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Rossa MEP.

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Member of the European Parliament

**SUBMISSION TO EPA PUBLIC HEARING ON THE PROPOSED
DECISION TO GRANT A LICENCE FOR A LAND FILL
DEVELOPMENT IN LUSK/NEVITT AREA TO FINGAL CO. CO.**

Proinsias De Rossa MEP

7/3/08

INTRODUCTION

I am a Member of the European Parliament for the Dublin constituency on behalf of the Labour Party. In the European parliament I am a member of the Socialist Group, which has a membership of around 220 MEPs from most of the EU member states. Because of our size and our commitment to sustainable development we make a significant contribution to the development of European law on a range of issues including the environment. We have helped develop the EU approach to waste reduction, re-use and disposal. Because we have the right to veto legislation if it does not meet the standards we have set, 80% of our amendments generally are incorporated into legislation in whole or in part.

Amongst other responsibilities I am a member of the Petitions Committee in the EP, which processes complaints from citizens regarding possible breaches of EU laws by member states or local authorities.

I am not speaking on behalf of the petitions committee today. That committee has not yet taken a position on the issue placed before us by the Nevitt/Lusk Action Group. You heard Mr. David Hammerstein on Monday, who was deputised to represent the committee and to report back to us in the European Parliament.

Whenever it becomes clear to the Petitions committee that EU directives have been breached on any issue we can insist on the Commission taking action as the guardians of EU law. We have done so in relation to many infrastructural developments in various EU states over the years, such as the current M3 motorway development in Co. Meath, which the commission is using as an example of the inadequacy of Irish law regarding protection of our heritage. Recently I represented the Committee in Madrid regarding a motorway development where we succeeded in placing new obligations on the authorities there with regard to carrying out proper Environmental Impact Studies and compliance with EU environmental laws.

The Commission has recently informed me that Ireland is facing the European court on a range of environmental cases. The Minister for the Environment just last week confirmed this to Deputy Joanna Tuffy of Labour when he admitted that the Commission is pursuing 28 cases against Ireland for breaches of environmental laws. In addition the Commission has expressed concern that Ireland has not properly transposed 10 of the 20 articles of the landfill Directive. There may therefore be question marks in the future over permissions or licences granted, based on what may be found to be defective national laws. As we know, in these matters, EU law takes precedence to national law.

Nevitt/Lusk Land Fill Proposal

I have been very impressed with the work done by the voluntary action Group in support of whom I am speaking here today. When they came to the EP there was universal praise for the professional manner with which they addressed the issues and explained their case. The response was an unprecedented decision to send Mr. David Hammerstein to this Hearing.

For citizens to engage with the process of ensuring that official bodies are complying transparently and strictly in accordance with national and EU law, with regard to major developments of this kind, is a daunting and costly task both in financial and personal terms. The absence of a mechanism to support citizens who take their civic duties seriously in these matters is a serious democratic deficit, which needs to

be addressed by our local authorities. I know from experience that consultation that actually takes on board the views of those most closely affected by a proposal can in fact deliver better decisions.

Powerful organisations such as Fingal Co. Co, which have a responsibility to progress the development of critical infrastructure, have a tendency to consider that they know best, because they have professional expertise and because they control most of the process. And once a decision is made they pursue it relentlessly.

The EPA's role however has to be to protect the citizens' fundamental right to a clean environment by rigorously challenging the applicants assertions. It is not enough simply to act as a referee between contending views, or to simply mitigate the worst effects of a proposal.

I hope therefore that this hearing will result in serious weight being given to the views of the objectors. I know that the Petitions committee will be very interested to see evidence that a serious reconsideration of the EPA's proposed decision to grant a licence is taking place, as a result of the views expressed here by the objectors.

THE PROPOSED EPA DECISION

In that context I was surprised on reading through the EPA's proposed decision to grant a licence by the EPA reliance on the expertise of Fingal Co. Co. to rebut objections, and the expressed EPA view that certain matters which clearly have an environmental impact are outside their remit.

On page 18 of the PD for example, with reference to traffic it says, off-site traffic impact is outside the general remit of the EPA. Moving the planned 300,000 to 500,000 tonnes of waste per year, for 30 years onto the proposed site will I conservatively estimate generate at least 1000 additional truck journeys per week in this locality, 52 weeks of every year over a 30 year period. How is it possible that the EPA can ignore that as a factor in considering the advisability of granting a licence?

Why does the EPA not give any weight at all to the aquifer as valuable in its own right and worth protecting as a source of drinking water, rather than as an obstacle to be overcome in the way of granting a licence?

On page 32, pt 12.7 The EPA says water strategy for Fingal cannot be dealt with as part of the granting of a waste licence. Why?

Surely the conservation of drinkable water as well as its protection should be considered relevant to the granting of a licence? Particularly in light of the EPA's own report, entitled Provision and Quality of Drinking Water in Ireland, published on 24th January this year, which found that 36% of Ireland's water supply poses a health risk.

On page 34 of the PD the EPA says that the Fingal Co Co breach of commitments not to develop a second landfill in Lusk is outside its remit? Why? Does this not raise questions about the reliability of basing the granting of a licence of this magnitude on the applicant's own assessments?

On page 22, pt.3.2, the EPA accepts without question calculations submitted by the applicant; page 23, 4.1 EPA says: 'based on the information provided (by the applicant) they accept the reassurances of the Fingal Co. Co. that the concerns expressed by the objectors have no basis.

I would have thought that the task of the EPA is to measure the concerns presented to it by objectors using independent expertise, not the value judgments of the organisation whose task it is to make the best case it can for its own plans.

