

This Report has been cleared for submission to the Board by Frank Clinton, Programme Manager
 Signed: *Frank Clinton* Date: *5/5/11*



OF
LICENSING & RESOURCE USE

REPORT OF THE TECHNICAL COMMITTEE ON OBJECTIONS TO LICENCE CONDITIONS

TO:	Directors
FROM:	Technical Committee - LICENSING UNIT
DATE:	5 th May 2011
RE:	Objection to a Proposed Decision for Cavan County Council for the Corranure Landfill (Waste Register No. W0077-04).

Application Details	
Type of facility:	Non-hazardous landfill and civic amenity area
Classes of activity: (P = principal activity)	3rd Schedule: Classes 1, 4, 5[P], 7, 11, 12, 13 4th Schedule: Classes 2, 3, 4, 9, 11, 12, 13
Location of activity:	Lismagratty and Corranure Townlands, Cootehill, Cavan.
Licence application received:	22 nd September 2008
PD issued:	15 th December 2010
First party Objection received:	20 th January 2011
Third Party Objections received:	19 th January 2011 (2 No.)
Submissions on Objections received:	21 st February 2011 (2 No.)

Site

The review application relates to an existing facility which comprises the Corranure landfill and civic amenity site. The licence for the facility is in the name of Cavan County Council but the facility has been operated by Oxigen Environmental Ltd under agreement since 2007. The facility is currently permitted to accept 90,000 tonnes of waste per annum, principally for landfilling (under existing licence W0077-03). The facility is comprised of four landfill cells – called cells 0, 1, 2 and 3. Cells 0, 1 and 2 are full and have been capped in accordance the existing licence (W0077-03). Cell 3 has been full since March 2010 and temporarily capped since April 2010. A final cap is to be applied to the cell no later than 2012 as required by the existing licence. A further cell (cell 4) is under construction and was agreed with the OEE as a specified engineering works (SEW) under the existing licence. No approval has been granted to date by the OEE for filling of cell 4 with waste.

In September 2008, Cavan County Council applied for a review of the waste licence (W0077-04) for the purpose of disclaiming their responsibility and liability for operational cells 3 and 4, associated landfill infrastructure and certain lands under its ownership at the facility. Under a contract for sale agreement, these cells, infrastructure and land were to be sold to Oxigen Environmental Ltd along with the civic amenity site and all associated landfill infrastructure, such as leachate and landfill gas management equipment.

In parallel, and also in September 2008, Oxigen Environmental Ltd made an application for a new waste licence (W0248-01) to operate an integrated waste management facility at the site with a proposal to take responsibility and ownership of cells 3 and 4, associated lands, the civic amenity site and landfill infrastructure. Oxigen Environmental also proposed to establish and operate a materials recovery facility (MRF) and mechanical biological treatment plant (MBT) as new developments on the same site.

In seeking the review of the existing licence (W0077-03), Cavan County Council proposed that the scope of the revised licence (W0077-04) would be restricted to the aftercare and management of the closed cells (namely cells 0, 1, and 2). The proposed facility was to be subject to Cavan County Council's management and was not to accept waste. Neither cells 3 and 4 nor the civic amenity site were the subject of the licence review application. The new licence application by Oxigen Environmental was for the operation of cells 3 and 4, the civic amenity site and, the yet to be developed, MRF and MBT.

On the 2nd November 2010, the Inspector's Report and Recommended Decision (RD) (W0077-04) were discussed at a Board meeting of the Environmental Protection Agency. As the two applications are inextricably linked, the application by Oxigen Environmental Ltd for a new licence and RD (W0248-01) were also discussed. Following that discussion, the licensing inspector prepared an Addendum to the Inspector's Report (dated 01/12/10) and amended the RD (W0077-04). The amended RD is an amalgam, primarily, of the licence that had been originally recommended by the Inspector (dated 29/09/10) for Oxigen Environmental Ltd (W0248-01) prior to the Board meeting of the 2nd November, and secondarily of the existing licence (W0077-03). The amended RD recommended:

- Retention of Cavan County Council's responsibility as licensee for the entire facility; and
- Consideration of other issues regarding the landfilling of waste and control of emissions at the facility.

The amended RD (W0077-04) was discussed at a meeting of the Board of the Environmental Protection Agency on the 7th December 2010. The Board also considered the application for a new licence by Oxigen Environmental (W0248-01). The Proposed Decision (PD) of the Board with regard to licence applications W0077-04 and W0248-01 was as follows:

- Acceptance of the Inspector's RD and Addendum to the Inspector's Report and to grant a licence to Cavan County Council for the facility at Corranure (W0077-04). The licence would provide for ongoing landfilling and operation of the civic amenity site at the facility. Cavan County Council would retain

responsibility as sole licensee for the entire facility. A PD issued on the 15th December 2010.

- Refusal to grant a licence to Oxigen Environmental Ltd for the proposed integrated waste management facility. A PD issued on the 15th December 2010

Four submissions were received in relation to this application (W0077-04). These were considered by the Board at PD stage.

Consideration of the Objections

This report considers the first party objection, two valid third party objections and submissions on objections. The Technical Committee, comprising of Michael Owens (Chair) and Ewa Barbiarczyk has considered all of the issues raised in the Objections and the submissions on objections. This report details the Committee's comments and recommendations following the examination. The Technical Committee consulted the licensing inspector, Brian Meaney and Kealan Reynolds (OEE Inspector for the site) in relation to various issues related to the facility.

The two PDs for the overall facility (W0077-04 and W0248-01) are inextricably linked. While objections and matters directly related to PD W0248-01 are dealt with by way of a separate Technical Committee report, it is necessary to refer to PD W0248-01 at times below when considering objections inter-related to this PD (W0077-04).

First Party Objection

An objection was received from Mr Gerry Carty of RPS, acting on behalf of Cavan County Council. The objection sets out 25 reasons as the basis for the objection. So as to eliminate or reduce as much as possible any repetition in the consideration and replies of the Technical Committee a number of the objections have been combined and summarised below. Therefore the number of each objection below does not necessarily match the number as provided in the actual objection document itself. The original objection document may be referred to if required for the full text of the objection.

A submission on the Objection made by the First Party was received from a Third Party (namely 'Cavan for Better Waste Management Group'). The Third Party's submissions on the Objection are dealt with in association with the points of the first party's Objection to which they relate.

The objections can be summarised as follows:

- (i) Modifications to the existing licence (W0077-03) are considered to be unreasonable and constitute a lack of fair procedures**

The modifications to the existing licence were not sought by Cavan County Council in their application and it was not apparent during the licensing process that the Agency was considering such modifications.

It is contended that the Agency's ultimate decision is contrary to all consultations held with the Agency on the licence application. Reference is made to a meeting

between Cavan County Council and the Agency on the 12/06/07, at which, according to the objection, various possible future scenarios for the authorisation and operation of the facility were discussed. According to the objection, one of the possible scenarios discussed was the proposed splitting of the facility in terms of ownership and authorisation and it is contended that the '*EPA saw no difficulty*' in this scenario at the time. An example of a similar scenario was raised at that meeting whereby infrastructure was shared between two Agency-licensed facilities in Co. Cork (i.e. ADM and Pfizer Ringaskiddy).

