



Kylebeg,
Borrisokane,
Co. Tipperary.

10th October 2011

The Environmental Protection Agency,
Office of Climate, Licensing and Resource Use,
Johnstown Castle Estate,
P.O. Box 3000,
Co. Wexford.

Objection to conditions in the Proposed Determination in IPPC Reg. No. P0 467-02

Type of Objection: Third party objection against some conditions.

Objector Name: Mr. Martin Hogan

Location of the activity: Woodville, Ballymackey, Nenagh, Co. Tipperary

Fee due for Objection: €126.

Dear Sir/Madam,

I refer to the Proposed Determination (IPPC Licence Register No. PO 467-02) issued to Woodville Pig Farms Limited which may affect my rights to acquire and use of pig manure from this site. In common with all farmers I keep farm records in relation to my farm as required by the Nitrates Regulations (EC Good Agricultural Practice for the Protection Of Waters Regulations currently S.I. 610 of 2010).

I am entitled to acquire fertiliser, including pig manure if I want to, from sources of my choice for use to satisfy crop requirement for N and P on my farm or "holding" which is the term used in S.I. 610 of 2010. I may well request a supply of pig manure from Woodville Pig Farms Limited pig unit on one or more occasions this year, but I do not have to give notice of my requirements to him, or to the EPA or to any authority at this time.

I am not looking for any licence and I know that I do not need any licence to fertilise my land with animal by-product pig manure if and when I choose fertiliser in that form to satisfy the crops' requirement for N and P on my "holding".

I do not want to have any entitlements that I know I now enjoy taken from me as a condition of being supplied with animal by-product pig manure with which to fertilise the land in my "holding". I formally request as part of this objection that the Environmental Protection Agency explain to me in writing the terms "Customer Farmer", "Customer Farmers' Lands", "Landspreading" and "NMP" as used in the Glossary of this Proposed Determination and how these terms as defined by the Agency correspond or are in conflict with the terms used in S.I. 610 of 2010. Otherwise I recommend that these terms be deleted or amended to reflect the responsibilities upon every "occupier of a holding" as laid out in S.I. 610 of 2010.

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Condition 6 – Control and Monitoring

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

I object to this proposed condition as set down in proposed condition 6.2. This objection is limited to the implied requirement for the applicant/licensee to monitor and control some of my farmlands and holding as proposed in condition 6.2 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.

The matter to which I object in the strongest possible terms is entirely based on misunderstanding and/or misinterpretation and/or misrepresentation of the relevant facts in relation to the lawful supply of manure to me for my use and benefit, 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 (including Article 7). Regulation EC/1774/2002 has been replaced by Regulation EC/1069/2009 which is applicable since 4th March 2011. Condition 6.2 and the associated Schedule should be removed from the licence because it is not relevant to the applicant/licensee and is not applicable to the installation to be licensed.

The applicant/licensee has no authority to **either access or control or monitor** lands in mine or any farmers' "holding". The applicant/licensee cannot perform the soil sampling and testing indicated in that table in Schedule C.6.2 as being required by the proposed licence. The applicant/licensee cannot require me or any "occupier of a holding" to carry out such sampling and testing. Such sampling and testing and interpretation of the results of any such sampling or testing that I or any farmer may do are all matters for us or that user of pig manure. 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. 610 of 2010.

I believe that the Agency knows that Conditions of the applicants 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 the applicant's 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. 610 of 2010. Those are not matters for either control or influence by conditions in the licence when granted. How can such conditions be complied with by any licensee?

Condition 8.12. Slurry/Manure/Digestate recovery by landspreading. I object to inclusion of this proposed condition in this licence because most of what it contains is not relevant or applicable to the applicant/licensee or to his installation or the licensable activity. Please read and analyse:

8.12 Slurry/manure/digestate shall only be recovered by landspreading subject to the following conditions: See Conditions 8.12.1, 8.12.2 etc

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 1.7,
- 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 farmers as is provided for in relevant European and National legislation (S.I. 252 of 2008, S.I. 253 of 2008 and S.I. 610 of 2010)? I ask this because the "landspreading", that is the "application of slurry/manure to farmland" is already regulated under S.I. 610 of 2010). This "application of slurry/manure to farmland" is on farmlands that are obviously and necessarily outside the installation, and so are in separate holdings outside the scope of the licensee, the installation 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 the applicant/licensee, or by or through his licence,
- The applicant/licensee is not the responsible party in relation to the application to my farmland of any fertilisers, including fertiliser / pig manure produced in the installation and sold or supplied by him from the installation to me 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. 610 of 2010.

The proposed licence and its conditions are addressed to the proposed licensee. As far as I know, the applicant does not propose to recover, or to use, any slurry/manure/digestate in the installation and cannot do so on my or any other "holding". The proposed licence and its conditions are addressed to the proposed licensee. As the proposed licensee does not propose to engage in any "landspreading" of slurry/manure/digestate in the installation the subparagraphs 1 to 5 of condition 8.12 are not applicable to the licensee and the entire condition 8.12 (including 8.12.1, 8.12.2, 8.12.3, 8.12.4, and 8.12.5) should be deleted from the licence.

In particular Condition 8.12.5 which is:

Slurry shall only be supplied to customer farmers for whom a current nutrient management plan or Nitrogen and phosphorus statement is maintained on-site.

I believe this condition seeks to prevent or distort the lawful trade of organic fertiliser which is a Category 2 animal by-product and in doing so seeks to prohibit trade in a fertiliser that is authorised in Regulation EC/1069/2009 (and previously under Regulation EC/1774/2002). This condition imposes a burden on users of pig manure (in this case) who are entitled to source manure from the applicant, this trade and transfer of organic fertiliser is already regulated under Regulation EC/1069/2009. This condition along with all other parts of Condition 8.12 should not be in this licence.

I 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 this licence. It is necessary that the proposed content of condition 8.12 be deleted and not be part of the licence.

I are very concerned about the implications for 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, I 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.

Objection to Part of Condition 11.8. and an item in the Annual Environmental Report

Condition 11.8 is :

The licensee shall submit to the Agency , by the 31st March of each year, an AER covering the previous calendar year. This report , which shall be to the satisfaction of the Agency, shall include as a minimum the information specified in Schedule D: Annual Environmental Report, of this licence and shall be prepared in accordance with any relevant guidelines issued by the Agency.

Is the "Organic Fertiliser Register (Slurry/manure/digestate)" referred to in Schedule D the same as the Manure Record required by Article 23(1)(g) of S.I. 610 of 2010? The Manure Register as required under S.I. 610 of 2010 contains personal data of farmers using pig manure and is not produced to be put into any public file. Because it would contain personal data it should not be in the AER for public display. It is not a document for transfer to a public file that is specified or protected under Article 31 of S.I. 610 of 2010. This proposed condition must be revised.

I recommend that the Proposed Determination in this instance be amended to respect existing legislation. I consider the Proposed Determination to be seriously flawed in relation to the conditions as addressed above, and on that account I consider it to be unfair and prejudicial to my rights and interests as a farmer who may use pig manure from the installation to be licensed. I expect the Agency to respect legislation in the same way as it expects Woodville Pig Farms Limited to do so.

Yours Sincerely

Martin Hogan,