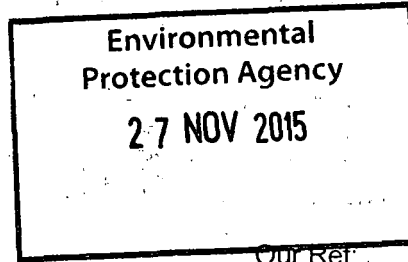




27th November 2015

Brian Meaney
Environmental Licensing Programme
EPA
PO Box 3000
Johnstown Castle Estate
County Wexford.



Our Ref: 501.00271.00002

Your Ref: W0217-02

Dear Mr. Meaney,

RE: WASTE LICENCE REVIEW APPLICATION IN RESPECT OF KILLARNEY WASTE DISPOSAL LTD, AUGHACURREEN, KILLARNEY, CO. KERRY

In response to your correspondence of 19th November 2015, I wish to clarify a few issues relating to the Aughacurreen site on behalf of my client, Killarney Waste Disposal Ltd (KWD).

As you are aware, the Industrial Emissions Directive (2010/75/EU) specifies the following Activities in Section 5.3(b) of Annex 1:

"Recovery, or a mix of recovery and disposal, of non-hazardous waste with a capacity exceeding 75 tonnes per day involving one or more of the following activities, and excluding activities covered by Directive 91/271/EEC:

- (i) biological treatment;
- (ii) pre-treatment of waste for incineration or co-incineration;
- (iii) treatment of slags and ashes;
- (iv) treatment in shredders of metal waste, including waste electrical and electronic equipment and end-of-life vehicles and their components.

When the only waste treatment activity carried out is anaerobic digestion, the capacity threshold for this activity shall be 100 tonnes per day."

There has been a degree of uncertainty regarding the definition of "*pre-treatment of waste for incineration or co-incineration*". Neither the EU Commission nor the EPA has issued a document to clarify the definition of "*pre-treatment of waste for incineration or co-incineration*". However, the Environment Agency in the UK has helpfully issued such guidance in April 2015 and I attach their Regulatory Position Statement in Annex 1.

In the absence of a National or European clarification document, I suggest that my client has a right to look to the Environment Agency document for guidance on this issue.

The site at Aughacurreen has capacity to treat 400 tonnes per week (67 tonnes per day) in a process line that removes organic fines to increase the calorific value and decrease the moisture content of residual MSW. Using the Environment Agency guidance (Annex 1), this is considered to be pre-treatment of waste for incineration or co-incineration. However, the

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capacity is less than the threshold of 75 tonnes per day, so the activity is not subject to industrial emissions licensing. As it happens, KWD discontinued this process in July 2015 and now transfers residual waste for recovery or disposal without pre-treating it to improve its calorific value.

No other activity at the Aughacurreen site is designed to pre-treat waste to make it more suitable for incineration or co-incineration, using the clarification provided in the Environment Agency Guidance. We therefore conclude that the site is not subject to industrial emissions licensing and can continue to operate under a waste licence.

As previously indicated, we understand that the Agency can proceed with the review of the waste licence, without regard to the planning status of the facility and on behalf of my client, I respectfully ask that you progress the application. The original application was for 59,000 tonnes per annum and I understand that this was increased to 79,000 tonnes per annum after discussions between KWD and your colleague, Michael Owens.

My client is prepared to submit an EIS if that is now needed in relation to a limit of 79,000 t/a or would settle for a limit of 59,000 t/a if necessary. The planning issue is a matter between KWD and Kerry County Council and I understand that this would be reviewed by KWD in consultation with Kerry County Council after the licence review is granted. If the licence was issued in 2009 or 2010, I expect that the planning issue would be long resolved at this stage. We understand that the long delay was due to the need to give priority to licensing the Urban Waste Water Treatment Plants and we recognise that it was a very difficult time for the licensing section of the EPA.

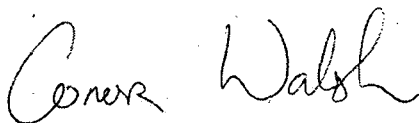
In correspondence to the Agency dated 26th August 2015, I outlined the attempts that KWD has made to alleviate the tonnage issue at the Aughacurreen site and you can see from that correspondence that KWD has made every effort to address the problem, with no success to date. I am sure that you will agree that it is not an option to leave the waste on the streets.

We anticipate that a positive decision on Forge Hill Recycling Ltd's application for a waste permit in Cork will be issued very shortly by Cork County Council. This facility will be able to process up to 50,000 t/a dry recyclables and this will largely alleviate the Aughacurreen issue. It will take a number of months to install the equipment once the permit is issued so it is likely to be towards the end of Quarter 1 2016 before the tonnage issue is resolved at Aughacurreen.

KWD intends to lodge a waste licence application to further develop the Forge Hill site in the near future and we are seeking a pre-application meeting with respect to that site, as mentioned in my previous correspondence.

I look forward to your response.