In addition, the objection points to the fact that in the period during which the licence application was being processed, the Agency did not seek any further information or clarification from the applicant nor did the Agency seek to address any concerns that it may have had in relation to proposed splitting of the site. Furthermore, it is contended in the objection that the 27 months taken by the Agency to process the licence application is '*excessive*' and represents a '*fundamental lack of fair procedures on the part of the EPA*'.

Submission on Objection

The submission supports the Agency's Proposed Decision. It is added that as the Agency derives its mandate from the relevant legislation there can be '*no question of unfair procedures undertaken on the part of the EPA*'.

Technical Committee's Evaluation:

Cavan County Council may not have sought the licence that is now proposed for their facility but it would be remiss of the Agency, having originally recommended a range of appropriate controls in a licence for Oxigen Environmental Ltd to operate the 'active' part of the facility into the future (under RD W0248-01 as it was recommended on the 29/09/10), to then *not* include such controls in the PD for Cavan County Council to operate the whole facility (by way of proposed licence W0077-04), even if the controls were not sought originally by them.

The Agency's licensing process is well understood and fully transparent. Despite any expectations that may emerge regarding a licence application, the final decision will always lie with the Board of the Agency.

Whereas other examples of shared infrastructure between licensed facilities exist, they are not common. The approval of such scenarios is always taken on a case-by-case basis and approval of such proposals should not be presumed. The Agency will normally assess any such scenario and approve it or otherwise based on the merits and/or suitability of the scenario. In this case, the Agency has proposed not to accept splitting of the site in the manner that was proposed in the licence application for the reasons that are outlined in the Minutes of the Board meeting¹ and the PDs as issued.

The Agency Inspector did not seek any further information from the applicant as he was satisfied that he had all the necessary information available to process the application and to make a recommendation to the Board.

¹ Extract from the Minutes of the 639th Licensing Meeting of the EPA (7th December 2010).

The fact that a period of 27 months was required to process the licence application to Proposed Decision stage has no bearing on the nature of the decision of the Board.

Recommendation: No Change

(ii) The Proposed Decisions of the Agency are not in accordance with the legislation

A number of matters are raised under this point so they are dealt with separately.

1. It is contended that the reasons for proposing to refuse grant of waste licence number W0248-01 to Oxigen Environmental Ltd are not as set out in Section 40(4)(a) – (e) of the Waste Management Acts 1996 to 2010.

Technical Committee's Evaluation:

Objections directly and solely related to the proposed refusal to grant a waste licence to Oxigen Environmental Ltd (RD No. W0248-01) are considered in a separate Technical Committee Report and, consequently, are not included in the scope of this report.

Recommendation: No Change

2. It is contended that it is '*beyond the lawful power of the Agency....to refuse to review the licence as sought in this case*'. The objection refers to Sections 40(2)(iii) of the Waste Management Acts 1996 to 2010 to that effect and contends that it cannot be applied.

Technical Committee's Evaluation:

The applicant sought a revised licence for authorisation of a closed landfill, reduced in size and separate from an adjacent operational facility. The scenario as proposed would have resulted in the division of the existing facility. The Agency has proposed to not accept the division of the facility as there are concerns regarding the enforcement of two separately authorised facilities as envisaged in the application. The main concern of the Agency relates to attributing responsibility for unauthorised pollution events in such a two licence scenario.

Cavan County Council may not have sought the licence that is now proposed for their facility but it would be remiss of the Agency, having originally considered a range of appropriate controls in a licence for Oxigen Environmental Ltd to operate the 'active' part of the facility into the future (under RD W0248-01 as was originally recommended on the 29/09/10), to then *not* include such controls in the PD for Cavan County Council to operate the whole facility (by way of proposed licence W0077-04).

Recommendation: No Change

3. It is contended that Section 40(4) of the Waste Management Acts 1996 to 2010 cannot apply in the Agency's refusal to grant a revised waste licence.

Technical Committee's Evaluation:

The Agency is not proposing refusal to grant a revised licence to Cavan County Council for operations at the facility. The Agency has in fact proposed refusal to grant a *new* waste licence to Oxigen Environmental Ltd.

Recommendation: No Change

4. It is contended that the Agency has acted '*unreasonably, irrationally and ultra vires*' to refuse to review the waste licence for Corranure landfill on the basis that environmental pollution '*may be exacerbated merely because two waste licensed facilities co-exist side by side*'.

Technical Committee's Evaluation:

The Agency did not refuse to review the waste licence for the facility for the reasons set out in the objection. The Agency has proposed refusal to grant a *new* waste licence to Oxigen Environmental Ltd for the reasons as outlined in the relevant Board Minutes and in the PD (W0248-01 issued on the 15/12/10). They do not include the reasons as set out above in the objection. It is not therefore accepted by the Technical Committee that the Agency has acted '*unreasonably, irrationally and ultra vires*' in this regard.

Recommendation: No Change

5. It is proposed that the Agency's proposed decision is not related to the fact that the divided activities would cause pollution but that the EPA would be unable to '*differentiate between the two separate licences as to who caused the pollution*'. It is contended that it is unjustifiable to refuse the licences under Section 40(4) of the Waste Management Acts 1996 to 2010 as:

- (i) Section 40(4) does not apply.
- (ii) There are clear differences between landfill status (operational versus closed).
- (iii) The use of modern monitoring systems would facilitate the identification of pollution sources.
- (iv) There is no restriction in the Act or Regulations prohibiting the location of adjacent waste facilities.

Technical Committee's Evaluation:

It is accepted that there is no specific legislation prohibiting the location of adjacent waste facilities. The reasons for the Board's Proposed Decisions are as set out in the relevant Board Minutes and PDs as issued. They relate to the Board's general concern with the potential for environmental pollution at the facility as well as the potential difficulty in pin-pointing pollution sources and apportioning responsibility in a two licence scenario of the sort proposed. It is

very possible, in the scenario as was proposed, that where pollution might occur there would be a strong likelihood of difficulty in determining the source of the pollution and that the pollution could continue unaddressed. The OEE might find it technically impossible to accurately attribute the source of the pollution to one or other licensee. This potential scenario could not be acceptable and therefore it would be reasonable to utilise Section 40(4)(b) to refuse grant of a waste licence application.

The proposed use of monitoring systems is dealt with below in Section (xi)(1) of this report.

Recommendation: No Change

6. The objection presents a view of the sequence of events that took place in relation to the Board's consideration of the Inspector's Report, RD, Addendum to the Inspector's Report and subsequent updated RD. It is contended that the Board of the EPA acted *ultra vires* in that regard.

Technical Committee's Evaluation:

The nature of proceedings at Board meetings is well established and well understood. The meetings are carried out within the powers accorded to it under the relevant legislation. The actual sequence of events in this case is summarised above in the first section of this report and are recorded in the Minutes of the Board Meetings of the 2nd November and 7th December 2010. It is not accepted that the Board acted *ultra vires* while it considered the reports of the Inspector.

Recommendation: No Change

(iii) Compliance with Best Available Techniques (BAT)

The EPA Inspector noted in the Inspector's Report (dated 20/09/10) that he was satisfied that measures at the facility will comply with BAT for the sector. It is pointed out in the objection that the Board did not disagree with this.

