



<Dorota-Anna.BURSA@ec.europa.eu>

11.07.2011 15:13

To <Public.Participation@unece.org>

cc

bcc

Subject "C/54" Email 19

From: ENV CHAP

Sent: Tuesday, August 31, 2010 9:19 AM

To: WEGERDT Patrick (ENV); BURSA Dorota Anna (ENV)

Cc: ENV CHAP A

Subject: FW: CHAP (2010) 00645 / FB11.242/09 Access to Information on the Environment Request Related to Foreshore License for Dublin City Waste to Energy Project

[CHAP \(2010\) 00645](#)

From: Pat Swords [mailto:pat.swords.chemeng@gmail.com]

Sent: Monday, August 30, 2010 9:42 PM

To: GBFI_DV; ENV CHAP; info@ocei.ie

Cc: info; Brian Cotter; Waste Regulation; privateoffice@taoiseach.gov.ie; MINISTER; info@ag.irlgov.ie; office.dublin@trade.gov

Subject: Fwd: CHAP (2010) 00645 / FB11.242/09 Access to Information on the Environment Request Related to Foreshore License for Dublin City Waste to Energy Project

To: Garda Bureau of Fraud Investigation (FB11.242/09) / EU CHAP (2010) 00645 / Office of the Commissioner for Environmental Information
Re: Access to Information Request on Poolbeg Incinerator
Date: 30/8/2010

This documentation once again highlights the major abuses of power that are occurring in the Administration of the Irish State. There has been a complete failure to respond to an internal review request, so I am now going to lodge yet again an appeal to the Commissioner for Environmental Information at a cost of €150. However, this is a mere drop in the ocean compared to the losses in income and quality of environment that are occurring due to the administration systematically operating outside the legislation, see for instance:

- <http://ec.europa.eu/environment/legal/law/statistics.htm>
- <http://www.irishenvironment.com/irishenvironment/articles/Entries/2010/>

[6/1 Andrew L.R. Jackson, The Emerald Isle Irelands environmental compliance record in cross-EU terms.html](#)

None of this can be considered a surprise from a Member State, which as has been clearly established in previous Access to Information on the Environment requests, does not have a legal policy of compliance with the Environmental Acquis and in which senior elected and non-elected officials are given *carte blanche* to operate outside the legal framework.

Pat Swords BE CEng FICChemE CEnv MIEMA

----- Forwarded message -----

From: **Pat Swords** <pat.swords.chemeng@gmail.com>

Date: Sun, Aug 1, 2010 at 12:11 PM

Subject: Re: CHAP (2010) 00645 / FB11.242/09 Access to Information on the Environment Request Related to Foreshore License for Dublin City Waste to Energy Project

To: GBFL_DV <GBFL_DV@garda.ie>, env-chap <ENV-CHAP@ec.europa.eu>

Cc: info <info@amcham.ie>, Brian Cotter <b.cotter@amcham.ie>

To: Garda Bureau of Fraud Investigation / EU CHAP (2010) 00645

Re: Access to Information Request on Poolbeg Incinerator

Date: 1/8/2010

S.I. No. 133 of 2007, which implement Directive 2003/4/EC in Ireland, require under Article 7 (2a) "That a public authority shall make a decision on a request and, where appropriate, make the information available to the applicant as soon as possible, and at the latest not later than one month from the date on which such request is received by the public authority concerned". The attached reply was posted on the 28th July and received this weekend.

Note: No attempt was made to was made to address the subject matter concerned in the two requests below, in particular the second one which related to the policy of the Department and appropriate timeframes for processing foreshore licenses. I have therefore requested an Internal Review on the second question. It is also necessary to point out that the Department's own guidance notes to the Access to Information on the Environment Regulations 2007 is clear in Section 7.2 that: "Public authorities are reminded that the objective of the regulations is to facilitate access to information to the greatest possible extent consistent with the provisions of the Regulations generally".

It is clear that Minister Gormley and his senior civil servants in the Department of the Environment, Heritage and Local Government are obstructing the necessary development of incineration capacity in this country. The manner in which waste

policy is being implemented, without the necessary Environmental Report and public consultation under the Strategic Environmental Assessment Directive (2001/42/EC), was highlighted by myself recently. As was the presence of documentation to support this new policy on the Department's website, which does not comply with proper scientific and technical facts nor EU Environmental legislation with regard to waste.

Companies are simply stating that they cannot do business in Ireland anymore as the regulatory system is systematically operating outside the regulatory framework. It is not only Covanta on the Dublin incineration project (<http://www.independent.ie/national-news/us-poolbeg-firm-wants-gormley-to-stand-aside-2280588.html>), who have been waiting since February 2008 for their foreshore license application to be process, but also StatoilHydro, who have a significant share on the Corrib project, who had to state to the media in August 2009:

- "When we look at political risk with practical consequences to project progress then Ireland unfortunately stands out as an example".

Huge financial losses are having to be carried by companies in Ireland due to officials failing to act according to the regulatory framework. Furthermore those of us in industrial development, who provided the motor for the Irish economy, are suffering huge losses in investment in the country and are experiencing major job losses. There is also the fact that the taxpayer will be expected to 'pick up' the cost of the inevitable fines for failure to meet the targets in the Landfill Directive. The Prevention of Corruption (Amendment) Act of 2001 is very clear in Article 2 (1) that; "making any omission in relation to his or her office or position ...shall be guilty of an offence". There is no doubt that Minister Gormley is obstructing this project for personal political gain. Furthermore two and a half years is a completely unacceptable timeframe for the processing of a foreshore licence and his officials have failed to (a) clarify the reasons behind this delay and (b) their policy in relation to timeframes for processing such applications.

It is clear to everybody that abuses of power are occurring.

