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2 May 2013

Dear Mr Ó Cruadhlaioich,

I refer to your letter of 17 April 2013 in relation to correspondence from the Irish Environmental Forum.

Given the nature of the allegations contained in the Forum's letter, the enclosed information note provides comprehensive details in respect of the performance of the EPA in the area of environmental protection; the strategic priorities for the Agency; the appointment of Directors and the Director General to the EPA; and details on licensing and enforcement of the Aughinish Alumina facility.

I hope that this information will be of assistance to the Committee

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Laura Burke', written over a horizontal line.

Laura Burke
Director General



Information Note from the Environmental Protection Agency to the Joint Committee on Environment, Culture and the Gaeltacht
2nd May 2013

Environmental Protection Agency

The Environmental Protection Agency (EPA) is the statutory body responsible for protecting the environment in Ireland. The Agency is an independent public body established in July 1993 under the Environmental Protection Agency Act, 1992. Our sponsor in Government is the Department of the Environment, Community and Local Government.

The Agency has key roles in Environmental **Regulation**, provision of **Knowledge** and **Advocacy** for the Environment.

The work of the EPA is carried out by its four main Offices:

- The Office of Climate, Licensing, Research and Resource Use
- The Office of Environmental Enforcement
- The Office of Environmental Assessment
- The Office of Communications and Corporate Services

The mission of the Environmental Protection Agency is to protect and improve the environment as a valuable asset for the people of Ireland.

The initial legislative base for the EPA was set out in the Environmental Protection Agency Act 1992 (the 1992 Act). However, the growth in the corpus of environmental law in Ireland since then, significantly driven by the domestic implementation of EU law, has seen the number of statutory functions assigned to the EPA also increasing considerably. The Waste Management Act 1996, the Water Services Act 2007 and the Protection of the Environment Act 2003 are the most significant pieces of legislation that expanded the EPA's remit, but it has also been impacted by a broad range of secondary legislation, as can be seen from figure 1.

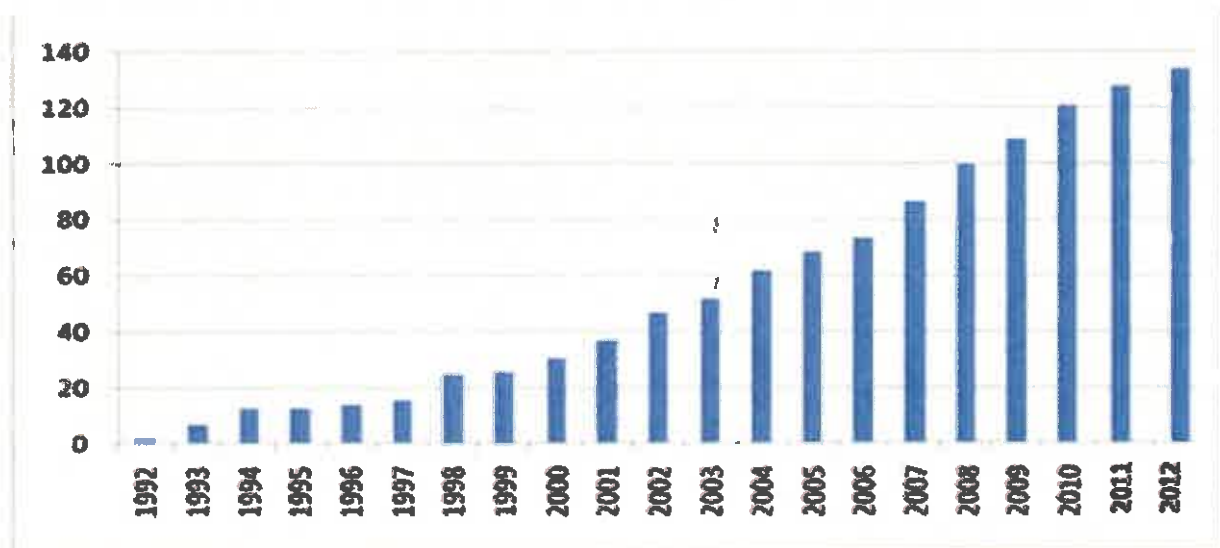


Figure 1: Growth in Statutory Functions of the EPA



The EPA collaborates with many other organisations in the delivery of our statutory functions and has a number of Memoranda of Understanding including with the RPII, An Bord Pleanála, the HSE, Met Eireann, CSO, the Department of Agriculture, Food and the Marine, the Marine Institute, SEAI, Bord Bia and Teagasc.