Technical Committee's Evaluation:

Compliance with BAT is a prerequisite to the issuing of a licence by the Agency and the matter must be addressed in the Inspector's Report. The Inspector's statement regarding compliance with BAT in the Inspector's Report of the 20/09/10 (for W0077-04) referred only to the on-going management by Cavan County Council of closed cells 0, 1 and 2 in a down-sized facility separate to the facility that was proposed for ownership and operation by Oxigen Environmental Ltd (this being the scenario that was assessed by the Board of the Agency and now proposed for refusal). While there is no specific statement in the Minutes of the relevant Board meetings that the Board agreed, disagreed or otherwise considered the Inspector's view on that matter, the Board did however decide that it was not in agreement with the overall proposed division of the facility as it was not satisfied that the proposal would provide for proper protection of the environment. In proposing to grant the PD (W0077-04), the Board considered that the facility, if operated in accordance with the conditions in the PD, will comply with BAT.

Recommendation: No Change

(iv) Financial viability of cell 4

Cell 4 has already been constructed at a cost to Oxigen Environmental Ltd. It is contended that its future use within the parameters set in the PD W077-04 (such as the reduction in the limit for the annual waste intake volume) will make the operation of the facility financially unviable.

Technical Committee's Evaluation:

The financial viability of cell 4 alone, is not related to, and does not have any bearing on the Agency's proposed decision in relation to the PD for the facility. This will be a matter for consideration by the licensee should the PD issue as a final licence.

Recommendation: No Change

(v) Impact of Agency decision on the legal agreement between Oxigen Environmental Ltd and Cavan County Council

It is contended in the objection that the legal agreement between Cavan County Council and Oxigen Environmental Ltd for respective ownership of the proposed two facilities was influenced by feedback from the Agency during consultations at the licensing stage. The objection states that the proposed division of the facility was discussed in detail with the Agency and that the joint indemnity (to address potential interface issues post division of the facility) was provided to the Agency as had been requested. It is contended that the Agency's decision will create a difficult contractual position between the two parties to the legal agreement.

Technical Committee's Evaluation:

Oxigen Environmental Ltd has not objected to the Agency's proposed decision to refuse to grant licence application W0248-01. Following a press release on the 15th March 2011, they have terminated the contract with Cavan County Council for operation of the facility and vacated the site. In any case, the nature of any legal agreements between the parties is a matter for those parties alone and has no bearing on the decision of the Agency.

Recommendation: No Change

(vi) Difference in the nature of controls for operation of cell 4 as set by the Office of Environmental Enforcement and the Office of Licensing, Climate Change and Resource Use

The controls as set out in the PD (W0077-04) in relation to the operation of cell 4 are not aligned with those set previously under the existing licence by the Office of Environmental Enforcement (OEE) at a meeting which was held on the 01/02/10 between the OEE, Cavan County Council and Oxigen Environmental Ltd. For example, the controls as set by the OEE then did not include a reduction in the annual waste intake volume limit.

In addition, a revised Filling Plan and Gas Management Plan for cell 4 was provided to the OEE in December 2010 which set out the proposed approach by Oxigen

Environmental Ltd to fill cell 4 according to the parameters and limits set in the existing licence (W0077-03). This was in a response to a direction from the OEE.

It is contended that the revised plans would address the concerns of the OEE with regard to the filling of cell 4 and that therefore there is no need to modify the existing licence to set a different suite of controls for operation of cell 4 as the controls previously agreed with the OEE could have been incorporated into the PD.

Technical Committee's Evaluation:

The Technical Committee is aware that the revised Filling Plan as was submitted by Cavan County Council in December 2010 has not been approved by the OEE. In addition, notwithstanding the previous directions of the OEE in relation to the operation of cell 4 within the parameters and constraints of the existing licence, the licence review process (for application W0077-04) led the Agency to develop a substantially updated and appropriate licence for the facility taking into account the facility's location, environmental impact, compliance history and the opinions of those who made submissions on the application. An outcome of the licensing process is a new range of controls for the operation of cell 4 as set out in the PD.

Recommendation: No Change

(vii) Appointment of Site Agent

It is stated in the objection that Oxigen Environmental Ltd had proposed the appointment of a 'Site Agent' to the facility. It was proposed that the Site Agent would be provided by the EPA and would oversee operations at the facility and report back to the EPA. It is submitted that Cavan County Council and Oxigen Environmental Ltd understood that the appointment of the Site Agent was to ensure the future operation of the landfill in accordance with the requirements of the existing licence (Register No. W0077-03).

Technical Committee's Evaluation:

The OEE has appointed and used Site Agents in the past to investigate odour complaints at landfills. The use of such agents has ensured a rapid and independent presence for the EPA at landfills. A Site Agent was appointed to Corranure landfill but never acted on the site as landfilling of waste ceased prior to his arrival. In any case the appointment of a Site Agent or otherwise has no bearing on the proposed decision of the Board.

Recommendation: No Change

(viii) Permitted depth of waste in cell 4

Condition 3.4.3 of the PD proposes limiting the depth of waste in cell 4 to 15 metres as opposed to 30 metres, a figure which was originally proposed in the application. The objection refers to the Inspector's Report wherein it is suggested that landfill depths of 30m are not excessive in an international context.

The objection argues that the revised Filling Plan for cell 4 (referred to in Objection No. (vi) above) will address the concerns raised in the Inspector's Report regarding issues associated with the originally proposed 30m waste depth such as increased

waste footprint and delays in installation of gas management and capping infrastructure.

Technical Committee's Evaluation:

It can be seen from the reference in the Inspector's Report² that 30m of waste depth is indeed not unusual in 'a context of high demand for dumping space and fewer available sites. European ... landfills are ... progressively being designed on the basis of greater depth'. Reference is made to a number of sites in France and Australia where this is the case. So, the question to be addressed is whether there is 'high' demand for dumping space in Ireland.

Consolidation in the MSW landfill sector over the last 15 years or so has led to a reduction in the number of open landfills. At the end of 2009, the number of open MSW landfills nationally stood at 29³. The remaining national capacity of fully consented MSW landfills (with waste licence and planning permission in place) was approximately 28 Mt⁴ by the end of 2009. This represents an existing operational capacity of 13 Mt with the remaining 15 Mt to become available as and when operations commence at two licensed facilities at Bottlehill, Co. Cork and Lusk, Co. Dublin. If disposal to MSW landfills were to continue at 2009 rates (approximately 1.7 Mt per annum) there is approximately 16 years of national MSW landfill capacity remaining (i.e. enough capacity up to c. 2025)⁵. Therefore, it is the opinion of the Technical Committee that there is not currently a shortfall in landfill space in Ireland.

Regarding landfill capacity in the North East (NE) region, Table 1 below sets out the remaining disposal capacities at each of the landfills in the region³.

Table 1: Approximate remaining capacities in landfills in the NE region.

Landfill	Remaining disposal capacity (Mt) (ref)	Approximate remaining life span (years)
Knockharley (W0146-01)	2,000,000	10
Whiteriver (W0060-03)	700,000	7
Scotch Corner (W0020-02)	210,000	5
Corranure (W0077-03)	200,000	2

² Footnote 2 (page 3 of Addendum to Inspector's Report – dated 01/12/10)

³ Focus on Landfilling in Ireland (EPA 2010)

⁴ One Mt = One million tonnes

⁵ National Waste Report 2009 (EPA 2011)72

Looking at the remaining life spans, it is the opinion of the Technical Committee that there is not a shortfall in landfill space in the NE region.

