



Raggotstown,  
Ballinakill,  
Co. Laois.

Date: 10/11/2010

<b>Type of Objection:</b>	<b>Third party objection against some conditions.</b>
<b>Objector Names:</b>	<b>Mr Nicholas Lacey.</b>
<b>Location of the activity:</b>	<b>Moate, Ballinakill, County Laois.</b>
<b>Fee due for Objection:</b>	<b>€126.</b>

Dear Sir/Madam,

We refer to the Proposed Determination (Your Ref Licence Register No. PO 710-03) issued to Mr. Paul Tully which may affect our rights to acquire and use of pig manure from this site.

In common with all farmers we keep farm records in relation to our farm as required by the Nitrates Regulations.

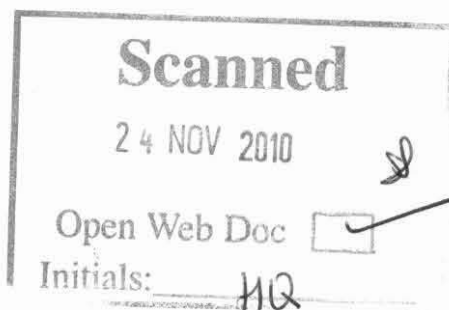
We are entitled to acquire fertiliser, including pig manure if we want to, from sources of our choice for use to satisfy crop requirement for N and P on our farms.

We may well request a supply of pig manure from Mr. Paul Tully's pig unit on one or more occasions this year, but we do not have to give notice of our requirements to him, or to the EPA or to any authority at this time.

Mr. Tully referred to some approval of us or our land by the EPA in relation to suitability to be supplied with pig manure. We do not need and will not seek any approval from the EPA and we do not allow you to seek it for us either. We don't need permission or approval to fertilise our land to grow our crop.

We are not looking for any licence and we know we do not need any licence to fertilise our land with animal by-product pig manure if and when we choose fertiliser in that form to satisfy our requirement for N and P.

We do not want to have any entitlements that we know we now have taken from us as a condition of being supplied with animal by-product pig manure with which to fertilise our land.



## **Condition 6 – Control and Monitoring**

### **Condition 6.3 & table headed "Lands Used for Landspreading" in Schedule C.6.2**

We object to this proposed condition as set down in proposed condition 6.3. This objection is limited to the implied requirement for the applicant/licensee to monitor and control some of our farmlands and holding as proposed in condition 6.3 and in the table headed "*Lands Used for Landspreading*" in "Schedule C.6.2 – Ambient Monitoring" in the Proposed Determination. This is the same proposed requirement as is set down in more specific terms in proposed condition 8.12.4. This is a very important matter, as it is not at all based on anything in the application that either states or suggests that the applicant "used" or "uses" any land for "landspreading" or for any action associated with the deposition of manure or any other fertiliser on farmland. We assert that the matter to which we object in the strongest possible terms is entirely based on the misunderstanding and/or misinterpretation of the relevant facts in relation to the lawful supply of manure to us for our use and benefit, as was clearly stated in the application for a licence and as is fully provided for in Article 3(b) in S.I. 252 of 2008 and Article 20 in Regulation EC/1774/2002 (as amended), and in S.I. 253 of 2008. Condition 6.3 and the associated Schedule should be removed from the licence because it is not relevant to the applicant/licensee and is not applicable to him or his installation.

Mr. Tully has no authority to **either access or control or monitor** lands in our or any farmers' / customers' holdings. Mr. Tully cannot perform the soil sampling and testing indicated in that table in Schedule C.6.2 as being required of him by the proposed licence. He cannot require us or any customer to carry out such sampling and testing. Such sampling and testing and interpretation of the results of any such sampling or testing that we or any customer may do are all matters for us. The records and documents in relation to fertiliser movements (including animal manure movements) into and/or out of the holding that are required to be maintained by the occupier of each and every holding in the State are prescribed in Article 23(1) in S.I. 101 of 2009. We believe that the Agency knows that Conditions of the Mr. Tullys' licence cannot impose any burden on persons who are lawful customers for manure and that it is wrong for the Agency to propose or include any such conditions in his IPPC licence. Management of fertiliser acquisitions and their use of fertilisers on customers' holdings is a matter for each customer. That is clear state policy as provided for in S.I. 252 of 2008, S.I. 253 of 2008 and S.I. 101 of 2009. Those are not matters for either control or influence by conditions in the licence when granted. How could such conditions be complied with by any licensee?

**Condition 8.11. Slurry/Manure as fertiliser or as waste.** We object to this proposed condition in the strongest possible terms. We believe the proposed requirement that:



*Slurry/manure shall be considered to be a manure or fertilizer when recovered as defined in the Waste Management Acts 1996 to 2008 and as agreed by the Agency.*

is a wrong and inappropriate text that the applicant/licensee cannot assess or administer on lands (such as ours) that he neither owns or controls. It is a statement rather than a condition, and it has no place as a condition of the licence.

