

BY REGISTERED POST

Mr Martin O'Donovan
Cooligboy
Timoleague
Bandon
County Cork

South/South West Region
Environmental Protection Agency
Regional Inspectorate, Inniscarra
County Cork, Ireland

Cigireacht Réigiúnach, Inis Cara
Contae Chorcaí, Éire

T: +353 21 487 5540

F: +353 21 487 5545

E: info@epa.ie

W: www.epa.ie

LoCall: 1890 33 55 99

+353 21 487 5540

27 January 2022

Warning Letter regarding the operation of unauthorised facilities adjacent to the licensed piggery of Martin O'Donovan, Licence Register Number P0621-02 ("the Licence"), at Cooligboy, Timoleague, County Cork

Dear Mr O'Donovan

The EPA hereby serves notice to you under Section 82 (2) of the EPA Act 1992, as amended ("the Act"), to cease and desist the unauthorised operation, for activities falling under Class 6.2 of the First Schedule of the Act ("Class 6.2. activity"), of facilities located adjacent to the above-named licensed piggery installation, unless and until you have been granted a licence which authorises the operation of these unauthorised facilities.

We are writing to you on the understanding that:

- you are the owner of these unauthorised facilities and the lands on which they have been developed;
- the unauthorised facilities are located immediately adjacent to your licensed installation and share a single entrance, and may therefore be deemed, in accordance with the Industrial Emissions Directive ¹, to be directly associated activities on the same site which have a technical connection with the activities in your licensed installation (unless it is proved to our satisfaction to be otherwise).

We are satisfied that the said facilities have been in operation for Class 6.2 activity in advance of your receiving authorisation to operate in them, as confirmed by EPA Site Visits on 9th June 2021 and 5th November 2021. We note from the correspondence sent to the

¹ DIRECTIVE 2010/75/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 24 November 2010 on industrial emissions (integrated pollution prevention and control)

EPA on your behalf by Mr Michael Sweeney dated 13th October 2021 that the pig farm "has at all times operated in compliance with the stock numbers as set out in Schedule 1(i) of this licence, and it is the licensee's intention to continue to do so until a new licence is issued." Mr Sweeney further states that "The Licensee is committed to maintaining compliance with current licence numbers, until new licence is issued, and only asks that he be allowed to use new housing to provide for the effective upgrading of housing on the old unit."

Relevant licence conditions:

Condition 1.4 of the Licence states "Any reference in this licence to 'site' shall mean the plan area edged in red and labelled 'Site Location Map', Attachment 2 in the IPC licence application."

Condition 1.5 of the Licence states "This licence relates to a facility **with the capacity** to house a maximum number of animals as described in Schedule 1(i) Animal Numbers Housed at the Facility." (emphasis added).

The new piggery installation is outside the site boundary of the Licence and is not permitted under the Licence. Notwithstanding that the installation is outside the site boundary, the additional capacity provided by the new pig houses is not permitted by Condition 1.5 and Schedule 1(i) of the Licence in that the total capacity of the facilities being operated by you exceeds what is permitted in the Licence. The new piggery installation is therefore unlicensed activity.

This letter gives you notice that the Agency may, without further notice to you, commence enforcement proceedings against you in relation to this unauthorised activity unless you take one of the following steps to the Agency's satisfaction:

- i. you confirm in writing to the EPA, within 10 business days of the date of this letter, that the unauthorised facilities are not being used for a Class 6.2 activity, and that all stock and materials related to the carrying on of a Class 6.2 activity have been removed from the unauthorised facilities, and shall not be reintroduced to the said facilities unless and until a reviewed licence authorising you to operate in them has been granted by the EPA; or
- ii. you confirm in writing to the EPA, within 10 business days of the date of this letter, that the unauthorised facilities are not technically connected to your installation and are not under your ownership or control, and you identify the person or persons who are in control of the unauthorised facilities.

Summary of reasons for this Notice:

The EPA has considered the relevant documents including the site reports and relevant correspondence and notes in particular the following:

1. A site inspection was carried out by the EPA on 9 June 2021 at your licensed facility during which the EPA Inspector noted what appeared to be unauthorised licensable activity on lands adjacent to the licensed installation.
2. By letter dated 30th September 2021 the EPA instructed you to, inter alia, cease and desist from engaging in any Class 6.2 activities in the new piggery installation and advised that it is an offence liable to prosecution to carry on activity, which requires a licence, in the absence of a licence.
3. By letter dated 15th October 2021 Mr Michael Sweeney of NRG E responded to the EPA on your behalf but failed to provide confirmation that the unauthorised licensable activity had ceased. Mr Sweeney confirmed "the relocation of some stock to the new constructed facilities" and indicated that an application for a review of the existing Licence Reg No PO621-02 was being prepared and that the timeframe for completion of the application was estimated at that time to be 5-6 months.
4. The EPA conducted a further inspection on 5th November 2021 and the EPA inspectors noted that 4 houses at the new piggery installation were stocked with pigs.
5. In order that the new installation might be incorporated into the existing Licence, the licensee would be obliged to lodge an application with the EPA for a review of the Licence in advance of such licensable activity being commenced in the new installation and no such application has been received. The application to transfer the Licence from Mr Martin O'Donovan to Carhue Piggeries Ltd is being considered by the EPA but this application does not seek to incorporate the new facilities under the Licence.

The Agency is of the view that you, as owner and operator of the new facilities, have been carrying out a licensable activity in these facilities without a licence being in force in relation to the activity, contrary to the requirements of section 82(2) of the Act. This unauthorised activity appears to be continuing despite the EPA instructing you to cease and desist from engaging in any Class 6.2 activities in the new piggery installation.

We look forward to hearing from you with the required action as set out above failing which we will consider taking enforcement action without further recourse to you.



Peter Cunningham
Senior Enforcement Manager
Office of Environmental Enforcement

CC. Mr Michael Sweeney NRG E

Attachments:

- 1 Report of Site Visit on 09 June 2021, EPA Report SV22457, issued 09 July 2021
- 2 Letter dated 30 September 2021 from EPA's Environmental Licensing Programme to Mr Martin O'Donovan, Pig Farm, Cooligboy, Timoleague, Co Cork
- 3 Letter titled "Response to Agency Correspondence dated 30.09.2021, as issued to Mr Martin O'Donovan, in respect of his pig farm located at Cooligboy, Timoleague Bandon Co Cork, IE Licence Reg No P0621-01"; dated 15 October 2021 from Mr Micheal Sweeney of NRG, representative of Mr Martin O'Donovan
- 4 ELP Response dated 20 October 2021 to Mr Sweeney's letter dated 15 October 2021
- 5 Record of site inspection at unlicensed facility on 05 November 2021; EPA report dated 07 December 2021
- 6 "P0621-02 Boundary Map 2003", submitted by the licensee to EPA as part of application for licence P0621-02, received in August 2003, which indicates the boundary of the licensed site – this is the extent of the area in which licensable activities are authorised under the licence
- 7 "Full site map and routes-Layout2", map created by NRG Ltd., dated October 2020, illustrating (for Planning purposes) the extent of the existing licensed installation [to the left of the image, i.e. the southern portion of the lands] and the new unauthorised facilities [to the right of the image, i.e. the northern portion of the lands]