Regarding the Filling Plan for cell 4 (referred to above), the Technical Committee is aware that the OEE has not approved the use of the Filling Plan. Whether the Filling Plan would address concerns associated with the originally proposed 30m waste depth, it is the view of the Technical Committee that the concerns of the licensing Inspector on the matter as set out in the Inspector's Report (dated 01/12/10) remain compelling. The Inspector points out that the site has a history of uncontrolled odour emissions and that there is evidence pointing to the 30m waste depth as being a major contributory factor.

Recommendation: No Change

(ix) Reduced annual waste intake limit

The objection contends that the annual waste intake limit of 45,000 tonnes, as set in Schedule A of the PD, does not reflect the actual quantity of waste requiring disposal in the North East region and that the annual waste intake limit for Corranure should accordingly remain at 90,000 tonnes.

In addition, reference is made to a recent award of contract to Oxigen Environmental Ltd by Dublin City Council to dispose at Corranure landfill 25,000 tonnes per annum (tpa) of waste generated in the Dublin region. A measure which is stated to address a '*current landfill crisis in the Dublin Region...*'.

Submission on Objection

Reference is made to the Agency's National Waste Report for 2009 wherein it is reported that 82,310 tonnes of household mixed residual waste was collected in the North East Region, this being a reduction in the figure for 2008. It is submitted that volumes of waste going to landfill in the future are expected to fall significantly as waste disposal practice is developed in line with EU, National and Regional policy. It is consequently contended in the submission that the current provision of waste management facilities in the North East Region will be more than capable of accommodating all the waste generated in the region.

Technical Committee's Evaluation:

The NE waste management region comprises the counties of Cavan, Louth, Meath and Monaghan. The actual figures for amounts of waste disposed in each landfill in the NE region for years 2008 and 2009 are set out below in Table 2.

Table 2: Annual waste disposal limits versus total MSW waste disposed in the NE region.

Landfill	Annual waste disposal limit (tonnes per annum)	Total MSW disposed (tonnes)	
		2008 ^{Note 1}	2009 ^{Note 2}
Knockharley (W0146-02)	175,000	142,603	171,210
Whiteriver (W0060-03)	92,000	76,892	51,041
Scotch Corner (W0020-02)	39,500	35,928	38,731
Corranure (W0077-03)	90,000 ^{Note 3}	86,469	75,288
Total	396500 ^{Note 4}	341892	336270

Note 1: National Waste Report 2008.

Note 2: National Waste Report 2009.

Note 3: The annual limit in Proposed Licence (Register No. W0077-04) is 45,000 tpa.

Note 4: This is the sum of the above licence limits and can be viewed as the potential maximum capacity available in the North East Region for disposal of MSW.

It can be seen from Table 1 above that there is currently sufficient capacity in the region for disposal of the amounts of MSW that are typically being disposed there annually. Even if PD W0077-04 were to issue as a Final Licence and the potential maximum capacity for disposal of MSW in the NE region reduces to 351,500 tpa (as the annual limit for Corranure landfill would decrease from 90,000 to 45,000 tpa), there is still sufficient disposal capacity in the NE region. These calculations are based on the premise that annual waste volumes requiring disposal will remain largely unchanged. However, the amount of MSW generated annually in Ireland has actually fallen since 2008 and is now at levels last seen in 2004⁶. According to the EPA's 2008 and 2009 National Waste Reports, the amount of mixed residual household (black bin) waste collected in the NE region in 2008 and 2009 was approximately 90,500 and 82,300 tpa respectively. Consequently, there is actually a reducing demand currently for landfill capacity.

Moreover, it is important to note that a significant proportion of the waste being disposed in the NE region does not actually originate in the area but is imported from outside areas.

⁶ National Waste Report 2009 (EPA 2011)

Even if, with economic recovery, waste volumes begin to grow again, it is the view of the Technical Committee that here will be sufficient waste infrastructure in the Eastern and North Eastern regions to adequately manage predicted waste volumes. Such new infrastructure will include the following facilities:

- Fingal landfill at Lusk, County Dublin (Waste Licence Register No. W0231-01). This licence issued in May 2010 with an annual waste intake limit of 348,000 tonnes for residual household and commercial waste. The landfill has an expected lifespan of approximately 30 years.
- Integrated Waste Management Facility at Duleek, Co.Meath (Waste Licence Register No. W0167-02). This facility is due to commence operating in 2011.
- Integrated Waste Management Facility at Poolbeg, Co. Dublin (Waste Licence Register No. W0232-01).

It must be accepted that over time for whatever reason waste disposal facilities will close or intake volume limits may be adjusted downwards. It is current Government policy to reduce the number of landfills and to reduce the amount of waste that is landfilled. To support this policy, the government intends to increase the landfill levy in the period to mid-2013. It is reasonable to predict that, where necessary, due to reduced disposal capacity in one region, waste will move to areas of available capacity. Each waste management facility will play its part in the overall management of waste in the Eastern and North Eastern regions.

It should be noted that no waste has been accepted at the Corranure site since March 2010 with the obvious conclusion being therefore that the waste that had been going to the Corranure landfill in the past is now is successfully going elsewhere for disposal.

Regarding the contract between Dublin City Council and Oxigen Environmental Ltd for disposal of waste at Corranure landfill, the PD allows for disposal of 45,000 tpa of waste at the facility, thus providing sufficient capacity to meet the contractual agreement should it proceed.

It is not accepted by the Technical Committee that the proposed annual waste intake limit of 45,000 tonnes for the Corranure landfill should relate to the amount of waste requiring disposal annually in the NE region. The proposed decision of the Agency to reduce the annual waste intake limit from 90,000 to 45,000 tpa at the facility is, as pointed out in the Inspector's Report (dated 01/12/10), designed to address concerns regarding potential emissions of odourous landfill gases.

Recommendation: No Change

(x) Refusal of Integrated Waste Management Facility

It is contended in the objection that it is unreasonable for the Agency to set a reduced annual waste intake limit at the landfill (i.e. down from 90,000 to 45,000 tpa) while at the same time not providing approval for the additional integrated waste management infrastructure as sought by Oxigen Environmental Ltd in their licence application (W0248-01). This infrastructure was to include mechanical biological treatment and biological treatment facilities.

Submission on Objection

It is contended that this objection should relate solely to the licence application by Oxigen Environmental Ltd (W0248-01).

Technical Committee's Evaluation:

The additional infrastructure referred to above was not requested by Cavan County Council in their review application (Register No. W0077-04). It was, in fact, proposed by Oxigen Environmental Ltd for use on the area of the facility proposed to be operated by Oxigen Environmental Ltd under waste licence application W0248-01 (which the Agency is proposing to refuse).

Recommendation: No Change

(xi) Disagreement with Agency's reasons for Proposed Decisions

Cavan County Council disagrees with the Agency's Proposed Decisions for a number of reasons. Each reason is dealt with in turn below:

1. Determining source of, and responsibility for, pollution.

Reference is made in particular to the Board's view that difficulties could be experienced in determining the source(s) of any pollution event in a scenario with two separate but adjacent licensed facilities. The objection attempts to argue that sources of pollution could be determined at the two sites and describes how monitoring systems can be used to monitor continuously for odour such that the source of (and therefore responsibility for) any odour can be pin-pointed. It is contended that such systems could be used to identify any source of pollution from cells 0-2. The objection also contains (by way of an Appendix) a description of an odour monitoring system (with associated weather stations and telemetry systems) which Cavan County Council is proposing to utilise for management of odours.

