

Extract from the Minutes of the 639th Licensing Meeting of the Environmental Protection Agency, held on 7 December 2010 at Headquarters, Johnstown Castle Estate, Co Wexford

Recommended Decision on an Application for a Review of a Waste Licence and on Application for a Licence

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| (i) Cavan County Council | (ii) Oxigen Environmental Limited |
| Corranure Landfill | Merrywell Industrial Estate |
| Lismagratty and Corranure Townlands | Ballymount Road |
| Cootehill Road | Dublin 22 |
| Cavan | Reg. No. W0248-01 |
| Co. Cavan | |
| Reg No. W0077-04 | |

These two applications relate to an existing landfill at Corranure, Cootehill Road, Cavan which is at present licensed under and subject to the conditions contained in Waste Licence No. W0077-03 and in the sole ownership of Cavan County Council which is the licensee to whom that licence was granted. The application for review of licence lodged by Cavan County Council reference no. W0077-04 is for a review of the existing licence. If granted this would reduce the area of the landfill owned by the Council and the subject of the licence. The Council proposes to transfer the remaining portion of the facility to Oxigen Environmental Limited. It is proposed that the section retained by Cavan County Council should be the subject of the new revised licence applied for (W0077-04) and that the remainder including the current cells 3 and 4 should pass into the ownership of Oxigen under deed of transfer providing for change of ownership and already provisionally agreed between the parties. In furtherance of this proposal Oxigen have applied for a new licence W0248-01 in respect of that portion of the landfill area to be acquired by the company. It is proposed that these lands would then be used under and subject to the conditions of the new licence. It is not proposed that there should be a surrender of the existing licence W0077-03 but rather that the licence in a limited and reviewed form would continue in existence in relation to the lands retained by Cavan County Council. For that reason the two proposals have been considered jointly by the Board.

The Directors noted that following detailed discussion a decision on the Cavan County Council application had been deferred at their meeting on 2 November 2010. Clarification of various issues raised at that meeting were sought, which resulted in an addendum to the Inspector's report and a new recommended decision being placed before the Board. The following documentation was considered; recommended decision dated 29th September 2010, summary report of the Inspector dated 29th September 2010, addendum to Inspector's report dated 1st December 2010 and new recommended decision dated 1st December 2010. Four submissions were also tabled.

A copy of the licence application was available electronically.

B. Meaney gave a verbal presentation.

The Directors also considered the application from Oxigen Environmental Limited for the development of an integrated waste management facility to include operation of landfill cells 3 and 4 of the existing non-hazardous landfill currently owned by Cavan County Council and operated under waste licence W0077-03, development of a materials recycling facility and a biological treatment facility and upgrade of a civic amenity.

The following documentation was submitted to the Board on the 2nd November 2010 – recommended decision and report of the Inspector dated 29th September 2010 and 141 submissions. The directors further noted that they had deferred their decision on whether or not to grant a licence at their meeting on 2nd November 2010.

A copy of the licence application was available electronically.

B. Meaney gave a verbal presentation.

Inspector's Reports

The Directors noted the inspector's reports and noted that the entirety of the lands covered by both applications had historically been operated as one facility, both prior to the enactment of the Waste Acts 1996 and subsequently under licence W0077 as amended from time to time. The present facility is controlled by and subject to compliance with the conditions contained in that licence and has evolved and been managed as an integrated unit. The proposed transfer of land and associated review of licence and issue of a new licence to unrelated parties presents difficulties in regard to the imposition of conditions which would ensure that the combined operation of the reduced existing facility and the area newly licensed would not cause environmental pollution. The Directors were not satisfied that the proposal would provide for proper protection of the environment. In reaching this conclusion the Directors were mindful of the possible effects on the environment in the event of unauthorised or accidental discharges. There would be ongoing difficulties in supervision of the two contiguous but separate facilities and in determining the source of any pollution which might occur and liability (as between the two licence holders) for any such pollution. This difficulty would affect any necessary enforcement action. In the light of these conclusions the Directors were not satisfied that there would be sufficient protection for the environment to allow them to conclude that no environmental damage would ensue.

Proposed Decision in Relation to Each Application

(i) Cavan County Council - Review Application

Following detailed discussion, the Directors decided to accept the recommended decision of the inspector, as per the Addendum to Inspectors Report of 1 December 2010 and associated Recommended Decision dated 1st December 2010 and to grant a licence, as modified, to Cavan County Council, for their facility, Corranure Landfill at Lismagratty and Corranure Townlands, Cootehill Road, Cavan, Co. Cavan, Register of Licence No. W0077-04 retaining Cavan County Council's responsibility as sole licensee for the entire facility, subject to the conditions as set out in the licence.

(ii) Oxigen Environmental Application – New Licence

Following detailed discussion, the Directors decided to issue a proposed decision to refuse to grant a licence on the following grounds: The Directors were not satisfied that the activity concerned, carried on in accordance with such conditions as may be attached to a licence, would not cause environmental pollution. The Directors were not satisfied that allowing the landfill to operate under two licences would not create difficulty in enforcing licence conditions and considered that the potential effect of the landfill extends beyond the site boundary and that any impacts detected at external locations would not easily be attributed to either licensee, operating, as proposed, at two contiguous but separate facilities. The Directors considered that this would create difficulties in relation to supervision of the facilities and enforcement of conditions due to the impossibility of proving the source of emissions harmful to the environment.