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Right to Know
Via email: requests@righttoknow.ie

28th February 2024

Re: OEE AIE 2024 01 Decision

Dear Right to Know

I refer to your request dated and received on 8th January 2024 and my clarification letter dated 16th January 2024, made under the EC (Access to Information on the Environment) Regulations 2007 to 2018 (AIE), for records held by the Environmental Protection Agency (EPA). The reference number assigned to your request is OEE AIE 2024 01. Please use this number in all future correspondence with the EPA on this matter.

Your request sought:

Under AIE to request enforcement/licencing records for a pig farm (redacted) mentioned in the court diary, Brandon District Ct, for 4th Jan 2024

For the purposes of this AIE please consider records related to the court case and relevant site inspections within EDEN, LEMA, LEAP and any other EPA enforcement/licencing databases

Please consider the date range 2022 to 2024

<https://www.epa.ie/our-services/compliance--enforcement/whats-happening/prosecutions-and-penalties/prosecutions-2024/epa-prosecutes-a-county-cork-pig-farmer.php>

On 4th January 2024 the Environmental Protection Agency prosecuted a County Cork Pig Farmer at Bandon District Court.

The Pig Farmer pleaded guilty to the following offences:

- *That he, on or about the 5th of April 2022 did carry on an activity within the meaning of Class 6.2 of the First Schedule of the EPA Act 1992 (as amended), namely the rearing of pigs in an installation where the capacity exceeds 750 places for sows or 2000 places for production pigs which are over 30kg, in the absence of*

a licence or revised licence being in force in relation to the said activity contrary to Section 82(2) of the said Act.

- *That he, on or about the 6th of May 2022 did carry on an activity within the meaning of Class 6.2 of the First Schedule of the EPA Act 1992 (as amended), namely the rearing of pigs in an installation where the capacity exceeds 750 places for sows or 2000 places for production pigs which are over 30kg, in the absence of a licence or revised licence being in force in relation to the said activity contrary to Section 82(2) of the said Act.*

Judge James McNulty convicted the Pig Farmer on both charges and imposed a fine of €3,000 for each offence. Agency costs were also agreed.

SUMMARY OF DECISION

A total of 60 records were identified as relevant to your request. 55 of these records are granted in full. I have identified 5 records which are refused in accordance with Article 9(1)(b) & 9(2)(d) of the AIE Regulations, which provides as follows:

Discretionary grounds for refusal of information

9. (1) A public authority may refuse to make available environmental information where disclosure of the information requested would adversely affect—

(b) the course of justice (including criminal inquiries and disciplinary inquiries),

9(2) A public authority may refuse to make environmental information available where the request—

(d) concerns internal communications of public authorities, taking into account the public interest served by the disclosure.

It is also my decision that the records in question are otherwise protected by law under Section 31(1)(a) of the Freedom of Information Act 2014. This provides that:

31. (1)(a) A head shall refuse to grant an FOI request if the record concerned— (a) would be exempt from production in proceedings in a court on the ground of legal professional privilege,

In arriving at a decision on your request, I confirm that I have had regard to the provisions of Article 10 of the Regulations, as a decision to refuse to disclose information under Articles 8 and/or 9 must not be taken in isolation from the relevant provisions in Article 10.

PUBLIC INTEREST TEST

In line with Articles 10(3) and/or 10(4), my deliberations have included weighing the public interest served by disclosure against the interest served by the refusal of your request. I have determined that the public interest would not be served by disclosing the information you requested.

Factors in favour of the release of this information are:

- In members of the public exercising their rights under the AIE Regulations,
- In people knowing that the information held about them is accurate, complete, and up to date.

The factors in favour of withholding this information are:

- Legal professional privilege,

- Public Interest in protecting the ability of public bodies to carry out their functions and to be able to communicate effectively.

I have decided that, on balance, the public interest in this case is best served by withholding this information as its release could breach the rights of privacy of an individual.

SCHEDULE OF RECORDS

I have completed a schedule of records relating to the records that I consider relevant to your request. The schedule provides a brief description of each record and the decision I have made on each record. Where I have decided to refuse or partly refuse access to a record, it specifies the Article of the AIE Regulations under which this refusal has been made. For these records, it also records how I applied the public interest test pursuant to Article 10(3) and 10(4).

ONE DRIVE

The records for the above request are available on One Drive at the following link [Full Release - OEE AIE 2024 01](#). Note that the email address for accessing this link is that provided with your request i.e. requests@righttoknow.ie If you have any difficulties accessing the records, please contact me at oeaiefoi@epa.ie.