Technical Committee's Evaluation:

It is accepted that such systems as described above can be utilised to monitor odour emissions and can provide assistance in terms of pin-pointing sources of odour. However, the concerns of the Board are not related solely to odour issues. In summary, the Board is not convinced that the combined operation of the two separate sites in the manner proposed (i.e with a 3-dimensional interface closed cells 2 and 3) within the particular locality would not lead to environmental pollution and that the authorisation of operations at the sites by way of two separate licences would not provide for proper protection of the environment. The Board therefore also has concerns in relation to other potential significant environmental effects at the two facilities, e.g. groundwater, surface water and noise pollution, as well as the potential for nuisance.

It is the view of the Technical Committee that the sources of (and responsibility for) such effects would be very difficult to determine in the scenario as proposed by the applicants.

Recommendation: No Change

2. Difficulty in enforcement of the two licences.

Reference is made to the Board's view that the scenario as was proposed would present significant difficulties to the Agency in relation to enforcement of the licences. It is argued that such '*perceived*' difficulties with enforcement cannot be used as justification for refusing to grant a licence, particularly where the sources of pollution could be determined using the systems described above.

Submission on Objection

Reference is made to the facility's history of odour complaints. It is submitted that the Agency's perceived difficulty with enforcement is warranted in this instance.

Technical Committee's Evaluation:

On-going routine enforcement of many standard licence conditions is not regarded as a potential challenge for the Agency. However, it is the view of the Technical Committee that, given the complex nature of the proposal (i.e. two separately owned, operated and licensed adjacent facilities with a complex physical relationship and a poor compliance history), effective and clear enforcement of the licences in relation to any significant pollution event that may occur would prove challenging and ultimately potentially irresolvable. The complex physical relationship relates to the fact that should the two facilities operate separately, there would be a 3-dimensional interface at the boundary between the two facilities (between cells 2 and 3). This would present significant difficulties in terms of attributing responsibility (and therefore enforcing) a groundwater pollution event in that interface area. It therefore remains a concern that operations at the two separate facilities (in the manner as was proposed by the applicants) would not cause environmental pollution.

Recommendation: No Change

3. Agency's decision sets an undesirable precedent

It is contended by Cavan County Council that the Board's proposed decision sets a precedent for the waste sector which would have significant implications for local authorities and private operators who are seeking to operate adjacent waste facilities in a manner similar to that originally proposed by the applicants.

Technical Committee's Evaluation:

It is not accepted that the proposed decision of the Board could set any kind of unhelpful precedent for the waste sector. As stated above, the approval of such scenarios is always given on a case-by-case basis. The Agency will normally assess any such scenario and approve or otherwise based on the

merits and/or suitability of the scenario. In this particular case, the Board has made its opinions clear that the proposed splitting of the site in the nature as was proposed in the licence applications is not acceptable for the reasons that are outlined in the Minutes of the Board meeting and the PDs as issued.

Recommendation: No Change

4. Description of cells 0-2 as 'operational'.

Cavan County Council disagrees with the Agency's description of cells 0-2 as 'operational'.

Technical Committee's Evaluation:

The Technical Committee has examined the Inspector's Reports, the proposed Decision and the relevant Minutes of the Board and can find no reference to cells 0-2 as being described by the Agency as 'operational'. The Agency has accepted and described cells 0-2 as being closed.

Recommendation: No Change

5. Reasons for Board's Proposed Decisions were never discussed by the EPA Inspector.

It is contended that the Board's reasons for the PDs (regarding refusal of W0248-01 and grant of revised W0077-04) were never raised or discussed by the EPA Inspector in his reports on the applications.

Technical Committee's Evaluation:

An Inspector's Report sets out the background and substance to a licence application. It assesses and reports in summary on the licence application, operational proposals and facility emissions, etc. in the context of the appropriate legislation. It is designed to accompany the RD, which is submitted to the Board for its consideration. The Inspector's Report (dated 29/09/10) could not have addressed any 'concerns' of the Board at that stage as it had not yet been submitted to the Board for its consideration. It should be noted that the Inspector did originally recommend the splitting of the facility and the granting of two licences.

Following the Board meeting of the 2nd November 2010, clarification was sought on issues raised at that meeting. The Inspector prepared an Addendum to the Inspector's Report (dated 01/12/10) and a new RD was submitted to the Board. The Addendum to the Inspector's Report recommended the granting of a licence for the whole facility to Cavan County Council only and set out the basis for that recommendation. These documents were considered at the Board meeting of the 7th December 2010. Following the meeting, the Agency proposed to grant W0077-04 as recommended by the Inspector. The reasons for the Agency's decision to refuse grant of licence application are outlined in the Minutes of the Board meeting and the PD as issued.

Recommendation: No Change

6. Different nature in the recommendations of the Inspector Reports for application W0077-04.

The objection refers to, and highlights, the different recommendations as set out in the Inspector's Report (dated 29/09/10) on the one hand and the Addendum to the Inspector's Report (dated 01/12/10) on the other. Cavan County Council questions the reasons for the changes in the recommendations and contends that there is no basis for them and that no additional technical information was sought or evaluated in relation to them.

In addition, it is stated that no detail was provided regarding the discussions which took place at the Board meeting of the 2nd November 2010.

Technical Committee's Evaluation:

The Agency Inspector did not seek any further information from the applicant as he was satisfied that he had all the necessary information available to make a recommendation to the Board. All reasons regarding the ultimate nature of the RD as recommended by the Inspector are set out in the Addendum to the Inspector's Report. Likewise, all reasons, concerns, conclusions etc. regarding the Proposed Decision of the Board are set out in the relevant Board meeting Minutes and PDs as issued.

Recommendation: No Change

(xii) Legal Agreement between the applicants

The objection describes the nature of a legal agreement between the two applicants. It is contended by Cavan County Council that this agreement was not discussed in the Inspector's Report for the review of Cavan County Council's licence (Register No. W0077-04) and that, therefore, the Board of the EPA did not have an opportunity to consider the legal agreement and the associated indemnities. Consequently, it is contended that the proposed decision of the Board is legally deficient.

Technical Committee's Evaluation:

The nature of the legal agreements between the parties is discussed in the section entitled 'Splitting of the Facility' in the Inspector's Report dated 29th September 2010. It should be noted that the description of the legal agreement as set out in the objection does not offer any more detail than was described in the Inspector's Report. The Board of the EPA considered this report in its deliberations on the two applications. The Minutes of the relevant Board meeting lists the above Inspector's Report as having been considered by them at that particular meeting. Therefore the Technical Committee does not agree with the contention of the objection that the proposed decision of the Board is legally deficient.

Recommendation: No Change

(xiii) Physical distance between closed cell 2 and operational cell 4.

