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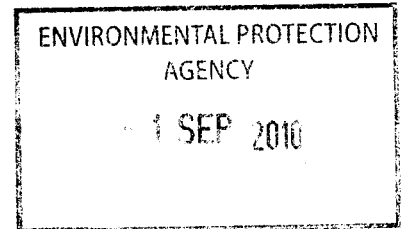
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The Secretary,  
Environment Protection Agency,  
Waste Licensing and Permitting,  
PO Box 3000,  
Johnstown Castle Estate,  
Co. Wexford.



~ By Registered Post ~

31<sup>st</sup> August 2010.

Our ref: 22307-09/JN/PW

Your ref: W0161-02

**RE: W0161-02**

**Notification in accordance with Section 42(2) of the Waste Management Acts, 1996 to 2010, of a proposed decision on a waste licence review, in respect of a facility at Bottlehill, Toureen South, Coom (Hudson), Bottlehill, Co. Cork**

**Our clients – John O’Riordan and others known as Bottlehill Environmental Alliance c/o Monee, Mourneabbey, Mallow Co. Cork**

Dear Sir/Madam,

We act on behalf of John O’Riordan and others known as Bottlehill Environmental Alliance.

We refer to the notification and copy proposed decision issued herein. Our clients wish to object to the proposed decision. Please find enclosed the relevant fee being €200. Our clients also request the Agency to hold an Oral Hearing and enclose the further fee of €100 in that regard. Kindly acknowledge receipt.

## Grounds of Objection

Our clients wish to rely on the grounds of objection set out in their letter to the Agency of January 29<sup>th</sup> 2010. For ease of reference these are repeated herein. They also wish to comment on a number of the specific conditions in the proposed licence. Their grounds of objection are as follows: -

### 1. Baled waste

We regret that the EPA Inspector’s Report dated July 6<sup>th</sup> 2010 fundamentally misunderstands the position regarding baled waste even though we had set it out in some detail in our letter of January 29<sup>th</sup> last. We note that the author of that report says that he did not visit the site.

The matter of baling was extensively canvassed during the licensing procedure in 2002/2003. We think it would be helpful at this point to recall the following extracts from the report of Dr. Paul Johnston, Chair of the Oral Hearing, on the question of baled waste. Page numbers

added in square brackets. To begin, he recalls the Council wish to have permission to deposit 40% unbaled waste. He goes on to assess the baling issue in detail, and he comes to the conclusion that baling is essential.

*“Mr David Holland (CCC) reiterated figures in the EIS that on average, 60% of the waste would be (wire-) baled and the rest (40%) loose. Hence there was a need for two operating faces at the landfill. [P 59]*

### **5. Waste Acceptance**

*The most significant issue with respect to the proposed waste licence is the nature of the waste and its volumes. The application is for residual waste, and, as indicated at the hearing, for both baled and loose waste. The meaning of residual was sought during the hearing but it appears that the intention is that (as in the Landfill Directive) any form of treatment will result in ‘residual waste’. However, treatment may be as little as partial separation or a combination of more complex separation and processing operations. While the stated intention of the applicant is to route all the county’s domestic and commercial waste to Bottlehill via ‘treatment stations or MRFs’ at strategic locations, none of these are yet in place.*

*The loose waste component (approximately 40% of the total waste input) is derived from waste that ‘cannot be dealt with practically by the separation facility or is inert’. Moreover, having effectively two operating faces (baled and loose waste) in the landfill throughout the life of the site is neither good operating practice nor good risk management, especially in a hydrologically sensitive environment.*

*The projected waste volumes also indicate that there is likely to be as much organic waste dumped per year at the end of the life of the landfill as at the beginning, notwithstanding the legislative requirement to separate out organic waste and to reduce the volumes landfilled in the medium term – the proportions of organic waste may be improving but the absolute tonnage amounts are predicted to remain relatively stable. Thus, there will be ongoing, long term leachate and gas management problems. The long term sustainability of such a waste management solution at this site remains in question.*

***In short, if this site is to operate under a licence consistent with current waste management practice, it should only be baled waste and also truly ‘treated’ (i.e. fully/practically separated waste) having passed through an appropriate facility. This constraint will also control the number and types***

***of vehicle going to the landfill and will facilitate necessary controls on the route to be taken by the vehicles. [P 83/4] [Emphasis added]***

The concluding paragraph in that extract from Dr. Johnston's Report could hardly be more emphatic. Incidentally his comment about 'truly' treating the waste was farseeing as the later work of the Agency culminating in the June 2009 Guidance Document demonstrates.

