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Your Ref Roc5057

Brabners

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Dear Sirs

Befesa Salt Slags Ltd – CAR Form VP3030BX/0230155

Further to the above CAR Form dated and issued to our client on 28 January 2015 (relating to a site visit on 26 January), we write to raise a number of queries as to the veracity of the allegations made regarding a breach of condition 2.2.6.1 of our client's environmental permit. Please note that the CAR Form raises similar issues to that which were addressed in our previous letter dated 5 February 2015 following on from the Warning Letter that NRW issued to our client in December 2014, and this letter should therefore be considered in conjunction with our previous correspondence.

To be clear, our client does not accept the content of the Warning Letter nor the content of this recent CAR Form, and we would again request that this letter (as well our previous communications) are retained on your file together with a copy of the Warning Letter and this CAR Form. We set out below, in detail, the reasons for this following the sequence of allegations in section 2 of the CAR Form.

1. "On the 26 January 2015 in response to several odour complaints an inspection was carried out at Befesa. Prior to arriving at Befesa an offsite ammonia odour was witnessed by two Natural Resources Wales (NRW) officers at 14:05 beyond the site boundary at [Befesa]. On an intensity scale the ammonia odour was rated at 3 to 4 out of a possible 6."

Our client is disappointed to note that neither of the investigating officers (one of which is our client's allocated permitting officer) felt it appropriate or relevant to note on the CAR form that on the day of the inspection there was muck spreading being carried out in the fields adjacent to the Befesa site both during and preceding the time of the alleged complaints. The significant levels of odours, including ammonia, associated with this type of activity may clearly be a factor in the complaints received by NRW. Our client confirms that this was indeed discussed this during the site inspection with the two NRW officers. As NRW will be aware, a vast amount of the surrounding area to the Befesa site is agricultural land and from time to time it does, naturally, generate odours.

Following the site visit by NRW, our client's QSE Manager, John Leah, made a follow up visit on 27 January at around 2.30pm to the resident at the Gatehouse, Fenns Bank, Whitchurch, SY13 3NZ, this property being the nearest receptor to the site. The occupier at this property confirmed that he had experienced no issues with odours on the day in question (26 January).

Authorised and Regulated by the Solicitors Regulation Authority.

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2. "Condition2.2.6.1: the operator shall use BAT as to prevent or where that is not practicable to reduce odorous emissions from the Permitted Installation, in particular by:

- ***Limiting the use of odorous materials.***
- ***Restricting odorous materials.***
- ***Controlling the storage conditions of odorous materials.***
- ***Controlling the process parameters to minimise the generation of odour.***
- ***Optimising the performance of abatement systems.***
- ***Timely monitoring, inspection and maintenance***
- ***Employing, where appropriate, an approved odour management plan.***

Provided always that the techniques used by the Operator shall be no less effective than those described in the Application, where relevant."

Our client does not accept that it not operating to BAT and would be grateful if NRW would properly particularise how it considers that our client is not using BAT, and set out how the techniques being used are any less effective than those described (and therefore agreed by NRW) in our client's environmental permit application. You will of course be familiar with the H4 Guidance[1] which states that: "*You must employ the appropriate measures necessary to prevent the odour pollution or minimise it when prevention is not practicable. The measures that are appropriate will depend on your industry sector and your site-specific circumstances and will take costs and benefits into account."* It is our client's firm view that it works to BAT as regards the prevention or minimisation of odour and does so in line with the relevant BREF industry guidance note.

Please note that this question has been raised previously and we would refer you to our letter of 5 February 2015 and note that we still await a response.

3. "It was evident whilst standing within the vicinity of the BFA Interim Storage Building that a strong ammonia odour could be detected coming from this area of the plant. At present it is not possible for the door to be fully closed, fume could be seen leaving the building the opening at the bottom of the door. Also evident that part of the metal ribbon at the top of the door was missing and fume could be seen leaving from this point."

We should be grateful if you would clarify what you mean by "fume". It is entirely likely that the "fume" your permitting officers believe they saw was in fact water vapour, which in itself is not an unauthorised emission release and therefore no direct association can be made between a perceived "fume" and a polluting odour being generated. Further, findings on a CAR report should not be based upon speculation and if your permitting officers are unsure of how a particular process operates at the regulated facility, then they should consult with staff onsite who could explain.

Our client's environmental permit does not require it to operate to zero emissions within the site boundary with regards to ammonia. The relevant permit condition relate to odorous emissions at or beyond the site boundary and therefore while standing adjacent to the BFR building doorway (as the NRW officers were) it is somewhat inevitable that a localised odour will be detected, it does not follow that this will represent a breach of the environmental permit. We would again refer you to the H4 Guidance in which it states that: "*The condition and the benchmarks given in this guidance are based on odour levels at the boundary. If there are no receptors close to the boundary we will normally permit a facility that meets the criteria at the nearest receptor."*

As both our client and we have previously explained to NRW, the system was not initially designed for the roller door to be fully closed. However, and in the interests of continuous improvement, Befesa has made some adjustments to the system and has installed an additional extended strip on the roller door as a temporary measure to ensure the gap at the base of the door is negligible. Further refurbishment including a complete new larger door sheet is planned for completion within one month.