Closed cell 3 is situated between closed cell 2 and operational cell 4. The distance between cell 2 and cell 4 is 110 metres, which according to the objection represents a '*significant physical barrier*' between the closed and active cells. Permanent

capping of cell 3 (which is no longer accepting waste) will be completed in 2011. It is contended by Cavan County Council that the permanent capping of cell 3 will provide '*further certainty on environmental controls and the physical distance between the operational facility (cell 4...)...and closed cell 2...*'.

Technical Committee's Evaluation:

It is not clear what is actually being contended in the objection above. Overall, it is the view of the Technical Committee that any polluting potential associated with the whole facility will not be prevented by the physical distance between the active and closed cells. It should be noted that operational cell 4 will lie next to closed cell 3.

Recommendation: No Change

(xiv) Review of licence (W0077-03) under the Landfill Directive

The waste licence for Corranure landfill (Register No. W0077-02) was reviewed to bring into compliance with the Landfill Directive. A reviewed waste licence (W0077-03) was issued by the Agency in March 2010 to that effect. It is pointed out in the objection that the EPA did not at that point take the opportunity to apply any restrictions on operations at the site in relation to cell 4 or to annual waste intake volumes.

It is also pointed out that there have been '*practically*' no odour complaints at the facility in the period from March 2010 to the time when the Agency issued its Proposed Decision (W0077-04) in December 2010 and that, therefore, the restrictions imposed in PD No. W0077-04 do not reflect the compliance record in that period.

Technical Committee's Evaluation:

The review of waste licence (W0077-03) was carried out with the main objective of bringing the licence into compliance with the Landfill Directive, in particular in relation to the diversion of biodegradable municipal waste from landfill. Such reviews were carried out for many landfill licences. The review of the relevant licences to bring them into compliance with the Landfill Directive was considered to be of national strategic importance. Hence, the additional restrictions as referred to in the objection above were not applied. Nonetheless, of interest is the fact that given the poor compliance record of the facility and the history of odour complaints, the requirement for an Odour Management Plan (OMP) was included in the reviewed licence (W0077-03). This was an issue that was deemed necessary to address at the time. The requirement to develop and maintain an OMP remains in Proposed Decision (W0077-04).

Historically, most odour complaints at the facility have been associated with the operational phases of cell 3 and cell 2. As highlighted in the Inspector's Report (dated 01/12/10), the number of odour complaints have declined rapidly since March 2010, as it was at that time that filling operations ceased at cell 3 and temporary capping was installed. The landfill has in fact not accepted any waste since March 2010.

In any case, it is the view of the Technical Committee that the matters above will have no bearing on the proposed decision of the Board.

Recommendation: No Change

(xv) Appointment of facility manager

The objection refers to the Inspector's Report (dated 01/12/10) whereby the report highlights the failure of the applicant to appoint an experienced facility manager. The objection points to the fact that a facility manager had been appointed to the facility since February 2010. It is contended by Cavan County Council that the Agency has failed to take this into account and represents a fundamental flaw in the Proposed Decision.

Technical Committee's Evaluation:

In the Inspector's Report referred to above, it is pointed out by the Inspector that the poor compliance history (particularly in relation to odour complaints) is linked to the failure on behalf of the licensee to retain a suitably experienced facility manager at the facility. This has been a requirement for the Corranure facility since the issuance of the first licence for the facility in June 2001 and the matter has been the subject of extensive dialogue between the Agency and the applicant since then. A facility manager was appointed in February 2010. This fact was mentioned several times in the Inspector's Report for RD W0248-01 (dated 29/09/10). Therefore, the Agency has taken this fact into account.

The appointment of an experienced facility manager can only be viewed positively. The requirement to appoint such a manager is a standard requirement in all waste licences. It is the view of the Technical Committee that the Proposed Decision of the Board is not related to the presence of a facility manager and the matter and will have no bearing on the proposed decision.

Recommendation: No Change

(xvi) Agency description of the facility and land bank is not factually correct

Reference is made to the Minutes of the Board meeting of the 7th December 2010, wherein it is noted that *'the entirety of the lands covered by both applications had historically been operated as one facility...'*. It is pointed out in the objection that this statement is incorrect and that the lands proposed for use by Oxigen Environmental Ltd for development of additional waste infrastructure have never been included in a licence boundary.

Technical Committee's Evaluation:

It is the view of the Technical Committee that the exact relative boundaries of the lands covered by previous, or current applications, will have not have any bearing on the Proposed Decision of the Agency.

Recommendation: No Change

(xvii) Positive elements of the Oxigen Environmental Ltd licence application

The objection provides quotations from the Inspector's Report on the licence application by Oxigen Environmental Ltd (W0248-01) and contends that they serve to highlight the positive view that was taken by the Inspector on certain elements of the application. It is asserted that the Board of the Agency does not appear to have considered these positive elements.

Submission on Objection

It is contended that this objection relates solely to the waste licence application by Oxigen Environmental Ltd (W0248-01).

Technical Committee's Evaluation:

By considering the Inspector's Reports and RDs, the Board did consider all aspects of the Oxigen Environmental Ltd (W0248-01) and the Cavan County Council (W0077-04) licence applications. The licensing Inspector did originally recommend the granting of a licence to Oxigen Environmental Ltd. However, for the reasons set out in the Minutes of the Board (dated 07/12/10) and the PD as issued, the Board of the Agency proposed to refuse granting of a licence to Oxigen Environmental Ltd.

Recommendation: No Change

(xviii) Request to carry out methane monitoring at the landfill

It is proposed that an agreement be reached between Cavan County Council and the Agency to carry out a survey of methane emissions at the landfill so as to alleviate any Agency concerns regarding pollution sources.

Technical Committee's Evaluation:

The PD already contains a number of provisions in relation to monitoring of landfill gases. These include condition 6.18 (Landfill gas), condition 6.20 (Odour Management Plan) and Schedule C1.3 *Monitoring of Landfill Gas Emissions*. It is the view of the Technical Committee that there is not a need to agree anything additional (and outside of the PD) with Cavan County Council.

Recommendation: No Change

(xix) Request to include additional waste management infrastructure

Cavan County Council is requesting that, in the event that the Agency should decide to refuse to grant waste licence No. W0248-01 to Oxigen Environmental Ltd, the additional waste management infrastructure, which was proposed as part of the Oxigen Environmental Ltd licence application (i.e. the MRF and MBT facilities), be included in the waste licence proposed for Cavan County Council (W0077-04).

Submission on Objection

It is submitted that Cavan County Council should submit a separate licence application in order to formally request should infrastructure.

Technical Committee's Evaluation:

Cavan County Council did not request such infrastructure in its application for a revised licence. Nonetheless, it is reasonable to consider such a proposal at this stage in the process. It is the view of the Technical Committee that to include the proposed waste recovery infrastructure in a Final Licence for Cavan County Council (W0077-04) at this stage in the process would not offer third parties an opportunity to object to any licence conditions designed to control their operations. This would represent an undermining of normal licensing procedures.

Recommendation: No Change

(xx) Request for alternative assessment of objection by the Board

It is requested by Cavan County Council that the objections be considered by members of the Board who were not present at the Board meeting of the 7th December 2010.

Technical Committee's Evaluation:

Objections to a PD are considered initially by a Technical Committee which acts independently of the original licensing Inspector. A report with recommendations is submitted by the Technical Committee to the Board of the Agency for its consideration. Other than that, the matter is not one for consideration by the Technical Committee.

