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This report has been cleared for submission to the OCLR Director by the Programme Manager

F. Clinton

Signed Ma H.Date 15/03/2010.**LICENSING &
RESOURCE USE****Licensing Programme Memorandum**

To:	Laura Burke, Director
FROM:	Ann Marie Donlon
C.C:	Frank Clinton
DATE:	15th March 2010
RE:	Cork County Council, Reg. No. D0049-01, Agglomeration: Ballincollig

Ballincollig agglomeration is serviced by a waste water treatment plant providing secondary treatment by extended aeration. The primary discharge is to the River Lee. A waste water discharge licence (WWDL) was granted on the 13/11/2008.

On the 24/08/2009, Cork County Council requested a deferral of the habitat assesment required under Condition 4.17.1 which states:

The licensee shall, within twelve months of the date of grant of this licence, undertake an assessment of the predicted impacts on the Cork Harbour Special Area of Conservation (4030) arising as a result of the discharges from the agglomeration. This assessment should be carried out in accordance with the provisions of the Habitats Directive 92/43/EEC, have regard to the sites conservation objectives and identify appropriate mitigation responses for any predicted impacts. The assessment shall be submitted as part of the AER.

Cork County Council requests that this assessment be deferred until all discharges entering the harbour are licensed so that a brief for an independent consultant can be clearly identified.

This request was not forwarded by the licensee, in accordance with the normal procedure, to the Office of Environmental Enforcement (OEE) for their initial assessment. Having subsequently consulted with the OEE, it appears that the matter can be dealt with by this office (OCLR).

Assessment

It was reported to the Board at the time of licensing that this condition was in line with National Parks and Wildlife Service (NPWS) requirements. The NPWS had advised Cork Co. Co. that the Ballincollig discharge was not likely to have an effect on the downstream SPA but may have an accumulative effect with other discharges with regard to persistent bioaccumulating pollutants. The NPWS stated '*the discharge concentrations from this WWTP must be assessed as part of the appropriate assessment for Ringaskiddy WWTP and Cork City WWTP*'. It was also reported to the Board at the time that there were no significant levels of dangerous substances detected in the discharge and that there was no significant industrial discharges to the network.

The NPWS concerns in relation to persistent bioaccumulating pollutants in the discharge have not been confirmed. Since licensing, neither EPA monitoring results (2009) nor Cork County Council's monitoring results for 2008, indicate significant levels of metals in the discharge.

Since the grant of this WWDL, clarification guidance around the issue of appropriate assessment in accordance with the Habitats Directive (92/43/EEC) has been developed within the Agency. The Agency issued Appropriate Assessment guidance in 2009, the Department of Environment, Heritage and Local Government issued their circular letter in September 2008 (L8/08) and the draft River Basin District Management Plan (RBDMP) for the South Western River Basin District was published in December 2008. It is now clear that appropriate assessment must be carried out before the granting of licences. The Agency no longer provides for appropriate assessment post licensing by way of condition.

The Ballincollig primary discharge is 17 km upstream from the Cork Harbour SPA (4030) and there is a Q4 rating downstream of the discharge.

It is noted from the RBDMP that the receiving water (water body code: SW_19_1663) has a 'poor' status and is 'at risk' of not achieving good status. The objective is to 'restore' water quality for the purposes of protected areas. The relevant protected areas have been identified as the drinking water abstraction downstream at the Lee Road waterworks and the salmonid river status of the Lee River. The SPA was not deemed applicable. Consequently appropriate assessment is not one of the 'basic measures' required under the RBDMP.

Recommendation

On the basis of the foregoing, it is considered that the reference to the Habitats Directive (appropriate assessment) in Condition 4.17.1 should be removed from the condition as it is not applicable to Ballincollig and to avoid any further misunderstanding. Given that the emphasis and focus in the short-term at this waste water treatment should be on the salmonid status of the river and the downstream abstraction, it is considered that habitat assessment could be deferred for a further twelve months. The condition refers to Special Area of Conservation in error and it should read Special Protection Area. Condition 4.17.2 requires the scope of the assessment to be agreed with the NPWS. This amendment will not result in the relevant environmental requirements ceasing to be satisfied.

Ann Marie Parker