Management Acts, 1996 to 2008, requires that the EPA review a waste licence if “new requirements (whether in the form of standards or otherwise) are prescribed, by or under any enactment or Community act, being requirements that relate to the conduct or control of the activity to which the waste licence relates.” In this case, there is a need to further elaborate and give effect to articles 5 and 6 of Council Directive 1999/31/EC on the landfill of waste (the Landfill Directive) regarding the treatment of waste prior to landfill and diversion of biodegradable municipal waste from landfill.
- There is also the need to give effect to article 49(5) of the Waste Management (Licensing) Regulations 2004 which states that waste that has not been subject to treatment shall not be accepted or disposed of in a landfill facility.
- Article 52(5) of the Waste Management (Licensing) Regulations 2004, as amended, requires the EPA to review a waste licence in order that a landfill will operate in compliance with the relevant requirements of the Landfill Directive. In this regard, an assessment of the landfill operator’s conditioning plan was carried out by the Office of Environmental Enforcement and taken into account in the review of the licence.
- There is also a need to further the general Best Available Techniques (BAT) obligation to reduce the overall environmental impact of landfill. In this context, there are newly elaborated limits on the acceptance of biodegradable municipal waste at landfill (expressed in the document *Municipal Solid Waste – Pre-treatment and Residuals Management: An EPA Technical Guidance Document* published 19 June 2009) that have regard to the need to implement and achieve landfill diversion targets set out in Landfill Directive. The diversion of biodegradable municipal waste will, *inter alia*, reduce landfill gas production and have consequent benefits regarding greenhouse gas emissions and the potential for odour nuisance.

The conditions limiting the acceptance of biodegradable municipal waste will contribute to implementation of the National Strategy on Biodegradable Waste (Department of the Environment, Heritage and Local Government, 2006).

The principal new/updated conditions relate to the following:

1. The requirement to treat all waste prior to acceptance for disposal (condition 5.2.6).
2. The imposition of new limits on the amount of biodegradable municipal waste that can be accepted at the facility (condition 5.2.7). From 1 January 2010, only 40% of municipal waste accepted at the facility for landfilling can be

biodegradable. In 2013 this reduces to 24% and in 2016 to 15%. The benefits of this restriction include a reduction in landfill gas generation and hence odour nuisance potential and reduced leachate generation.

3. The need to measure waste intake and report compliance with the conditions described in items 1 and 2 above (conditions 5.2.15 and 12.5).
4. Condition 5.5.3 prohibits the use of bio-stabilised residual waste¹ as daily cover unless the material has been stabilised in accordance with condition 5.2.12 of the licence and satisfies Department of Agriculture, Fisheries and Food requirements in relation to the treatment of animal by-products, recently articulated in DAFF guidance^{2,3}. Material not meeting these requirements must be disposed of in the landfill body.

A number of other conditions are also amended or inserted. Existing conditions with timeframes have been altered to remove references to dates now passed. The following is a full list of new or amended conditions and schedules in the licence (not including technical amendments previously made):

Table 1 List of new or amended conditions

Condition or Schedule number	Replacing an existing condition?	New condition?	Description
Interpretation		✓	To update with new definitions.
2.3.2.1	✓		Sets out requirement with regard to the schedule of Environmental Objectives and Targets.
2.3.2.3		✓	Sets out requirement for Landfill Environmental Management Plan (LEMP)
5.2.5		✓	Development of waste acceptance procedures.
5.2.6		✓	Sets out requirements with regard to treatment of waste prior to acceptance at the landfill facility.
5.2.7		✓	Sets out limits and timeframes for percentage of biodegradable waste acceptable at the facility.
5.2.8		✓	Permits two or more facilities to comply with Condition 8.1.2 on diversion of biodegradable municipal waste (BMW).
5.2.9		✓	Sets out requirement to determine the biodegradable municipal waste content of MSW accepted for disposal at the facility.
5.2.10		✓	Sets out that bio-stabilised residual wastes received at the landfill facility may be included in the determination of quantities of Municipal Solid Waste (MSW) accepted at the facility for the

¹ Defined in the PD.

² Conditions for approval and operation of composting plants treating animal by-products in Ireland, 27 March 2009, Department of Agriculture, Fisheries and Food, Animal By-Products Section.

³ Conditions for approval and operation of biogas plants treating animal by-products in Ireland, 27 March 2009, Department of Agriculture, Fisheries and Food, Animal By-Products Section.