EPA Review

In February 2010, the Minister for the Environment, Community and Local Government established an independent external Review Group to review the EPA's scope, mandate, structures and performance, having regard to the central role played by the Agency in monitoring, maintaining and improving Ireland's environmental performance.

In May 2011, the Minister for the Environment was presented with the report of the independent Review of the Agency. The review involved a comprehensive examination of the EPA and a public consultation process to gather views from the public and the widest range of interested parties.

The overall findings of the independent review were highly positive on the value being delivered by the EPA since its foundation and cautioned that any reduction of the resources of the Agency could be a false economy given the value it provides.

The Report of the Review Group states that the EPA overall has provided 'considerable benefit for Ireland's environment and for the health and well-being of its people' and that the environmental expertise within the EPA is a significant national resource.

Independence

The EPA Review Group noted that three priorities or essential characteristics for the EPA were set out when the Bill to establish the Agency was introduced: "independence from Government, public authorities or any other interested bodies; power to carry out their functions effectively; and transparency in all their decisions" and also that its scientific integrity should be beyond reproach.

The review of the EPA concluded that the EPA has the independence to arrive at informed and objective decisions, based on the facts (scientific integrity), and to undertake objective assessment and reporting on the state of the environment. The Review Group found that independence is one of the EPA's key strengths and is well provided for in existing legislation.

Accountability

The EPA Directors are appointed by Government and the Agency is required to lay an Annual Report before both Houses of the Oireachtas. The EPA Review Group noted that there have been regular attendances by the EPA at Oireachtas Committees, for example to discuss issues such as climate change, waste and water management. While accountability to citizens is achieved through its interaction with the Oireachtas, the Review Group also noted that the EPA has a good record also of direct engagement with citizens on key matters, such as



engagement at a senior level with concerned residents at local meetings in relation to licensed activities.

Appointment of Directors and Director General

The Director General and other Directors are appointed by Government based on the recommendations of an independent selection committee, the membership of which is set down in section 21(2) of the 1992 Act and comprises:

- a) the Secretary to the Government
- b) the Secretary of the Department of the Environment
- c) the Chairperson of the Council of An Taisce – the National Trust for Ireland
- d) the Managing Director of the Industrial Development Authority
- e) the General Secretary of the Irish Congress of Trade Unions, and
- f) the Chief Executive of the Council for the Status of Women

Vacancies are advertised publicly under an open competition managed by the Public Appointments Service (PAS) and interviews are held by the independent statutory committee, who then make a recommendation to Government. The committee is required to have regard to a potential appointee's specialist knowledge and experience including, in the case of Directors, relevant experience in environmental matters. The EPA Review Group concluded that this process has, overall, been successful to date, that its general features are robust, conform to the criteria in the White Paper *Regulating Better* (Department of the Taoiseach, 2004) and should remain unchanged.

EPA Strategic Plan 2013- 2015

In February 2013, the EPA published our new Strategic Plan 2013- 2015: *Working with others for a Better Environment*. This is our fourth formal strategy since the EPA was established 20 years ago.

The Strategic Plan sets out the priority actions that the EPA will take between now and 2015 in its role as environmental regulator, knowledge provider and advocate for the environment. Nine Strategic Priorities are identified in the Plan including Better Regulation, Clean Water, Preventing Environmental Damage, providing Accessible Information and influencing Behavioural Change.

The Strategic Priorities reflect current environmental challenges being faced by the EPA and society as a whole. Addressing these challenges will be key to delivering the EPA's vision of a clean, healthy and well- protected environment supporting a sustainable society and economy. In developing the Strategic Plan, the EPA consulted with many people and organisations including the public. The EPA received over 80 submissions on the plan which highlights the continued awareness and interest in environmental issues, and which helped refine and strengthen the Strategy. A copy of the EPA's Strategic Plan 2013- 2015 is enclosed for information.



Licensing and Enforcement

The EPA has a key role in licensing facilities with the potential for significant environmental pollution, to ensure that their emissions do not endanger human health or harm the environment. These include Integrated Pollution Prevention and Control (IPPC) Licences, Waste Licences, Waste Water Licences and Genetically Modified Organisms (GMO) authorisations. During 2012 the EPA continued to manage licensing and enforcement activities using a risk-based approach. We issued 137 licences in 2012; 46 of these were revisions to existing licences to bring them into line with recent European regulations. We also issued a further 25 Proposed Determinations, giving the public an opportunity to comment before finalising these licences. We completed a further 230 technical assessments on request.