I am also deeply sceptical of a major plan, which is justified by an Environmental Impact Statement rather than a detailed Environmental Impact Study. One would expect no less for a project that will have such a massive impact on a rural community over a 50-year period and a continuing impact for up to 100 years,

bearing in mind the admission by the FCC that leachate from landfill can be a problem for that length of time. (reference)

Equally disturbing is the fact that Fingal Co Co has not carried out a strategic study, which would locate its proposal within the wider context than the immediate locality, and how its needs could be otherwise met. It does not for instance address how its proposal fits with national and EU legal requirements to reduce by 50% by 2009, the quantity of biodegradable waste going to landfill relative to the levels pertaining in 1995. Ireland, with one year to go, is 50% above that target. Indeed it is striking that I have not seen this objective of the Landfill Directive (article 5) referenced in the FCC or EPA documentation nor does it seem to have been taken into account.

AQUIFER

What we now know about the underground reservoir of fresh water, the aquifer, is entirely due to the tireless work done by citizens affected by the proposal.

My scepticism about this proposal is sharpened by the manner FCC dealt with the presence of underground gravel deposits in the proposed site in its environmental impact statement. The non-technical summary, which most people will read rather than the detailed statement, published in April 2006 stated that what gravel could be found was outside the landfill footprint. This statement was changed in a new version published in June 2007, where this claim was dropped. There is no explanation from the FCC in that new version why it has been changed or how or why its experts could have made this inaccurate and fundamental claim in the first place.

Despite this new and belated admission by the FCC about the presence of gravel within the landfill footprint, there is still no admission that it clearly indicates the presence of a large aquifer, an underground reservoir of water, and to my knowledge there is still no official study to identify its extent and its value as a water supply. It is not clear either that the EPA's proposed decision has taken this important new information fully into account, other than seeing it as an obstacle to be overcome. As far as I can see the EPA simply seek assurances that there will be a damage limitation exercise.

What is certain is that Fingal Co Co did not take the aquifer into account in its revised document. Its two-line conclusion in both versions of the summary remains unchanged:

Quote: *"The overall assessment of the proposed Fingal landfill has concluded that, if approved, it will not have significant impact on the environment"* (point 8, page 21, both versions).

How can it be that the belated acknowledgment that a large body of fresh water exists directly beneath the footprint of the landfill site has no impact on that conclusion? Does the quality of water used by the horticultural industry in north Co Dublin not have a bearing on the conclusions to be drawn from the evidence of the sites unsuitability as a landfill? Does the protection and conservation of this water source have no bearing on the conclusion to be drawn? There is no evidence that either the FCC or the EPA has considered these matters seriously.

The FCC in its EIS admits that leachate can escape for up to 100 years from a landfill, lasting long after this dump will have closed. This dump, if it goes ahead will operate until 2040, so the constant threat of pollution to this water resource will last until at least the end of this century. We know for a fact that it is physically impossible to prevent all leakage of leachate even assuming no human error ever occurs over a 30-year period, which is a very big assumption, and no major deterioration of the lining materials takes over a 100 year period. The EPA admit this on page 24, yet the Co Co and the EPA would have us believe that there is no **significant** risk to the quality of the large reservoir of water lying under the proposed dumpsite.

If this is the case why does the EPA at the same time admit on page 25:

Quote: *"the development of the landfill at the Nevitt site may effectively prevent the development of an additional water abstraction system, from this reservoir.*

This they say is the application of the precautionary principle. That is the most bizarre application of the precautionary principle ever advanced. That principle is intended to prevent pollution, not permit it, and then erect 'boil water' notices as a precaution.

CONCLUSIONS

Why has the Council been so coy about this aquifer? Why does the EPA dismiss its importance? It is because the FCC knows that had this aquifer and its size and importance as a clean water resource for human consumption and for the horticulture industry in Ireland, been clearly identified at an early stage it would have ruled out this site as an option from day one, while the EPA seems to be of the view that its task is simply to mitigate its worst effects.

The superdump proposal, which the EPA proposes to licence, will render unusable a fresh water source, which could provide 4,000 cubic metres per day of drinkable water in the Dublin region. Fingal Co. Co. whose population is one of the fastest growing in the region treats this significant water source as unimportant and the EPA seems to agree.

Ironically, at the same time we have a proposal to pipe water from the west of Ireland to Dublin to try and safeguard against predicted water shortages in the future for our growing population.

CONCLUSION- What Can Be Done?

- The fact the Fingal Co Co has come so far with its application should not weigh in its favour.
- It is not too late for the EPA to send the FCC back to the drawing board.
- The fact that FCC produced inadequate and misleading information, and that the EPA recommendation is based on that inadequate and misleading information should result in a suspension of this licence procedure.
- Fingal Co Co must review its approach based on detailed studies not only of alternative sites, but also of its waste strategy in the context of all its legally binding environmental obligations.
- FCC should be obliged to review its site selection criteria in an open and transparent manner.
- EPA must review comprehensively the assumptions that underlie the recommendation that a licence be granted. They must insist on a full environmental Study and an accurate reflection of that in the non-technical study from the FCC.
- The EPA must not accept assurances and promises from the applicant on this important issue at face value. The EPA must undertake independent assessment of all the matters about which concerns have been raised.
- FCC must be advised to review their existing waste and water strategy to ensure there is coherence with regard to its legal obligations and future needs in regard to both.
- FCC must also indicate how it is proposing to meet its legal obligations under the Landfill Directive to reduce waste going to landfill within the time frame provided by law, and how that connects with development of other waste handling strategies, such a MBT and Incineration. Such an approach could identify alternatives to this super-dump nightmare.
- The EPA must act to protect the aquifer and its potential. This should be done bearing in mind the potential damage to it and to those who depend on it today for a livelihood and the production of safe food and those who depend on it for drinking water. But also the growing need for clean easily accessible water sources in the Dublin region.

THANK YOU