



Environmental Protection Agency
An Ghníomhaireacht um Chaomhnú Comhshaoil

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Mr Patrick Boyle
Hand's Lane
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Co. Dublin

11 July 2012

Waste licence application W0129-03.

Murphy Environmental Hollywood Limited.

Dear Mr Boyle,

I refer to your email dated 18 June 2012 and addressed to Ms Laura Burke, Director General of the Environmental Protection Agency. I note your concerns and would like to address them as follows:

Article 14 notice

The purpose of requesting information under article 14 of the Waste Management (Licensing) Regulations 2004 (see attached) is to bring the application into compliance with the Regulations. The Regulations are silent on what actions are to be taken in the event that the period specified by the Agency is exceeded. It has been the norm in the Agency's administrative procedures that such periods are not strictly enforced. It is in an applicant's interest to ensure their application is compliant with the Regulations and delays in responding can lead to delays in the Agency making a decision on an application.

In this case, the applicant was issued a notice under article 14(2)(b)(ii) on 23 March 2012 with a 4 week response period. A response was received dated 28 May 2012 – a period of over 9 weeks: The response was acknowledged by the Agency on 8 June 2012.

Article 16 notice

The purpose of requesting information under article 16 of the Regulations is to elicit further information, over and above that required for compliance with the Regulations. Sub-articles 16(1) and 16(5) (see attached), provide for additional information to be requested from the applicant. Under this article, the Agency can specify the period of time for the making of the response and what can happen in the event that there is failure to comply with the requirement of the notice. There is no obligation on the Agency to reject an application. The article also provides the Agency with discretion to proceed with considering the application in the absence of the requested information.

In this case, the applicant was issued a notice under article 16(1)(a) on 23 March 2012 with a 12 week response period. A response was received on 8 June 2012 – a period of 11 weeks. The response was acknowledged by the Agency on 8 June 2012.

Meetings with the applicant

In its response received 8 June 2012, the applicant proposed a meeting to discuss the outstanding information – this meeting took place on 5 July in the EPA offices in Dublin.



Frank Clinton (Programme Manager), Marcus Ford (consultant) and Brian Meaney (Inspector) attended for the EPA. The Agency's issues (as articulated in the article 16 notice) regarding the hydrogeological aspects of the application were discussed in some detail as were issues to do with financial provision. The Agency also indicated that the response to the article 14 notice dated 23 March 2012 was inadequate. The applicant indicated its intention to undertake a new programme of site investigations in accordance with the requirements of the Agency's article 16 notice. It is likely that further correspondence and discussions will take place to ensure to the extent possible that the applicant's work will deliver the data required by the Agency to fully assess the risk to groundwater in the area.

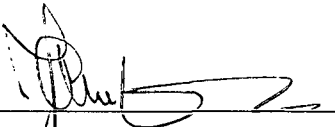
An earlier meeting took place on 16 May in EPA HQ, Wexford, in relation to the article 16 notice, attended by Brian Meaney and Marcus Ford for the EPA. The applicant expressed its dissatisfaction with the fact that the Agency is addressing from first principles technical issues already addressed at the planning hearing and covered in the planning inspector's report. Dara Lynott (Director) for the EPA also had a meeting with the applicant the following week during which similar issues were discussed. The question of financial provision was also raised at this meeting.

The applicant was informed at the July 5th meeting that a further article 16 notice was being prepared which deals with a range of issues including waste acceptance, groundwater, financial provision and engineering aspects of the application.

It is common practice for the Agency to meet with applicants after an application has been made. You can however remain assured that any decision made by the Agency on a particular application is made on the basis of information published on the EPA website or otherwise publicly available, regardless of its source. The application process remains fully transparent. The Agency rejects absolutely any suggestion of bias in favour of the applicant or any other party.

I hope that this letter alleviates your concerns regarding the Agency's intentions with regard to the Murphy Environmental Hollywood Ltd application and indeed any licence application.

Yours sincerely,


A handwritten signature in black ink, appearing to read 'Frank Clinton', is written over a horizontal line.

Frank Clinton.

Programme Manager.

Environmental Licensing Programme.

. Article 14(2)(b) of the Waste Management (Licensing) Regulations 2004 states:

- (b) Where the Agency considers that any of the requirements of articles 12 and sub-articles 13(1) and (2) have not been complied with in respect of an application, it shall, as it considers appropriate having regard to the extent of the failure to comply with the said requirements, by notice in writing -
 - (i) inform the applicant of such failure of compliance and that the application cannot be considered by the Agency, or
 - (ii) require the applicant, within such period as may be specified by the Agency, to take such steps or furnish such submissions, plans, documents or other information and particulars, as the Agency considers are necessary for compliance with the said requirements.

Article 16 of the Waste Management (Licensing) Regulations 2004 states:

16. (1) (a) Where the Agency receives an application, it may, by notice in writing, require the applicant within one month or such other period as may be specified by the Agency-
- (i) to furnish such further information or particulars relating to the application as it considers necessary to enable it make a decision in respect of the application, or
 - (ii) to produce such evidence as it may reasonably require in order to verify any information or particulars furnished by the applicant in, or in relation to, the application.
- (b) If the applicant fails to comply with a requirement of a notice issued under paragraphs (a)(i) or (a)(ii), the Agency may, as it is considers appropriate, having regard to the extent of the failure to comply with such notice, inform the applicant of such failure and that the application cannot be considered by the Agency.
- (5) Where there is a failure or refusal to comply with a requirement under the foregoing sub-articles within one month of the date of notice of such requirement, the Agency may, if it thinks fit, proceed with its consideration of the application or the review, as the case may be, and to give a notification under section 42(2) of the Act in the absence of the information, particulars or evidence specified in the requirement.