FEES

Article 15 of the regulations allows a public body to charge a reasonable fee for the cost of supplying (search and retrieval) the environmental information. In this instance the fee is being waver as the estimated cost for Search & Retrieval is less than €100.

RIGHTS OF APPEAL

Under Article 11 of the AIE Regulations you have a right to request an internal review of this decision. An internal review involves a complete reconsideration of the matter by a more senior member of the staff of the Environmental Protection Agency, unconnected with the original decision, who may affirm, vary or annul the original decision.

In the event that you wish to request an internal review, you can do so by writing to Ms Ana Bolger, AIE Officer, EPA, P.O. Box 3000, Johnstown Castle Estate, Co. Wexford or by sending an email to aie@epa.ie. You should make your request within one month from the date of this notification.

Yours sincerely,



David Smith
AIE Decision Maker
Office of Environmental Enforcement

Encl.

SCHEDULE OF RECORDS

Access to Information on the Environment (AIE) Schedule of Records

Summary of Decision Making

AIE Request Ref: OEE AIE 2024 01

| Document No. | Statements and documentary evidence | Decision – Grant/Part-Grant/Refuse | Basis for refusal – Article of Regulations | Public Interest Yes/No | Reason for Decision |
|---------------------|--|---|---|-------------------------------|----------------------------|
| 1 | Site Visit Report (Ref. SV22457) - 09/06/2021 | Grant | n/a | yes | n/a |
| 2 | Environment Licensing Programme (ELP) letter to operator issued on 30/09/2021 | Grant | n/a | yes | n/a |
| 3 | Email response from Operator to ELP on 15/10/2021. | Grant | n/a | yes | n/a |
| 4 | ELP reply to Michael Sweeney dated 20/10/2021 | Grant | n/a | yes | n/a |
| 5 | Report for site visit to unlicensed piggery on 05/11/2021 | Grant | n/a | yes | n/a |
| 6 | Boundary map for Martin O'Donovan installation submitted with licence application. | Grant | n/a | yes | n/a |
| 7 | Warning letter to Martin O'Donovan dated 27/01/2022 | Grant | n/a | yes | n/a |

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|---------------------|---|---|---|-------------------------------|----------------------------|
| 8 | Response from Martin O'Donovan to warning letter dated 09/02/2022 | Grant | n/a | yes | n/a |
| 9 | Site Visit Report (Ref. SV24378) - 15/02/2022 | Grant | n/a | yes | n/a |
| 10 | Site visit report (Ref. SV25536) – 05/04/2022 | Grant | n/a | yes | n/a |
| 11 | Pig counting record sheets from 05/04/2022 | Grant | n/a | yes | n/a |
| 12 | Non-Compliance Detail Report NC023948 | Grant | n/a | yes | n/a |
| 13 | Non-Compliance Detail Report NC024329 | Grant | n/a | yes | n/a |
| 14 | Compliance Investigation Detail Report CI001994 | Grant | n/a | yes | n/a |
| 15 | Contemporaneous notes for SV on 09-06-2021 - Joe Hunter | Grant | n/a | yes | n/a |
| 16 | Contemporaneous notes for SV on 09-06-2021 - Sinead Doyle | Grant | n/a | yes | n/a |
| 17 | Contemporaneous notes for SV on 05-11-2021 - Adrian Farrell | Grant | n/a | yes | n/a |
| 18 | Contemporaneous notes for SV on 05-11-2021 - Sinead Doyle | Grant | n/a | yes | n/a |
| 19 | Contemporaneous notes for SV on 15-02-2022 - Adrian Farrell | Grant | n/a | yes | n/a |