The EPA regularly inspect and audit sites - from licenced sites, such as industrial facilities, waste facilities and local authority urban waste water plants, to regulated sites, such as local authority drinking water plants or, for example, retail outlets that deal in electronic equipment. During 2012 we carried out more than 1,200 inspections and audits and held over 100 compliance meetings with licensees. We also took 16 successful prosecutions in the District Court and a further case, taken on indictment by the Director of Public Prosecution on foot of a file prepared by the EPA, resulted in fines of over €1m being awarded for odour nuisance. An IPPC licence for one facility was revoked by the EPA in 2012.

Aughinish Alumina

As the Forum's letter referred specifically to the regulation of the Aughinish Alumina installation in Co. Limerick, and in particular to compliance with the European Mine Waste Directive, the following should be noted.

The European Mine Waste Directive sets out a range of requirements for sites that manage extractive waste (i.e. waste associated with extraction such as mining or quarrying). The Irish legislation came into force in December 2009 (known as the 'extractive waste regulations') and required that all existing licences for sites that manage extractive waste be updated to include additional requirements by 1 May 2012. The Aughinish Alumina site is one such site. The EPA commenced review of the Aughinish Alumina licence in June 2011, nearly a year before the deadline required by the Mine Waste Directive. Following a period of public consultation and an objection phase, a revised IPPC licence was issued to Aughinish Alumina on 24 October 2012. The revised licence also contains amendments made on foot of the European Communities Environmental Objectives (Surface Waters) Regulations.

Aside from the more recent review to address the specific requirements of the Mine Waste Directive, the Aughinish Alumina site has a long history of authorisation by the EPA. The site was first granted an Integrated Pollution Control (IPC) licence under national legislation in May 1998 to comply with the EPA Act and the IPPC Directive. Since then the licence has been reviewed three times and the site has been subject to on-going enforcement by the EPA (including routine inspections, monitoring tests and audits).



All relevant licensing and enforcement documentation is available through the EPA's website and public files. Many of the requirements of the Mine Waste Directive have been provided for since the first licence was granted.

The previous IPPC licence for the Aughinish Alumina installation (P0035-04) required the licensee to maintain an "operational plan" for the Bauxite Residue Disposal Area which is the area at the site where extractive waste (i.e. red mud) is being disposed. This plan already addressed many of the requirements of the Mine Waste Directive in relation to the requirement to develop a 'waste management plan', but under the revised IPPC licence (P0035-05) Aughinish Alumina were given 6 months from October 2012 to upgrade the existing plan to meet the new requirements of the Directive. This upgrade of the operational plan has now been completed by the licensee and has been submitted to the Agency.

Likewise, with regard to emergency preparedness, the previous IPPC licence (P0035-04) required the licensee to maintain an Accident Prevention Policy and an Emergency Response Procedure, so most of the elements of an Internal Emergency Plan (as required by the Directive) were already in place at the site prior to the recent licence review. The revised IPPC licence required Aughinish Alumina to upgrade their existing emergency plans to address any new requirements of the legislation in relation to the development of an Internal Emergency Plan. This upgrade has taken place and the revised plan has been submitted to the EU Commission.

The preparation of an 'External Emergency Plan' is the responsibility of the local authority, in this case Limerick County Council, and not of the licensee or of the EPA.

The Forum submission also refers to a facility in Hungary. The method of disposal of red mud at the Aughinish Alumina site is very different to that of the Akja plant in Hungary, where a significant spillage of red mud into the environment occurred in October 2010. In Ajka, the red mud was being pumped out as a liquid into a large holding pond, a methodology which is referred to as wet disposal, whereas at the Aughinish Alumina site the red mud is filtered to remove most of the water and the material is then deposited over an extended surface to dry out - this method is known as 'dry stacking'. The dry stacking method provides for greater control over the waste and minimises the pressure on the perimeter structures of the Bauxite Residue Disposal Area. All EPA licences impose stringent obligations on the licensee to ensure proper design, construction and operation of the dedicated containment facility and for regular independent safety assessments. The EPA has obtained independent expert geotechnical advice on the design of the retention structures at the Bauxite Residue Disposal Area and is satisfied that the design of the structures are in accordance with best international practice. Copies of these assessments are available to the public to review.

