

Mr Patrick Byrne.  
Office of Climate, Licensing & Resource Use  
EPA,  
McCumiskey House  
Richview,  
Clonskeagh Road,  
Dublin 14.

Headquarters, PO Box 3000  
Johnstown Castle Estate  
County Wexford, Ireland  
Ceannteathrú, Bosca Poist 3000  
Eastát Chaisleán Bhaile Sheáin  
Contae Loch Garman, Éire  
T: +353 53 916 0600  
F: +353 53 916 0699  
E: info@epa.ie  
W: www.epa.ie  
LoCall: 1890 33 55 99

26/11/2009

Reg. No. W0231-01

Re: **Report into the Oral Hearing of Objections in the case of Waste Application**  
**Register No: W0231-01**

Dear Mr Byrne.

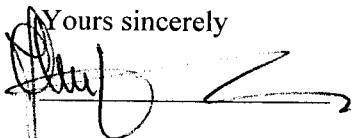
I refer to a Waste Licence Application to the Agency from Fingal County Council for a facility to be located at Nevitt, Lusk, Co. Dublin, and having a Register Number of W0231-01.

I note that you presented a Report of an Oral Hearing, into objections to the granting of a licence, to the Board of the Agency on 2<sup>nd</sup> September 2008 and further note that having deferred a decision on the application the Board of the Agency requested you to re-open the Oral Hearing as they were of the view that more information should be obtained from the Applicant in respect of the environmental risk assessment that was submitted in support of the application. I refer you to the letter sent to you on 17<sup>th</sup> October 2008 by Mr Patrick Nolan, then Programme Manager, OCLR.

The re-opened Oral Hearing, which you chaired, was held at the Bracken Court Hotel, Balbriggan, Co Dublin. The Oral Hearing commenced on the 27th April 2009 and concluded on the 29th April 2009.

I am to advise you that the Board of the Agency considered the report on the re-opened Oral Hearing on 17<sup>th</sup> November 2009. Following discussion the Directors of the Board considered the Report on the re-opened Oral Hearing to be incomplete as it did not contain a Recommendation for grant or refusal of the Waste Licence, as required under section 44(3) of the Waste Management Act, and the Board of the Agency has directed the Office of Climate, Licensing and Resource Use to write to the Chair of the Oral Hearing seeking a recommendation.

Yours sincerely



Frank Clinton  
Programme Manager  
Environmental Licensing Unit, OCLR.

**Scanned**

30 NOV 2009

Open Web Doc

Initials: N.K.

Patrick Byrne  
Environmental Protection Agency  
Regional Inspectorate  
McCumiskey House  
Richview  
Clonskeagh Road  
Dublin 14

Board of the EPA  
Environmental Protection Agency  
PO Box 3000  
Johnstown Castle Estate  
Co. Wexford

Date: 21<sup>st</sup> December 2009

Dear Board of the EPA,

**Report into the Oral Hearing of Objections in the case of Waste Application  
Register No.: W0231-01**

I refer to the letter dated 26<sup>th</sup> November 2009 from Mr Frank Clinton, Programme Manager in the Environmental Licensing Unit of the Office of Climate, Licensing and Resource Use (OCLR), in connection with the above. In his letter, Mr Clinton indicated that the Board of the Agency considered the *Report on the Re-opened Oral Hearing* (dated October 2009) to be incomplete as it did not contain a recommendation for grant or refusal of the Waste Licence and that he had been directed by the Board of the Agency to write to the Chair of the oral hearing seeking a recommendation.

I have consulted with my Assistants, Mr Reynolds and Mr Misstear, in drafting this response. This letter should be read in conjunction with Chapter 4 Conclusions and Recommendations of our July 2008 report (Report on the Objections and Oral Hearing on the Proposed Decision of a Waste Licence Application) and Chapter 3 Conclusions and Recommendations of our October 2009 report (Report on the Hydrogeological Risk Assessment Submission on the Assessment and Re-Opened Oral Hearing). We would like to emphasise that the re-opened oral hearing held in April 2009 was for the sole purpose of considering the Hydrogeological Risk Assessment (HRA) provided by the Applicant (February 2009) in response to the Agency's request (17<sup>th</sup> October 2008), and the submissions received from the Objection Parties in relation the HRA. We refer the Board to our July 2008 report for consideration of other issues including the groundwater development potential in the area and the existing landfill within the proposed site.

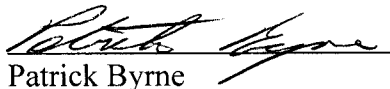
- a) As pointed out in Chapter 3 Conclusions and Recommendations of the October 2009 report, one of the issues discussed in detail at the re-opened oral hearing was whether the receiving groundwater is water in the aquifer beneath the site or water in the subsoil directly below the proposed landfill basal lining system. We are of the view, as explained in our October 2009 report, that the water in the low permeability subsoil beneath the site is not groundwater, and

therefore that the groundwater in the aquifer beneath the site is an appropriate receptor for a risk assessment.

- b) The Applicant's quantitative Hydrogeological Risk Assessment (HRA), dated February 2009, showed that a landfill at the proposed location is unlikely to lead to pollution of the aquifer beneath the site. Based on the results available, we consider the *de minimus* provision of the Groundwater directives is applicable i.e. that discharges of substances in Lists I or II are likely to be in a quantity and concentration so small as to obviate any present or future danger of deterioration in the quality of the receiving groundwater. On this basis, we consider that the information presented in the HRA does not provide a reason to refuse the grant of a waste licence.
- c) If, however, the Board is of the view that pore water in the subsoil falls within the definition of groundwater contained in the European directives (Groundwater Directive, Water Framework Directive and Groundwater Daughter Directive), then the HRA would be inadequate, as it does not include predictions for a compliance point immediately below the landfill liner. On that basis, we would recommend that the licence should be refused.

We feel that we have provided recommendations relating to the grant or refusal of a waste licence, as per Article 44(3) of the Waste Management Act. I hope this clarifies matters for the Board.

Yours sincerely



Patrick Byrne

Chair of Oral Hearing into Register No. W0231-01

Cc Mr. Frank Clinton, Programme Manager, Environmental Licensing Unit, Office of Climate, Licensing and Resource Use