Recommendation: No Change

(xxi) Monitoring requirements as set out in the PD are considered to excessive and unreasonable

Specific reference is made to the requirements of Schedule B *Emission Limit Values* and Schedule C *Control and Monitoring* of the PD. It is contended that the requirements are '*excessive and unreasonable*' and that they do not reflect those originally applied for in the waste licence review application for a closed landfill. It is also contended that the monitoring requirements as set in the existing licence (which are for an operational facility) have '*proven to be effective*'.

The objection refers to various requirements (as set in the PD) regarding emission limit values (ELVs) and/or monitoring frequencies and it is argued that these are unnecessarily more onerous than those set in the existing licence (W0077-03). These can be summarised as follows:

1. New ELVs for leachate parameters in discharge to sewer.
2. Increased monitoring frequencies for a range of parameters. It is pointed out that there has never been an issue with noise or dust emissions at the facility and it is therefore unreasonable to increase the frequency of monitoring for those parameters.
3. It is submitted that the proposed additional monitoring of surface water discharges is considered to be unreasonable as it has been demonstrated that the water quality in the receiving water bodies (i.e. the Corranure and Lismagraty streams) has not been impacted by the landfill.

4. Application of a flow rate for surface water discharge points.

A proposed monitoring programme is included with the objection and is contended to be 'reasonable'.

Submission on Objection

It is submitted that the monitoring requirements requested by the Agency are warranted, particularly in light of the poor history of compliance at this facility.

Technical Committee's Evaluation:

1. All leachate parameters and ELVs were agreed with Cavan County Council under Section 52 of the Waste Management Acts 1996 to 2010 as part of the application for a waste licence by Oxigen Environmental Ltd (W0248-01). It is considered appropriate by the Technical Committee that these ELVs are now set in the PD for the whole facility (W0077-04). No change to the PD is recommended.
2. The Inspector's Report sets out the rationale for the monitoring frequencies as set out in the PD. They are set in response to the poor compliance history at the facility, to address any potential for environmental pollution and to address the concerns of third parties. Regarding the actual frequencies of monitoring as set in the PD, condition 6.8 of the PD states the following:

'The frequency, methods and scope of monitoring, sampling and analyses, as set out in this licence, may be amended with the agreement of the Agency following evaluation of test results'.

Therefore, the PD provides a suitable mechanism for amendment of monitoring frequencies where appropriate, at a later stage. No change to the PD is recommended on this matter.
3. The reasons for the application of the monitoring requirements for discharges of surface water to off-site water bodies as proposed in the PD are provided in the Inspector's Reports dated 29/09/10 and 01/12/10. They are proposed in order to protect water quality into the future and to assist compliance with the requirements of the Water Framework Directive. The Technical Committee is of the view that there is no compelling reason to alter them at this stage. In any case as pointed out above, the applicant may, if they see fit in the future, seek to amend the monitoring requirements (frequency, method and scope of monitoring) for discharges of surface water under condition 6.8 of the PD.
4. Schedule 3.2.1 *Control of Emissions to Water* of the PD includes a requirement to measure flow rate of surface water discharge. No limit is applied but there is a requirement to monitor the flow rate from the control equipment (grit trap or oil/water separator). As this equipment is essential to the control of the quality of surface water discharge, it is the view of the Technical Committee that this is not an unreasonable monitoring requirement.

Recommendation: No Change

Overall, the monitoring and ELV requirements as proposed in the PD have been applied on the basis of an operational facility rather than a closed one and so therefore will not reflect the controls originally proposed in the waste licence review application by Cavan County Council.

Third Party Objections

Three Third Party Objections are considered, for convenience they are labelled:

1. Mr. Edmund McCabe, Drumbo, Cavan, Co. Cavan.
2. Mr. Peter Sexton, Kilgoan, Cavan, Co. Cavan of behalf of 'Cavan Better Waste Management Group'.

A submission on the Third Party Objections was received from Cavan County Council. The submission does not address the Third Party Objections separately but addresses them collectively. Many elements of the submission address matters raised in Mr McCabe's original submission on the licence review application (e.g. litter, traffic, birds, leakage of leachate, etc.). All of these matters have already been dealt with in the Inspector's Report (dated 29/09/10). Cavan County Council's submission merely describes how these matters are currently being addressed by them as required under the existing licence (W0077-03), as agreed locally or as agreed with the OEE or as per the conditions of the Planning Permission. Consequently, the matters are not considered again in this report.

In addition, some elements of Cavan County Council's Submission on Objections refer to matters raised in their own Objection. All matters raised in Cavan County Council's Objection are addressed above under 'First Party Objections'. It is not considered necessary to revisit those matters in this section of the report.

The remaining elements of Cavan County Council's Submission on Objections are dealt below with in association with the objection to which they relate.

1. Mr Edmund McCabe

Mr McCabe makes reference to PDs W0077-04 and W0248-01 in his objection and objects to the granting of either of these licences to Cavan County Council or Oxigen Environmental Ltd. He refers to his submission on the application (dated 13/11/10) and includes a copy of the submission with the objection. He maintains that the problems raised in his submission have not yet been resolved. He calls for the closure of the landfill and for the facility to be monitored by the EPA until the current effects of the existing facility cease to be a problem.

Technical Committee's Evaluation:

The Agency has proposed to issue waste licence register number W0077-04 to Cavan County Council only. The Agency has also proposed to refuse the grant of waste licence register number W0248-01 to Oxigen Environmental Ltd.

The Agency has not proposed to close the facility but rather the PD as issued proposes that it should continue to operate at a much lower operational capacity under the sole control of Cavan County Council. The conditions of the PD have been developed to prevent any significant impact on the surrounding environment, in

particular in relation to odour, surface water and groundwater. Relevant emission limit values have been imposed for discharges to surface waters to ensure that there is no contamination of these waters. The PD imposes significant environmental monitoring requirements to detect any off-site impact. The PD also requires early adoption of appropriate mitigation measures to address any detected impacts.

Odour has been the subject of considerable complaint at the facility in the past. The main source of odour is landfill gas generated from the decomposition of biodegradable waste in the landfill. The OEE have confirmed that since the temporary capping of cell 3 and the consequent cessation of landfilling at the facility, odour complaints have dramatically decreased. Therefore it is evident that odour was arising principally from active cells. In order to avoid similar odours arising from cell 4, a range of relevant measures are proposed in the PD, including requirements regarding the appointment of qualified and experienced management, reduced limits on total waste intake, application of temporary cover on deposited waste, landfill gas management and the development of an odour management plan.

All the issues raised in Mr. McCabe's submission have already been addressed by the Inspector in his report to the Board. The Technical Committee does not consider that the request by the objector to close the facility is justified and therefore does not recommend closing the facility. It is considered that the suite of controls as proposed in the PD in relation to monitoring, odour nuisance and other sources of nuisance are adequate and appropriate.

Recommendation: No Change

2. Mr Peter Sexton

Mr Sexton writes on behalf of the Cavan Better Waste Management Group (CBWMG). Overall, due to the history of odour complaints at the facility, the CBWMG calls for the licence to be refused and for the facility to be closed. Notwithstanding that position, the CBWMG is of the opinion that the entire landfill facility should operate under the sole control of a single licensee (should it continue to operate) and supports the Agency's position in that regard. While the CBWMG welcomes the PD and the imposition of new and updated conditions, it also has a number of concerns in relation to the operation and management of the facility. These concerns and the response of the Technical Committee are set out below.