His view that all waste should be baled was accepted by the Agency as reflected in condition 1.5.3 which reads:

*"1.5.3 Only baled residual waste shall be accepted for disposal at the facility. Notwithstanding, in exceptional circumstances, particular wastes, where baling is not technically feasible, may also be accepted for disposal at the facility, subject to agreement by the Agency."*

The baling issue was also the subject of this condition couched in terms that demonstrate the value of baling as a guarantor of minimising environmental pollution from the activity:

#### *5.5 Working Face*

*5.5.1 Unless the prior agreement of the Agency is given, the following shall apply at the landfill:*

- a) Only one working face shall exist at the landfill at any one time for the deposit of baled waste other than the deposit of cover or restoration materials;*
- b) Prior to the commencement of waste activities the licensee shall submit a report to the Agency for its agreement as to the size of the working face for the deposit of baled waste;*
- c) All waste deposited at the working face shall be covered with suitable material as soon as is practicable and at any rate prior to the end of the working day."*

The reasons outlined by Dr. Johnston are as valid now as they were at the time he wrote his report and there is, we submit, no reasonable environmental basis for the Agency to change its mind on the matter. The only substantive ground in reality is to save the Council money. That is not an adequate basis for such a dramatic change in the character of the licence or for repudiating the clear recommendation of Dr. Johnston.

The EPA Inspector's Report of March 6<sup>th</sup> 2010 recommends dropping the requirement for baled waste and the deletion of the two conditions cited. In doing so he states '*the oral hearing did therefore consider the matter of acceptance of a significant proportion of unbaled waste.*' That statement is true as far as it goes. However, what follows in the Inspector's Report goes on to miss the point that the Chair of the Oral Hearing came down clearly and for stated reasons *against* accepting a significant proportion of unbaled waste. This makes the comments of the Inspector at section (vi) incomprehensible: '*the Agency included these conditions [1.5.3 and 5.5] as their inclusion was requested by the licensee in the licence application*' That is simply not the case. The Council wanted permission to deposit up to 40% of the waste in unbaled form. That request was recommended against by the Chairman and was duly refused by the Agency.

## 2. Treatment facilities and waste acceptance

The intent at the time of the initial application was that the Council, which then had a near monopoly on the collection of the waste streams intended to be deposited at the landfill, a situation which has now changed significantly, would have a large scale materials recovery facility which it would operate in conjunction with the landfill. In the intervening years, that plan has receded and it now appears that the waste would instead be separated predominantly by private operators in a variety of locations before being hauled to the landfill site. That change necessitates a close examination of the waste acceptance procedures. The Agency's Guidance Document is timely and welcome in this context.

The licence deals with waste acceptance and characterisation procedures as follows: -

*"5.3 Waste Acceptance and Characterisation Procedures*

*Prior to commencement of waste acceptance at the facility, the licensee shall submit to the Agency for its agreement written procedures for the acceptance and handling of all wastes.*

*These procedures shall include details of the pre-treatment of all waste to be carried out prior to acceptance at the facility.*

Because of the additional challenge posed by the multitude of separation facilities sending waste to the site, we submit that the Agency should be more specific in the licence conditions about the procedures for the examination, testing, acceptance and handling of all wastes including details of the pre-treatment to be carried out prior to acceptance.

## 3. Leachate Treatment

Dr. Johnston recognised this as a particularly critical issue at this site—

*In short, the hydrological assessment in the EIS was seriously deficient although a 'worst case' approach was used for design purposes. However, provided the hydrological and hydrometeorological regime can be confirmed on site, including a full delineation of the surface and groundwater catchments involved, and the operational difficulties of a wet and windy site are accepted, the site could be engineered to contain and manage the relevant emissions – i.e. capping, lining and leachate/gas/stormwater emission control. [P 78]*

The licence contained a requirement to have confirmation from the Council about the suitability and operational effectiveness of the Mallow Waste Water Treatment Plant. Up to date evidence should be sought and produced at this stage in relation to the plant's ability to ensure compliance with the requisite standards currently and into the future once the leachate is arriving at the plant from Bottlehill.

#### **4. Hydrological and hydro-meteorological study and catchment delineation.**

As the quotation above shows, there was an outstanding need for the hydrological and hydrometeorological regime to be confirmed on site, and for a full delineation of the surface and groundwater catchments involved. That remains to be done so far as we are aware. This review presents an opportunity to complete these tasks. Recent extreme rainfall events underline the necessity to obtain this information.