[1] Guidance: H4 Odour Management, Environment Agency (March 2011).

4. "A similar breach was previously outlined in CAR form VP3030BX/022670 issued on the 18 Dec 2014. NRW are aware that Befesa are in the process of compiling an odour management plan and are actioning a number of measures which will minimise odour migration from site, including measures which will minimise odour migration from the site, including measures on the BFA interim storage door."

We would refer you to our previous letter dated 5 February and the Odour Management Plan provided under cover of that letter.

6. "During the inspection the roller shutter door on the milling / salt slag storage building was open to allow vehicle movement. NRW officers were also advised by the QSE manager that the door needed to be kept open to allow quick egress of operatives in an emergency. As previously stated in CAR form VP3030BX/022670 NRW have concerns that fugitive ammonia emissions may migrate from the building when the door is open. NRW request that Befesa investigate the feasibility of installing a pedestrian door to allow safe egress of operatives in an emergency, allowing the roller shutter door to remain closed for longer."

We would firstly like to clarify the content of the discussions held on site during the visit by NRW. The QSE manager, John Leah, confirmed that the door was open for "operational safety purposes" not for the reasons detailed in the CAR Form and as set out above. There are a number of operational safety concerns surrounding the closing of doors when vehicles are tipping as set out in more detail below. Indeed, it is site policy that routine pedestrian access is forbidden in this area. In future, for the avoidance of doubt and to ensure that both parties have a correct understanding of the site visit and comments made, it would seem sensible that if statements made by Befesa personnel are to be quoted in a follow up official report then for these comments to be agreed and signed off in the officer's notebook prior to the NRW officer leaving site.

In terms of the operational safety concerns, these are as follows:

- The building was not designed to allow vehicles to be fully reversed for "tipping"; as a result the vehicle cab may need to be protruding slightly from the building to ensure full discharge of the load. The practice of the roller doors being left open during vehicle discharge operations and for vehicle access and egress had been agreed with previous NRW officers, and we would refer you to our letter dated 5 February 2015 at Section 1.2 Raw Materials/ Milling Area. If NRW now wish to revise their position on this, please advise accordingly.

- A pedestrian access and egress door would not be suitable in this area (as per site policy mentioned above). This internal policy had been set following the company's review of the management of health and safety in this area regarding pedestrian and vehicle segregation.

7. "Whilst next to the control room for the chemical plant, NRW officers witnessed the door on the belt press room was left fully up. It was unsure whether this door was left open for operational reasons. This room is kept under negative pressure to extract ammonia emissions via chemical scrubber. NRW are concerned that leaving the building door open may lead to ammonia emissions leaving the building unabated."

The statement above is factually incorrect. It may help to clarify the process so that NRW fully understands that the building is not actually under negative pressure, as previously explained in our letter of 5 February. The belt filter within the building is fitted with an extracted canopy to capture airborne ammonia during the filtration process. The large doors are required for the removal / installation of large pieces of equipment for maintenance purposes, and they were not installed with the intention of preventing fugitive emissions but for the prevention of weather ingress for the comfort of operational staff. Thus any allegation of the doors being open contributing to likelihood of unabated ammonia emissions is wholly incorrect.

8. "Prior to arriving on site dust could be seen leaving the roof (coloured red) of the salt slag storage building. NRW are aware that this building has been recently been resealed. NRW request Befesa rechecks the seals on this building to ensure that fugitive dust emissions cannot leave this building."

It appears that there has been a misunderstanding in this allegation which does require clarification. Befesa has not ever indicated that the storage area roof has been resealed, however, during the site inspection on 26 January the QSE Manager had explained that the roof panels on the Interim BFA Storage Area had been resealed.

You should note that Befesa employs dust extraction across both milling plants, with extraction being provided to points that have the potential to generate dusts as detailed within its application for environmental permit. As set out in our letter dated 5 February, dust egress does not of itself constitute an odour issue

Despite this, our client has carried out further inspections of the roof of the building following NRW's site visit on 26 January and no significant dust build up or any fugitive dust emissions were identified originating on or from the roof. It is possible that the officers witnessed water vapour streams from the site's cooling towers as occasionally and dependent upon the location of the observer, it can appear that such vapours are emanating from the building.

Finally we note that our client has already provided NRW with its own internal investigation reports following the alleged odour complaints made on 26 January.

We look forward to a receiving a response to our letter dated 5 February and a response to those issues set out in this letter which were not covered in the same.

Should you have any questions or would like to discuss the above, please do not hesitate to contact Claire Gregory of these offices.

Yours faithfully

For and on behalf of Brabners LLP

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