

This report has been cleared for submission to the Board by the Programme Manager Frank Clinton.  
Signed [Signature] Date 7/7/10

**OFFICE OF CLIMATE,  
LICENSING & RESOURCE  
USE**



**ADDENDUM TO INSPECTORS REPORT ON A WASTE LICENCE APPLICATION**

<b>To:</b>	Directors
<b>From:</b>	Aoife Loughnane - Environmental Licensing Programme
<b>Date:</b>	28 <sup>th</sup> June 2010
<b>RE:</b>	Application for a Waste Licence from Lennon Quarries Ltd., Tallagh, Belmullet, Co. Mayo. Licence Register W0256-01

This memo should be read in conjunction with my inspectors report on Waste licence application W0256-01 from Lennon Quarries Limited, dated 22<sup>nd</sup> April 2010.

Licence application W0256-01 was considered at the Board meeting on 11<sup>th</sup> May 2010. A decision on the application was deferred pending legal opinion as to whether the Agency can issue a licence for a long-term activity when there is only a short-term lease in place.

Legal advice on the matter was received from Barry Doyle & Company, dated 10<sup>th</sup> June 2010. In principle, there is no objection to the matter. A person cannot carry on an activity other than under and in accordance with a licence, and cannot obtain a licence – or the transfer of a licence – unless he/she/it is a fit and proper person to hold a licence. Thus, where the lease ends, the landlord cannot carry on the activity without obtaining a transfer of the licence; and the licensee should continue to be liable for any environmental pollution resulting from acts or omissions while he/she/it was in occupation.

The legal advice notes that the lessor (Erris Farm Services Co-Operative Society Limited, Belmullet, Co. Mayo) has expressly consented to the activity, and this may prove significant if the Agency subsequently wishes to hold the lessor responsible as a holder of waste.

Notwithstanding the above, the legal advice suggests the possible inclusion of an additional condition in the licence to either:-

- (i) limit the life of the licence to a period shorter than the lease, or
- (ii) require cessation of the activity upon expiry of the lease unless the licensee has, in the meantime, purchased the freehold of the site or secured a new lease, or unless the lessor has secured a transfer to him/her of the licence.

The applicant stated in the licence application that they intend to secure a new lease on the site upon completion of the existing lease. They have since provided, in unsolicited additional information received by the Agency on 28<sup>th</sup> June 2010, a legally binding contract for purchase of the land, subject to a waste licence being granted.

**Recommendation**

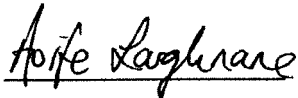
Due to the long-term nature of the proposed activity and based on the legal advice, I recommend the inclusion of an additional condition 1.8 in the RD as follows:

**1.8 Waste activities at the facility shall cease upon expiry of the lease unless the licensee has, in the meantime, purchased the freehold of the site or secured a new lease, or unless the lessor has secured a transfer to him/her of the lease.**

I also recommend including a definition of 'lessor' in the licence glossary of terms:

**Lessor: Erris Farm Services Co-Operative Society Limited, Belmullet, Co. Mayo.**

Signed:



Aoife Loughnane

Inspector

Environmental Licensing Programme



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**ADDENDUM TO INSPECTORS REPORT ON A WASTE LICENCE APPLICATION**

<b>To:</b>	Directors
<b>From:</b>	Aoife Loughnane - Environmental Licensing Programme
<b>Date:</b>	12 <sup>th</sup> July 2010
<b>RE:</b>	Application for a Waste Licence from Lennon Quarries Ltd., Tallagh, Belmullet, Co. Mayo. Licence Register W0256-01

This memo should be read in conjunction with my inspectors report on Waste licence application W0256-01 from Lennon Quarries Limited, dated 22<sup>nd</sup> April 2010, and the addendum to the inspectors report, dated 28<sup>th</sup> June 2010.

A submission on this licence application was received by email on 8<sup>th</sup> July 2010 from Ms. Maura Harrington, Doohoma, Ballina, Co. Mayo. Ms. Harrington wishes to draw attention to a matter arising from the unsolicited additional information submitted by the applicant on 27<sup>th</sup> May 2010. The submission states:

*"Please be advised that it is of material interest to your consideration of the application before you that the vendors do not have undisputed ownership – as either lessees or vendors – of Plot H as outlined in the documents submitted to you on 27/05/2010".*

**Response:** Plot H, as referred to in this submission, is shown on the Folio map attached to this memo. It should be noted that while the applicant may be looking to purchase all of Plot H, the licence boundary is limited to the red line boundary as shown on Drawing No. 2084-2612/Revision B *Existing and Proposed Site Infrastructure*, which is also attached to this memo. Ms. Harrington has not given any evidence that another party is contesting (or might contest) the ownership of the land.

The applicant submitted further unsolicited additional information on 28<sup>th</sup> June 2010, consisting of a cover letter from Cahill & Cahill Lawyers, Castlebar, Co. Mayo, and a binding contract for sale of land, signed on behalf of Erris Farm Services Co-Operative Society Limited (the vendor) by two of its Directors, and on behalf of the applicant, Mr. And Mrs. Lennon, as purchasers.

As outlined in the addendum to my inspectors report dated 28<sup>th</sup> June 2010, I recommend the inclusion of an additional condition 1.8 in the RD (based on legal advice) as follows:

**1.8 Waste activities at the facility shall cease upon expiry of the lease unless the licensee has, in the meantime, purchased the freehold of the site or secured a new lease, or unless the lessor has secured a transfer to him/her of the licence.**

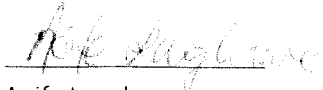
I also recommend including a definition of 'lessor' in the licence glossary of terms:

**Lessor: Erris Farm Services Co-Operative Society Limited, Belmullet, Co. Mayo.**

**Recommendation:**

The RD, in particular Condition 1.8 recommended in my addendum inspectors report dated 28<sup>th</sup> June 2010, adequately addresses the issue of land leasing and ownership arrangements. I recommend no further change to the Recommended Decision on foot of this submission.

Signed:



Aoife Loughnane

Inspector

Environmental Licensing Programme