



**OFFICE OF
ENVIRONMENTAL
SUSTAINABILITY**

MEMORANDUM

TO:	Warren Phelan
FROM:	Ewa Babiarczyk Circular Economy Programme
DATE:	23 rd August 2022
RE:	Request for an Application Fee Refund for a Certificate of Authorisation by Cavan County Council for Cootehill Landfill, Pottleboy, Cootehill, Co. Cavan , Register Number H0020-01.

Recommendation: The Programme Manager is asked to approve the recommendation as set out below.

Background

This memo concerns the receipt on 9th June 2022 of correspondence from Cavan County Council requesting refunds of a certificate of authorisation (CoA) application fee in respect of the CoA application for Cootehill Landfill and an annual enforcement fee set out in the certificate of authorisation issued for the site on 14th December 2020.

The CoA application was received by the Agency on 17th July 2015, which was followed by the processing of the application, as outlined in Section titled '*Assessment*' below. Cavan County Council, in the correspondence received 9th June 2022 is requesting a full refund of the application fee of €5,000 paid in respect of the application due to the following reason:

- *The site had all waste removed at the time of remediation.*

Cavan County Council is also requesting that the enforcement fee, referred to by the County Council as the monitoring fee, of €1,083.00, required under Condition 2.4 of the CoA, be waived 'going forward' and that 'fee(s)' paid by Cavan County Council to date be refunded on the basis that the site contains no waste since it was originally fully remediated prior to submission of the CoA application.

Assessment

In accordance with Regulation 7(3) of the Waste Management (Certification of Historic Unlicensed Waste Disposal and Recovery Activity) Regulations 2008, the applicable fee for a certificate of authorisation application for a closed landfill is €5,000.

Regulation 7(3) of the Regulations provides the Agency with discretion to refund or waive the fee payable in accordance with these Regulations where it is satisfied that the payment in full of the fee would not be justified or reasonable, stating:

'A fee of €5,000 shall be payable by a local authority to the Agency in respect of each application for a certificate of authorisation. The Agency may, however, refund or waive all or part of the fee payable in respect of a particular application where it is satisfied that the payment in full of the fee would not be justified or reasonable having regard to the limited scale or nature of the landfill activity concerned'.

The Agency has expended resources on the application as follows:

- Upon the submittal of the application, the application documents were processed by Administration.
- Inspector's assessment of the application documents.
- Appropriate Assessment Screening Determination issued on 20th August 2019.
- Regulation 7(4) Notice issued 12th September 2019.
- Inspector's consideration of a response to the Regulation 7(4) Notice received on 7th November 2019.
- Inspector's consideration of unsolicited information received on 20th August 2019 and 6th September 2019.
- Inspector I, Senior Inspector, Programme Manager and Director consideration of the Inspector's Report of 24th January 2020 and a draft Certificate of Authorisation.
- Administration issue of the draft Certificate of Authorisation issued on 12th February 2020.
- Administrative processing and Inspector assessment of the representation by Cavan County Council received on 11th March 2020.
- Senior Inspector, Programme Manager and the Board of the Agency's consideration of the Report of the Technical Committee on Representations made on the draft certificate of authorisation of 26th November 2020.
- Administration issue of the final certificate of authorisation on 14th December 2020.

The Agency's resources expended in the processing of the application is the key criterion in assessing a refund request and in this case, the removal of waste in the remediation of the landfill did not eliminate or reduce the Inspector's assessment of all of the application documentation or the administration functions required to process the application. It is further noted that the application fee of €5,000 is funded directly to a local authority by the Department of Environment, Climate and Communications.

Regarding the enforcement fee, Condition 2.4 of the Certificate of Authorisation states:

'The local authority shall annually pay to the Agency €1,083, or such sum as the Agency from time to time determines in accordance with charges policy, for the performance of its functions under the Waste Management (Certification of Historic Unlicensed Waste Disposal and Recovery Activity) Regulations 2008 in relation to the closed landfill regulated by this Certificate of Authorisation'.

The annual enforcement fee, which is currently set at €1,083, was established by the Office of Environmental Enforcement (OEE), based on the anticipated effort involved in enforcement of the Certificate of Authorisation. Based on the Agency's *Licensing and Enforcement Charging Policy*, an authorisation holder can query an enforcement charge. As such, it is considered that the matter of the annual fee should be dealt with as part of the implementation and enforcement of the certificate of authorisation. Accordingly, it is recommended that Cavan County Council liaise directly with the Agency's Office of Environmental Enforcement in relation to the matter.

Recommendation

It is recommended that no refund of the certificate of authorisation application fee of €5,000 is granted. This recommendation is based on the time and resources the Agency has expended on this application.

It is further recommended that Cavan County Council is advised to liaise directly with the Office of Environmental Enforcement in relation to the matter of annual enforcement fees.

Signed,



Ewa Babiarczyk
Inspector