Turning to the terms of the proposed decision our clients make the following comments in regard to the conditions specified below:

- 1.5.2 Says no sludges shall be accepted while 7.8.8 speaks of biological sludges being deposited of at site. There appears to be a contradiction here.
- 1.7.1 The licensee should not be left to make such a serious determination. It should be reserved to the Agency
- 1.7.5 How will it be possible to monitor the stabilised waste in loose format mixed and packed?
- 1.12 This licence is in place of existing licence which was never used as no waste was deposited, so there has been no trial of licence or systems.
- 4.4 CRAMP. This should be prepared before land filling begins as it will be very costly.
- 5.6.2 This refers to bio-stabilised waste is vague and refers to animal by products. This is a long way from municipal waste.

- 5.10.8 This condition amounts to opening the floodgates as the two receiving streams in Bottlehill are quite small and the dilution effect on the quantities of leachate as identified in the EIS could have disastrous effects on surface and ground water. It contradicts condition 6.4.1
- 5.12.2 The licensee must seek a felling licence not consult.
- 7.3.7 This is excessively vague.
- 7.8.8 This condition speaks of biological sludges. See comment above at 1.5.2
- 11.4.2 This is excessively vague
- 12.1-12.4 These conditions amount to a very significant cost and must be in place together with all necessary legal, security, and financial guarantees prior to any waste entering landfill.

**Further Response to Inspector's report of March 6<sup>th</sup> 2010:**

The review was initiated in December 2009 and the proposed decision issued in August 2010. There were over sixty changes proposed to the original licence.

The facility although built has never opened. This is not adverted to in the Report.

There is much reference to bio-stabilised waste.

The Inspector makes many references to historical documents and the original EIS but makes no reference to the central case advanced by the applicant on day one: that this would be an engineered landfill for Cork city and County to accept 350,000 tonnes of treated, baled waste after coming through a central MRF.

No reference was made to Cork City Council decision to withdraw from the project, thus removing 40 to 50% of the waste stream and the decision of Indaver Ireland to apply to build an incinerator for 150,000 tonnes of municipal waste – these factors in effect would reduce the requirement for landfill to almost nil.

Reference is made to privately operated MRFs but there is no clarity as to the standard of material coming from this variety of sources, or the regulation or inspection system to ensure compliance with waste management legislation.

The report seemed vague on what is being done in Glasgow saying they have apparently abandoned baling, while there was no report from the Dublin facility at Arthurstown where baling has been practiced for the past twenty years .

The Inspector's response to (vi) nature of pre-treatment of waste as being dealt with as (n) "other matters" is not understood.

The Inspector gave a very negative response to the Hydrological and Hydro meteorological study recommendations made by Dr Paul Johnston, Chair of the original oral hearing, while at the same time giving the green light to the study of treatment of leachate on site, placing a huge challenge on the surface and groundwater Bottlehill catchments.

The reference to '*cross office consultation*' is quite vague with no indication as to whether any of the personal involved has worked at a baled site or whether they have ever visited Bottlehill site. No information is given regarding the questions asked and responses given. Litter control and high winds for unbaled material at a site with wind speeds 40% greater than Cork airport seen to have been overlooked.

**Further issues:**

Most of the original E.I.S. is defunct at this stage. We submit that a new EIS should be prepared to comply with the EIA Directive and implementing regulations.

The planning permission for the site was granted by An Bord Pleanála in the context of the original licence terms which included the baled waste limitation. That limitation had a direct influence on the Board's determination as it affected the traffic flows and the nature of the vehicular traffic approaching the site. The need for a coherent examination of the environmental impacts presupposes a reliable up to date EIS. Without that the Agency cannot carry out a valid assessment under the EIA Directive. The European Court of Justice is at present preparing its judgement in the European Commission's case against Ireland for failure to ensure a coherent system of environmental impact assessment as required by the directive. The Agency should, we submit, await that decision and consider what implications if any may arise from it in the context of this review.

Cork County Council yesterday announced the termination of its waste collection functions in the county. That function will now be the exclusive preserve of private enterprise. This change is likely to have profound implications for the future of the Bottlehill site. The community is entitled to have these implications teased out methodically in a public forum so that all necessary information is made available and that the best possible decision emerges at the end of this process.

Yours sincerely,

  
**Joe Noonan,**  
**NOONAN LINEHAN CARROLL COFFEY**