Condition or Schedule number	Replacing an existing condition?	New condition?	Description
			purposes of Condition 5.2.7.
5.2.11		✓	Sets out how percentage BMW of MSW should be determined.
5.2.12		✓	Defines bio-stabilised residual wastes.
5.2.13		✓	Sets out monitoring requirements for bio-stabilised residual wastes.
5.2.14		✓	Sets out notification and monitoring requirements should errors occur with regard to the disposal of BMW.
5.2.15		✓	Sets out the requirement to maintain records with regard to waste treatment and diversion of biodegradable municipal waste.
5.2.16		✓	Prohibits acceptance of explosive, corrosive or flammable wastes at the facility.
5.2.17		✓	Prohibits dilution or mixture of waste as a means of meeting waste acceptance criteria.
5.2.18		✓	Sets out additional requirements for waste acceptance procedures.
5.3	✓		Sets out new requirements with regard to use of waste quarantine area.
5.5.3		✓	Sets out requirements for the nature of landfill cover.
5.12		✓	Prohibits acceptance of gypsum wastes at the facility
8.14		✓	Sets out requirements for testing and analysis of waste accepted at the facility.
11.2		✓	Sets out requirements for written records for each waste consignment arriving at the facility.
11.8		✓	Sets out requirement for written acknowledgement for each waste consignment accepted for disposal at the facility.
12.5		✓	Sets out requirements for reporting to the Agency to demonstrate compliance with Condition 5.2.7.
12.7		✓	Sets out requirement to notify the Agency where waste received at the facility fails to meet the waste acceptance criteria.
13.3		✓	Sets out requirements with regard to environmental liabilities
13.4		✓	Sets out requirements with regard to setting of landfill costs
Schedule A (Waste Acceptance) Table A.2		✓	Sets out total permitted landfill capacity.

Condition or Schedule number	Replacing an existing condition?	New condition?	Description
Schedule D.8 (Waste Monitoring) Table D.8.1		✓	Sets out the frequency of monitoring for bio stabilised residual waste.
Schedule F (Annual Environmental Report)	✓		Sets out additional reporting requirements in the Annual Environmental Report.

Compliance with Directives/Regulations

Table 1 sets out new and amended conditions that, subject to compliance with those conditions, will ensure that the facility operates in conformance with the provisions of the Landfill Directive (1999/31/EC).

Proposed Decision

It is my opinion that the new/amended conditions proposed in the attached Recommended Decision address: BAT as set out in the Pre-Treatment Guidance Document (referenced above); the requirements of article 52(5) of the Waste Management (Licensing) Regulations, 2004, as amended; provisions of the Landfill Directive (1999/31/EC). The new/amended conditions will not cause any new or increased emissions over and above the emission limit values specified in the licence. Thus the requirements of section 40(4) of the Waste Management Acts 1996 to 2008 will continue to be met.

Submissions

As the EPA initiated this review, the licensee was entitled to make a submission. A submission was received from the licensee. The following are the items addressed in the submission:

1. Schedules of activities licensed

The licensee has requested the following changes to the Schedule of Activities Licensed:

The addition of Class 9 '*The use of any waste principally as a fuel to generate energy*', to the list of Licensed Waste Disposal Activities.

The removal of Class 9 '*The use of any waste principally as a fuel to generate energy*', from the list of Refused Waste Disposal Activities.

This is to allow the use of methane gas, produced as a result of the waste disposal activities, to generate electricity on site.

Response:

Class 9 above is in fact a waste recovery activity in the Fourth Schedule of the Waste Management Acts 1996 to 2008. This activity was refused for Waste Licence No. W0001-03 on the basis that this is not an appropriate classification for the combustion of landfill gas. The burning of landfill gas is not contingent on it being assigned a class of activity from the Third or Fourth Schedules to the Waste Management Acts 1996 to 2008. Therefore there is no need to make the requested change.

It is noted in any event that Condition 3.15.3 sets out a requirement for the licensee to submit a proposal, by 30/09/05, for the use of landfill gas as an energy source so the licensee has already been in a position to explore options for use of landfill gas for some time.

Recommendation:

No change on foot of the submission

2. Waste acceptance and hours of operation

Condition 1.5.1.3 currently states that '*Waste shall not be accepted at the landfill on Sundays and Bank Holidays*'. The licensee has requested that the wording of the Condition be changed to include reference to 'Public Holidays' rather than 'Bank Holidays' thus allowing the landfill facility to operate on Good Friday.

Response:

The Condition that prohibits the acceptance of waste on Bank Holidays is proposed to be amended to refer instead to Public Holidays.

Recommendation:

Amend condition 1.5.1.3 to refer to "public holidays" instead of "bank holidays"

3. Facility Infrastructure

(a) The licensee is requesting the removal of Condition 3.14.3 which states that '*All structures for the storage and/or treatment of leachate shall be fully enclosed except for inlet and outlet piping*'. The licensee states that the three leachate lagoons on site are fully lined but open to the air and that the only enclosed leachate tank is currently being constructed as part of Phase 9 development.

Response:

Given the limited scope and purpose of this review, it is not appropriate to consider the proposed amendment of such import as part of this review in the absence of an assessment of the potential impact on the operation of the facility.

Recommendation:

No change

(b) The licensee is requesting the removal of Condition 3.15.4

Response:

Condition 3.15.4 states that *'Any vents installed to facilitate the passive venting of landfill gas shall be fitted and maintained with an effective activated carbon filter'*. The licensee is seeking the removal of this Condition from the licence due to the fact that they are no longer constructing passive landfill wells, as all landfill gas is now being collected and channelled to the site flare.

Given the limited scope and purpose of this review, it is not appropriate to consider the proposed amendment of such import as part of this review in the absence of an assessment of the potential impact on the operation of the facility.