Yours sincerely
SLR Consulting Ireland



Conor Walsh
Technical Director

Annex 1
Environment Agency
Regulatory Position Statement 176
Issued in April 2015

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Regulatory Position Statement 176

Applications for pre-treatment of waste for incineration or co-incineration activities subject to the Industrial Emissions Directive

If you comply with the requirements below, we will extend the date for submission of duly made applications for the pre-treatment of waste for incineration or co-incineration activities to 30 September 2015.

Background

The Industrial Emissions Directive (IED) extended the scope of activities that fall to be permitted as 'installations'. The activities now include the pre-treatment of waste for incineration or co-incineration where the capacity of the activity is >75 tonne/day for a recovery activity or a mix of recovery and disposal activities, or > 50 tonne/day for a disposal activity.

The Regulations transposing the IED require such facilities to be permitted as installations by 7th July 2015. The Regulations also provided a 'defence date' of 30 September 2014 by which operators needed to have submitted 'duly made' applications in order to have a statutory defence to a charge of operating the activity after 7 July 2015 without the benefit of an Environmental Permit.

The IED, however, provides no clear definition of 'pre-treatment', nor has the European Commission provided clarification. We have been working with Defra to resolve this so that we and business could work with certainty as to what activities are in or out of scope of the IED.

We have now agreed an interpretation of 'pre-treatment' that we will publish in Regulatory Guidance note No. 2 (RGN2) - Understanding the meaning of regulated facility that can be found [here](#). The revised text is appended hereto, for information.

Our approach

We want businesses to have sufficient time to produce good quality applications for IED installations. We will now expect operators of 'pre-treatment for incineration or co-incineration' activities that fall into this interpretation to submit duly made applications by 30 September 2015.

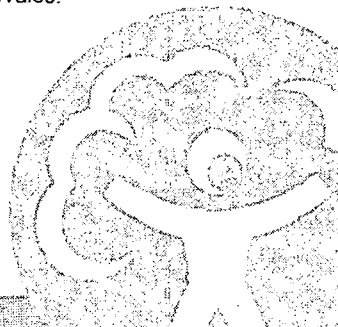
Enforcement

We will not take enforcement action against operators of pre-treatment for incineration or co-incineration activities that meet the new interpretation provided that they submit a duly made application by 30 September 2015.

It is the responsibility of operators of these activities to ensure they meet this deadline. Failure to do so may result in the current permit becoming invalid and the activity having to stop after 30 September 2015.

This statement is based on our understanding of the relevant legislation. It applies to England only. You can get advice on the approach being taken in Wales from Natural Resources Wales.

MWRP RPS 176 Version: 1
Issued: April 2015



www.gov.uk/environment-agency

Appendix - Revised text for RGN2

Where a waste treatment directly and intentionally improves the quality of the waste as a fuel by changing the composition of the waste in a way that changes one or more of the following 5 parameters:

- a. Calorific (or heating) value;
- b. Moisture content;
- c. Ash content;
- d. Chemical composition;
- e. Heavy metal content

including for example, to fulfil contractual requirements or product standard requirements, then that process is pre-treatment for incineration or co-incineration. Where a waste treatment is carried out for some other purpose and only incidentally improves the quality of the waste as a fuel, then it is not a 5.4 A(1)(b)(ii) activity.

Examples of waste activities which would be considered as pre-treatment for incineration or co-incineration include:

- Drying of waste wood, the residual waste from a materials recycling facility or the sludge from an effluent treatment plant explicitly in order to reduce its moisture content so as to facilitate combustion
- Separation processes to reduce the heavy metals or ash content of waste prior to combustion where that is done in order to improve the fuel quality
- Production of refuse derived fuels and other waste-derived fuels which are not captured by other Schedule 1 activities, where production beneficially changes one or more of the 5 parameters in above
- Treatment of the residual waste from a materials recycling facility to meet a contractual standard for the fuel where treatment beneficially changes one or more of the 5 parameters.

Examples of waste activities which would not be considered to be pre-treatment for incineration or co-incineration even though they generate an output which goes for combustion, include:

- Mechanical biological treatment. This involves biological treatment and is described elsewhere as an installation activity
- Mechanical separation of waste in order to recover the recyclables
- Use of tallow as a fuel from the rendering of animal by-products. However if the tallow requires a further treatment step in order to make the tallow suitable for burning as fuel, then that step would be considered as pre-treatment for incineration or co-incineration
- Size reduction which may assist in the handling of the fuel but is not primarily for the purpose of improving its combustion characteristics
- Baling which may assist in the handling of the fuel but is not primarily for the purpose of improving its combustion characteristics
- Shredding or chipping which may assist in the handling of the fuel but is not primarily for the purpose of improving its combustion characteristics
- Mixing and blending of hazardous waste which is covered as a section 5.3 activity (e.g. preparation of secondary liquid fuels for use in cement kilns)
- Preparation of material at the same location as the combustion process, (particularly where Chapter IV or IED (ex WID) applies), because this is considered part of the incineration process at those sites.

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