(i) Odour nuisance

The objection refers to the number of odour complaints received by the EPA in relation to the facility. It is contended that systems in place for odour monitoring and management are inadequate. It refers to EPA site inspection reports wherein poor management of deposited waste has been identified as the primary source of odour. The CBWMG contend that the facility is not operated or managed competently and that the licence should be refused and the facility closed.

Technical Committee's Evaluation:

The issue of odour nuisance is addressed above under the Technical Committee's evaluation of Objection of Mr McCabe above.

Recommendation: No Change

(ii) Management of the facility

The objection acknowledges that the PD sets a requirement for the appointment of an experienced facility manager (condition 2.1.1). Nonetheless, the CBWMG are requesting that the Agency additionally assign an Inspector to the facility on a fulltime basis to oversee operations at the facility until such time as the facility fully complies with the licence.

The CBWMG also refers to condition 2.1.3 of the PD, which relates to the competency of the person responsible for the supervision of the Civic Amenity Facility, and requests that the necessary qualifications of this person be explicitly set out in writing to ensure no ambiguity with regard to the qualifications.

Technical Committee's Evaluation:

It is not the policy of the Agency to assign an Inspector on a full-time basis to a single site. An OEE Inspector is assigned to the site and will be responsible for enforcement of the conditions of the licence. In addition, as mentioned above, the OEE had assigned a Site Agent to the Facility, who never acted on the facility as it had ceased accepting waste. The use of the Site Agency at the facility remains an option open to the Agency in the future should it be considered necessary. The Technical Committee considers these arrangements to be an adequate.

Recommendation: No Change

With regard to condition 2.1.3, the condition reads as follows in the PD:

'The Civic Waste Facility shall be supervised by an appropriately qualified and competent person at all times while waste is accepted'.

It should be noted that the qualifications and experience necessary to competently operate a Civic Amenity Facility are quite different to those required to operate a landfill. It is not considered necessary that the required qualifications of the 'competent person' are explicitly laid out at this stage. The appropriateness of the qualifications can be agreed at a later stage with the OEE Inspector before the person is appointed. The Technical Committee does not recommend any changes to condition 2.1.3 of the PD.

Recommendation: No Change

(iii) Infrastructure and operation

While the CBWMG welcomes the Agency's proposed decision to impose limits on the depth of cell 4 as well as on total waste intake, it questions the ability of Cavan County Council to operate the landfill in such a way as to prevent and manage odour. It therefore calls for the operation of cell 4 to be refused.

Submission on Objection

Cavan County Council refer to the level of investment that has been made at Corranure Landfill over the last number of years and propose that it has resulted in substantial infrastructural improvement and increased environmental compliance at the facility.

Reference is made in the submission to the limits that are set in condition 8.4.1 of the PD (W0077-04) in relation to the acceptance of biodegradable municipal waste (BMW) for disposal at the landfill and to the application by Oxigen Environmental Ltd to develop an integrated waste management facility (with infrastructure such as a materials recovery facility and mechanical biological treatment) as part of their licence application (W0248-01). It is contended that the provision of this infrastructure will facilitate the achievement of the BMW diversion limits as set in the licence.

Technical Committee's Evaluation:

The Technical Committee does not recommend that authorisation for operation of cell 4 is refused as it is the opinion of the Technical Committee that the current range of controls as set out in the PD will be adequate to prevent and manage odour associated with the operation of cell 4. These controls are described in detail in the Inspector's Report and are outlined above under the evaluation of the Objection of Mr McCabe.

The investment made by Cavan County Council at the facility is noted by the Technical Committee. The matter will not have any bearing of the Proposed Decision of the Board.

The waste recovery infrastructure was not requested by Cavan County Council as part of their licence review application. The integrated waste management facility was requested by Oxigen Environmental Ltd as part of their licence application (W0248-01), which the Board of the Agency is proposing to refuse to grant. It is the view of the Technical Committee that to include the proposed waste recovery infrastructure in a Final Licence for Cavan County Council (W0077-04) at this stage in the process would not offer third parties an opportunity to object to any licence conditions designed to control their operations. This would represent an undermining of normal licensing procedures.

Recommendation: No Change

(iv) Resource use and efficiency

This element of the objection refers to condition 7.1 of the PD, which sets out the requirements regarding energy efficiency auditing. The CBWMG requests that an independent consultant be appointed to carry out the audit to ensure that it is undertaken according to relevant guidelines and in a transparent manner.

Technical Committee's Evaluation:

This element of the objection refers to condition 7.1 of the PD, which sets out the requirements regarding energy efficiency auditing.

Condition 7.1 of the PD requires that the energy efficiency audit be carried out in accordance with the relevant Agency guidance note, which will ensure that that the audit is undertaken according to relevant guidelines. According to the guidance note, the audit may be conducted by either an in-house expert or an external consultant, however, the auditor must have the relevant technical expertise and experience to plan and implement the audit. The transparency of the audit process will be ensured

by the requirement of condition 2.2.2.7 of the PD, which places an obligation on the licensee to develop a public awareness and communications programme.

Recommendation: No Change

(v) Compliance with Section 53 of the Waste Management Acts 1996 to 2010

The CBWMG refers to Section 53 of the Waste Management Acts 1996 to 2010 and requests that the Agency ensures that secure and adequate funds are set aside by Cavan County Council to provide for maintenance of the facility into the future during both the operational and post closure phase of the facility.

Submission on Objection

Cavan County Council refer to Conditions 12.3.3 and 12.4 of the Proposed Decision (W0077-04) and to Section 54A of the Waste Management Acts 1996 to 2010 and outline how they as licensee are required to make financial provision to cover any liabilities associated with the operation of the facility including closure, restoration and aftercare of the facility. It is pointed out that Cavan County Council is also currently participating in an EPA pilot programme in relation to Environmental Liability Risk Assessment (ELRA), Closure, Restoration and Aftercare Management Plan (CRAMP) and implementation of Financial Provisions (FP).

Technical Committee's Evaluation:

Conditions 12.3 and 12.4 are proposed in the PD in order to apply Sections 53 and 53A of the Waste Management Acts 1996 to 2010 respectively. The conditions ensure that (i) environmental liabilities are identified and financially covered, and (ii) all costs associated with the development, operation, closure and post closure phases of the facility are met by the licensee.

Conditions related to financial provision for closure and aftercare have featured in the licence the since first waste licence for the facility (W0077-01) issued in June 2001. A condition to apply the requirements of Section 53A was included in the second waste licence for the facility (W0077-02 issued May 2005). Conditions addressing environmental liabilities were inserted into the existing licence (W0077-03 issued March 2010).

There is no Section 54A in the Waste Management Acts 1996 to 2010 and it is referred to in error by Cavan County Council.

Overall, having considered all Third Party Objections as well as the Submissions on Objections made by the First Party.


Recommendation: No Change

Overall Recommendation

It is recommended that the Board of the Agency grant a licence to the applicant

- (i) for the reasons outlined in the Proposed Decision, and
- (ii) subject to the conditions and reasons for same in the Proposed Decision.

Signed



Michael Owens

for and on behalf of the Technical Committee