There is no manure discarded on our lands. We understand that the deposition of waste on land with benefit to agriculture is a waste recovery operation. However, in relation to pig manure that is by-product by reference to the Animal By-products Regulations (S.I. 252 of 2008 and Regulation EC/1774/2002) and to the Directive on waste (2008/98/EC; Recitals 12 and 22 and Articles 2 and 5), the deposition of by-product pig manure on land to supply fertiliser nutrients as provided for and as controlled under the Nitrates Regulations (S.I. 101 of 2009 and Directive 91/676/EEC) is lawful use of the manure and is not a waste recovery activity. Those Regulations, not the Waste Management Acts referred to in the proposed condition 8.11 are the basis of the system under which the deposition and use of pig manure on farmland by farmers in general (including customers for pig manure), is governed. We respectfully put it to the Agency that neither the Waste Management Acts nor "*as agreed by the Agency*" apply to the deposition and use of pig manure from this installation on our land because deposition and use is required to be in accordance with the terms prescribed in Fertilisers and Soil Improvers Order (S.I. 253 of 2008) and the Nitrates Regulations (S.I. 101 of 2009). The statement that "*Slurry/manure shall be considered to be a manure or fertilizer when recovered as defined in the Waste Management Acts 1996 to 2008 and as agreed by the Agency*" is not relevant to this applicant or to this pig rearing installation because it is wrong to infer that the use of manure of any farmed animals by deposition on our farmland is subject to control under the Waste Management Acts. Accordingly, it is necessary that Condition 8.11 either be deleted from the licence, or be replaced with the reference to the Waste Management Acts substituted by a reference requiring that manure transferred from the installation for use, be in accordance with terms and standards prescribed in S.I. 253 of 2008 and S.I. 101 of 2009.

A condition requiring that the sale or supply and transfer of pig manure to farmers and that the recording of all such transfers be in accordance with terms prescribed in The Animal By-products Regulations (S.I. 252 of 2008), and the related Regulations in S.I. 253 of 2008, and in the Nitrates Regulations (S.I. 101 of 2009) would be appropriate, practical, and fully workable.

**Condition 8.12. Slurry/Manure recovery by landspreading.** We object to inclusion of this proposed condition in this licence because most of what it contains is not relevant

or applicable to Mr. Tully or to his installation or the licensable activity. Please read and analyse:

*8.12 Slurry/manure shall only be recovered by landspreading subject to the prior agreement of the Agency and the following conditions:*

by reference to the following very relevant facts:

- The proposed condition, like all other conditions must "speak to the licensee",
- Interpretation of the condition has to have regard to Condition 1 – Scope,
- Interpretation of the condition has to have regard to relevant statutory obligations, as is acknowledged in condition 1.6,
- Interpretation of the condition has to have regard to the Regulations referred to in proposed condition 8.12.5 that are binding on all those who engage in and are responsible for "landspreading" which is "*The application of slurry/manure to farmland*", irrespective of whether that proposed condition 8.12.5 is in this licence or is not in it,
- The proposed condition may or would be applicable to slurry/manure recovered by the licensee by landspreading in the installation,
- How can the proposed condition if included in the licence be applicable to the licensee in relation to slurry/manure sold or supplied and transferred to me and other customers as is provided for in relevant European and National legislation (S.I. 252 of 2008, S.I. 253 of 2008 and S.I. 101 of 2009) because the "landspreading", that is the application of slurry/manure to farmland" is by the customers and is on farmlands that are obviously and necessarily outside the installation, and so are in separate holdings outside the scope of the licensee and all conditions of the licence)?
- The use and the application of slurry/manure to fertilise farmland outside the installation by me and other farmer customers, which use is generally authorised and is regulated under the legislation referred to in the previous indent, is not a matter for either control or additional control by Mr. Tully, or by or through his licence,
- Mr. Tully does not engage in any "landspreading" in the installation and he is not the responsible party in relation to the application to our farmland of any fertilisers, including fertiliser / pig manure produced in the installation and sold or supplied by him from the installation to us in compliance with the governing legislation in S.I. 252 of 2008, and S.I. 253 of 2008 and is recorded as required under Article 23(1)(g) in S.I. 101 of 2009.

We believe that the Agency and its relevant staff know that the producers of pig manure / fertiliser and suppliers of that pig manure / fertiliser to farmers who want it for their holdings, are required by separate legislation that is independent of the IPPC system, to store it manage it and use it in accordance with prescribed standards binding on them in the context of their holdings. Equally, the Agency and its staff know that the applicant/licensee does not use in the installation any of the manure produced as an

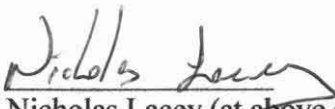


animal by-product along with the pigs that is main product for sale. In those circumstances, proposed condition 8.12 would not serve any function in his licence. It is necessary that the proposed content of condition 8.12 be deleted and not be part of the licence.

We are very concerned about the implications for Mr. Tully of the kind of impossible regime in relation to "landspreading" that the EPA has been trying to impose on him and that the Agency has been trying to have applicants for a licence and licensees voluntarily accept not only on their own behalf but also on behalf of their customers for pig manure. Mr. Tully informed us of the long history of conflict and confusion in relation to those "landspreading" and related conditions in licences that refer to and relate to "*the application of slurry/manure to farmland*" where the application referred to is the statutory responsibility of, and is under the statutory control of, the **occupier of the holding** on which the slurry/manure is applied. Against that background, we request that the Agency respect all the relevant separate legislation under which the distribution and use of animal manure is so comprehensively regulated and controlled.

We recommend that the Proposed Determination in this instance be amended to respect existing legislation. We consider the Proposed Determination to be seriously flawed in relation to the conditions as addressed above, and on that account we consider it to be unfair and prejudicial to our rights and interests as farmers who may use pig manure from this installation.

Yours Sincerely



Nicholas Lacey (at above address)



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