

2020 VISION INTEGRATION & ENFORCEMENT



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Finsa ordered to pay €18,000 to EPA

AN East Clare chipboard factory has been ordered to pay the Environmental Protection Agency €18,000 plus costs after it admitted breaching its pollution prevention and control licence on six dates between April 2007 and February 2008.

Finsa Forest Products Ltd, Scariff were sentenced at Ennis Circuit Criminal Court on Monday in relation to six charges of failing to comply with condition 5(1) of the Integrated Pollution Prevention and Control Licence, which was granted to them on June 16, 2006. The dates of the offences occurred on April 26, 2007; May 21, 2007; August 29, 2007; September 27, 2007; December 14, 2007 and February 27, 2008.

Dearbhail Devaney, an inspector with the Environmental Protection Agency's enforcement department, explained to the court that the licence issued to the company regulates discharges into the air, water and waste discharges. As part of the licence, there are limits for emissions to air, and it was under this regulation where the difficulty arose with Finsa.

Ms Devaney stated that the emissions to air are measured at the out-flow point, in this case at the company's chimney stack, and explained that this output is measured monthly by the company in accordance with the licence.

She outlined that in 2003, a revised limit was issued under new legislation and this required that 20ml per metre cubed would come into effect with respect of emissions to air.

A period of time was given to the company to reduce its emissions and during this time, a limit of 125ml per metre cubed would apply up until January 1, 2007 until they could get equipment to aid the reduction of their emissions to the new limit.

She told the court that on the dates in question, emission levels ranged from 125.9ml per metres cubed and 52ml per metre cubed at a time when the levels should have been down to the limit of 20ml per metre cubed.

In reviewing the licence, Ms Devaney said it had been brought to the EPA's attention that due to financial reasons, the company did not purchase the necessary equipment to reduce the emissions to 20ml/m³.

Finsa had also proposed a change in their limit from 20ml/m³ to 50ml/m³.

Mr Pat Horgan, the plant manager at Finsa outlined that in 2003, the company made an offer for equipment that would be able to reduce the emissions to the EPA's desired limit. However, he said that in 2006 when the company went to purchase this equipment "there was a problem" and it emerged that the technology would not operate where heavy fuel oil was being used.

Following this, Mr Horgan said the company began to engage with a Canadian firm whose technology would guarantee an emissions level of 50ml/m³ but could not guarantee the 20ml/m³ limit required.

At this point, they asked the EPA for their licence to be changed and stressed that they could only put this new technology, guaranteeing 50ml/m³ in place if they had the permission of the EPA.

Addressing the company's ability to pay, Michael O'Rourke, finance administrator with Finsa Forest Products, outlined that the company has "been having difficulty since last November".

He explained that the company now employed 114 local workers and that 41 jobs had been lost due to the downturn. Mr O'Rourke said the current payroll is €4 million and explained that the company's turnover in 2008 was €34 million, that there was no profit made in that year and that the company had sustained a loss of €4 million.

However, he explained that 2007 had been the best year the company ever had, and it had made €3 million in profit that year.

The court heard that a District Court Judge had declined jurisdiction in the case and that the maximum fine on each count of the charges in the District Court would have been €3,000. The fine in each case in the Circuit Court was €15 million per count.

Judge Moran imposed the maximum District Court fine of €3,000 on each of the six counts before the court as well as awarding costs of €4,428 and gave the company a month to pay this money to the EPA.





EPA calls for polluters to be named and sha

by **Scott Miliar**

POLLUTERS should be publicly named and shamed, the Environment Protection Agency has recommended.

Its report, published yesterday, compares sanctions used in other countries to enforce environmental law without resort to criminal or civil courts. It outlined a number of measures which the agency believes should be considered in Ireland. These include:

- **Name and shame or publicity orders:** Orders requiring the publicity of environmental consequences and penalties.

- **Enforcement undertaking:** Written undertakings to remedy the harm done that can be enforceable in court.

- **Fixed or variable penalties:** Payment to discharge or compensate for the breach (on the spot fines or infringement notices).

- **Environmental or community services order:** Offender carries out a specified project for public benefit, such as providing recycling facilities, conservation work, training or education initiatives.

- **Compensation order:** Offender compensates the regulator or third party for costs incurred in taking an action.

Director of the EPA's Office of Environmental Enforcement, Dara Lynott, said: "New environmental legislation and the nature of illegal activity requires an increasingly sophisticated and flexible enforcement response to attain compliance.

"Administrative sanctions have the potential to put the environmental regulator in a better position to match their

response to the realities of enforcement. This report will contribute positively to the debate about better regulation."

Consideration of the proposals was broadly welcomed by Labour's environment spokesperson, Joanna Tuffy.

"Some councils have implemented systems where litterers have been publicly named in the past. Consideration of such a sanction should be considered but if it was implemented it would have to be done in an equitable manner and possibly only in the case of habitual offenders.

"The concept of offenders compensating those who have been affected by their actions is certainly one whose implementation I would support."

The report identified a number of hurdles that would need to be addressed if additional administrative sanctions were to be introduced.

These include the identification of the costs versus the benefits, the right to appeal against a sanction and the protection of the constitutional rights of the individual.