Recommendation:

No change

4. Facility operation and waste management

The licensee is requesting the inclusion of an additional sub-condition in Condition 5.10 - *Leachate Management*. The licensee is requesting that a sub-condition be inserted into the licence to permit the use of heat, produced as a by-product of power generated onsite using landfill gas, to evaporate leachate thus reducing the volume of leachate for transport off site.

Response:

Given the limited scope and purpose of this review, it is not appropriate to consider the proposed amendment of such import as part of this review in the absence of an assessment of the potential impact on the operation of the facility.

Recommendation:

No change

5. Proposed change to Condition 6.5.3

The licensee is requesting a change to Condition 6.5.3 which provides for continuous monitoring of conductivity, pH and TOC at the inlet to surface water/groundwater retention ponds. The licensee is seeking the removal of the requirement to monitor

TOC from Condition 6.5.3 as the Agency has already agreed the use of turbidity meters in lieu of TOC meters for use at the new surface lagoon under construction.

Response:

Condition 8.2 of the licence provides for the amendment of frequency, location, method and scope of monitoring upon the written instruction of the Agency. It is therefore not necessary to amend the condition 6.5.3.

Recommendation:

No change

6. Proposed change to Condition 7.6

The licensee is requesting a change to Condition 7.6 which requires that the use of gas-operated bird scaring devices be minimised and prohibits the use of such devices outside normal landfill operating hours unless agreed in advance with the Agency. The licensee is requesting that the Condition be amended to allow use of gas-operated scare devices outside of normal operating hours in exceptional circumstances, such as when experiencing high bird traffic.

Response:

Condition 7.6 already provides for use of gas-operated bird scaring devices outside of normal operating hours with agreement of the Agency so it is not considered necessary to change Condition 7.6.

Recommendation:

No change

7. Waste acceptance

The licensee is requesting a change to Table A.1 (*Waste Categories and Quantities*) of Schedule A (*Waste Acceptance*). The licensee is requesting an increase in the amount of household waste that can be accepted at the facility from 34,500 to 39,500 tonnes per annum with a concomitant reduction in industrial non-hazardous solids from 9,500 to 4,500 tonnes per annum.

Response:

Schedule A already contains a mechanism to seek agreement from the Agency to approve such changes to individual tonnages (See Note 1 of Table A.1). Therefore, it is not proposed to change Table A.1.

Recommendation:

No change

A third party submission was received by the Agency from Limerick/Clare/Kerry Regional Waste Management Office. The following are the items addressed in the submission:

1. Waste segregation and waste treatment

A request was made for confirmation that the proposed waste collection and segregation systems for the Limerick/Clare/Kerry region are satisfactory to the Agency.

Response:

This is a matter outside the scope of the licence.

Recommendation:

No change

2. Odour

In relation to odour, the submission stated as follows:

'The region have decided not to include any submission in relation to odour as Jim Moriarty has clarified that the OEE have requested that the licensing department of the EPA upgrade the licences to the modern template which includes the requirement for an odour management plan and criteria for gas collection and management with priority to be placed on landfill with high odour complaint levels'

Response:

The OEE has not identified this site to be a priority site with regard to odour. The existing odour and landfill gas management conditions are sufficient.

Recommendation:

No change

A third-party submission was received by the Agency from An Taisce. The following are the items addressed in the submission:

An Taisce state that an Appropriate Assessment should be carried out on the integrity of any SAC/SPA within, or in close proximity, to the landfill site. In addition, they also recommend the carrying out of an assessment to ensure that the landfill is not

having adverse effects on the integrity of any Natural Heritage Areas within close proximity of the site.

Response:

The nearest SAC is 1 km from the facility and there is an NHA 2 km from the facility. Article 6(4) of the Habitats Directive (92/43/EC) requires that "any plan or project not directly connected with or necessary to the management of [a designated] site but likely to have a significant effect thereon ... shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives." The Directive goes on to say: "In the light of the conclusions of the assessment of the implications for the site ..., the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned."

This desktop review of the waste licence of the landfill is not considered a "plan or project" for the purposes of article 6(4) of the Habitats Directive. Therefore the need for appropriate assessment, or more appropriately, screening for appropriate assessment, does not arise. Were the licensee to propose a "plan or project" that required a review of the landfill licence, then it would be appropriate to consider screening for appropriate assessment.

In any event, additional assessments are not considered necessary for the current review as the proposed changes to the licence are not considered to have potential to cause significant environmental effects, as they will in fact lead to improved management and control of the landfill facility.

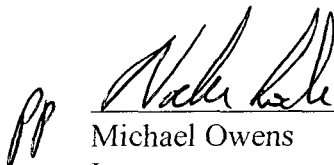
Recommendation:

No change

Overall Recommendation

I have considered all the documentation governing the grounds for the review of this licence, including submissions, and recommend that the Agency grant a revised licence subject to the conditions set out in the attached RD and for the reasons as drafted.

Signed



Michael Owens
Inspector

Procedural Note

In the event that no objections are received to the Proposed Decision on the application, a licence will be granted in accordance with Section 43(1) of the Waste Management Acts 1996-2008.