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| 20 | Contemporaneous notes for SV on 15-02-2022 - Paul Buckley | Grant | n/a | yes | n/a |
| 21 | Contemporaneous notes for SV on 15-02-2022 – Cyril Tynan | Grant | n/a | yes | n/a |
| 22 | Contemporaneous notes for SV on 05-04-2022 – Adrian Farrell | Grant | n/a | yes | n/a |
| 23 | Contemporaneous notes for SV on 05-04-2022 – Paul Buckley | Grant | n/a | yes | n/a |
| 24 | Contemporaneous notes for SV on 06-05-2022 – Adrian Farrell | Grant | n/a | yes | n/a |
| 25 | Contemporaneous notes for SV on 06-05-2022 – Paul Buckley | Grant | n/a | yes | n/a |
| 26 | EPA licence reg; P0621-02 | Grant | n/a | yes | n/a |
| 27 | Aerial photograph showing licensed site and outline of where unauthorised facilities are located. | Grant | n/a | yes | n/a |
| 28 | Full site map and routes-Layout2 | Grant | n/a | yes | n/a |
| 29 | Warning Letter to Mr M O'Donovan re unauthorised operation 2022 01 27 | Grant | n/a | yes | n/a |
| 30 | SV25563 - Licensee Report - 06 May 2022 | Grant | n/a | yes | n/a |
| 31 | Statement of Site Inspection - Unlicensed Piggery in Timoleague - 02 11 2023 | Grant | n/a | yes | n/a |

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|---------------------|---|---|---|-------------------------------|----------------------------|
| 32 | Statement of Site Inspection - Unlicensed Piggery in Timoleague - FINAL | Grant | n/a | yes | n/a |
| 33 | Stock register for unlicensed facility - February 2022 | Grant | n/a | yes | n/a |
| 34 | September 2023_Stock Register | Grant | n/a | yes | n/a |
| 35 | Contemp notes of AF from 05 April 2022_typed | Grant | n/a | yes | n/a |
| 36 | Contemp notes of AF from 05 November 2021 | Grant | n/a | yes | n/a |
| 37 | Contemp notes of AF from 15 February 2022_typed | Grant | n/a | yes | n/a |
| 38 | Pig Count Sheet | Grant | n/a | yes | n/a |
| 39 | Rev 3 Revised pig count procedure 2013 | Grant | n/a | yes | n/a |
| 40 | Compliance Investigation Details Report 18.05.21 | Grant | n/a | yes | n/a |
| 41 | SV21737 - Licensee Report- RCA 13.05.21 | Grant | n/a | yes | n/a |
| 42 | Carhue Piggeries - Ammonia Impact Assessment | Grant | n/a | yes | n/a |
| 43 | Notification of Incomplete Application - LACT00014047 | Grant | n/a | yes | n/a |
| 44 | P0621_Map | Grant | n/a | yes | n/a |

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| 45 | CID 2017_302 CELEX_32017D0302_EN_TXT | Grant | n/a | yes | n/a |
| 46 | QA_QC - Intensive Agriculture Sector Licences | Grant | n/a | yes | n/a |
| 47 | 2017 BAT Assesment_Carhue New Unit | Grant | n/a | yes | n/a |
| 48 | Licencee Response to Site Inspection Report SV25563 | Grant | n/a | yes | n/a |
| 49 | Licencee Response to SV25563 (RD2) | Grant | n/a | yes | n/a |
| 50 | Odour Management Plan (P0621-02) June 2022 | Grant | n/a | yes | n/a |
| 51 | Licensee update letter 16.6.2022 | Grant | n/a | yes | n/a |
| 52 | Difference in pig numbers proposed in Licence review | Grant | n/a | yes | n/a |
| 53 | RFI submitted on 23 June 2022 | Grant | n/a | yes | n/a |
| 54 | Statement of Site Inspection - Unlicensed Piggery in Timoleague - FINAL | Grant | n/a | yes | n/a |
| 55 | 51.2 Non Technical Summary (P0621-02) | Grant | n/a | yes | n/a |
| 56 | email from Fieldfisher plus letter 04012023 | Refuse | 9(1)(b)& 9(2)(d) | no | i) Adversely affect the course of justice ii) Internal communications iii) Legal professional privilege |

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| 57 | Fieldfisher advices | Refuse | 9(1(b)& 9(2)(d) | no | i)Adversely affect the course of justice ii) Internal communications iii) Legal professional privilege |
| 58 | Court Outcome Environmental Protection Agency v Martin O'Donovan | Refuse | 9(1(b)& 9(2)(d) | no | i)Adversely affect the course of justice ii) Internal communications iii) Legal professional privilege |
| 59 | Fieldfisher to EPA- EPA v Martin O'Donovan | Refuse | 9(1(b)& 9(2)(d) | no | i)Adversely affect the course of justice ii) Internal communications iii) Legal professional privilege |
| 60 | email from Fieldfisher plus letter 10112022 | Refuse | 9(1(b)& 9(2)(d) | no | i)Adversely affect the course of justice ii) Internal communications iii) Legal professional privilege |