On Thu, Jul 29, 2010 at 9:08 AM, GBFI_DV <GBFI_DV@garda.ie> wrote:
Dear Sir,

Receipt of your e-mail and attachment is acknowledged.

Divisional Office
Garda Bureau of Fraud Investigation
Harcourt Square
Harcourt Street
Dublin 2
Ireland
Tel: 00353 166 63706
Fax: 00353 166 63798
Email: gbfi_dv@garda.ie

From: Pat Swords [mailto:pat.swords.chemeng@gmail.com]
Sent: 28 July 2010 19:51
To: env-chap; MINISTER; foreshore@environ.ie; GBFI_DV
Cc: [Raymond Butle@ombudsman.gov.ie](mailto:Raymond.Butler@ombudsman.gov.ie); info; info@ocei.ie; Waste Regulation

Subject: Re: CHAP (2010) 00645 / FB11.242/09 Access to Information on the Environment Request Related to Foreshore License for Dublin City Waste to Energy Project

To: EU CHAP (2010) 00645

Minister for the Environment, Foreshore Licensing

Garda Bureau of Fraud Investigation

No attempt has been made to answer this Request for Information on the Environment within the one month statutory period. Therefore according to S.I. No. 133 of 2007 I am requesting an Internal Review.

Pat Swords BE CEng FICHEM CEnv MIEMA

On Sun, Jun 27, 2010 at 7:46 PM, Pat Swords <pat.swords.chemeng@gmail.com> wrote:

To: EU CHAP (2010) 00645

Minister for the Environment, Foreshore Licensing

Garda Bureau of Fraud Investigation

For some time now I have been highlighting the:

- Lack of strategic environmental assessments for the renewable energy and waste policies in Ireland.
- The granting of renewable energy tariffs to wind energy producers, without any proper assessment of the costs, benefits and alternatives.
- The obstruction of waste to energy projects, which can provide a higher quality of renewable energy with better costs and with far greater environmental benefits. Indeed Ireland is now facing proceedings against it initiated by the EU Commission over non-compliance with the Landfill Directive (1999/31/EC).

The Irish Green Party and in particular its leader, the Environment Minister John Gormley have played a major role in obstructing the implementation of the necessary waste to energy infrastructure. From the newspaper report below it is clear that he is now obstructing the 600,000 t/a (50 MWe) waste to energy plant in Dublin once again by refusing to process the necessary foreshore license for the plant's cooling system.

<http://www.irishtimes.com/newspaper/opinion/2010/0626/1224273355098.html>

Given that such actions are perceived to benefit both himself and his party personally, his behaviour is clearly corruption. I have already contacted the Garda Bureau of Fraud Investigation on this issue in the past, see attached correspondence, but no action has been taken other than to acknowledge the initial correspondence file. If as is likely, the Irish State is fined by the European Court of Justice for the more than thirty cases now been taken against it for infringements of EU Environmental Legislation, I consider it unacceptable that the Irish Taxpayer will have to fund the bill given that it was senior elected and unelected officials, who choose to act outside the legislation for their own benefit. There is also the sad case that Ireland is now considered off limits for investment as its regulatory system has been grossly politically compromised and the Environmental Acquis are consistently ignored by these officials. Huge job losses are occurring.

With regard to this foreshore license I am therefore requesting the following information from the relevant officials under the Access to Information on the Environment Regulations (S.I. No. 133 of 2007), which implement Directive 2003/4/EC. Information on the Environment includes administrative measures, such as foreshore licensing, which have a role in environmental protection, as does the measures related to the provision of the necessary waste infrastructure to meet the targets set in the Landfill Directive:

- The Foreshore Act of 1933 is clear in Section 3(1) in that if it is in the Public Interest for a licence to be awarded then it should be awarded by the Minister. Given that the Poolbeg project is fully approved by the Planning Authorities through the Environmental Impact Assessment process, is licensed to Integrated Pollution Prevention and Control and is essential to meet the targets of the Landfill Directive (1999/31/EC), which the Irish State is already considerably in breach of, on what basis of 'Public Interest' has this license not been awarded given it was applied for two years ago? I am also drawing attention to Section 10 (2) of the Foreshore Act in which the grounds of refusal to grant a license for erection of a structure are limited to the likelihood of an obstruction to navigation or to fishing.
- Section 4 (2a) of the Prevention of Corruption (Amendment) Act of

2001 is clear in that "the granting, refusal, withdrawal or revocation by a Minister or an officer of a Minister or by any other person employed by or acting on behalf of the public administration of the State by or under any statute of any licence, permit, certificate, authorisation or similar permission, where any gift or consideration or advantage shall be deemed to have been given and received corruptly as an inducement to or reward", is defined as corruption . What is the official position of the Department of the Environment with regard to the processing of licenses and permits, such as a foreshore application, within an appropriate timeframe and the 2001 Prevention of Corruption (Amendment) Act of 2001.

I am also highlighting the Ombudsman's Code of Public Servants and section 1 relating to dealing promptly and without undue delay. I will be making a complaint to the Ombudsman if there is not a satisfactory outcome to the above request.

My contact details are:

Pat Swords BE CEng FICChemE CEnv MIEMA

10 Hillcourt Road

Glenageary

Co. Dublin

01-2852768

(e-mail is best as I'm out of the country a lot, as I have pointed out there is no investment in industrial development in Ireland anymore)

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AIE_2010_015_Re_Poolbeg_from_Pat_Swords_Decision_letter.doc



Schedule_of_Records_AIE_2010_015.doc



Summary_of_decision_AIE_2010_015_Pat_Swords_Re_Poolbeg.doc



Reminder to Department of Environment Re Internal Review due by 29-8-2010.pdf



Failure to Respond to the Internal Review Request on AIE-2010-0015 by 30-8-2010.pdf