

## Agency embarrassed over failed hazwaste probe

**The Environment Agency has not prosecuted anyone for the tipping of contaminated soil at two landfills that led to a flood of odour complaints – in spite of it being almost three years since the incidents happened.**

The Environment Agency has not prosecuted anyone for the disposal of contaminated soil at two landfills that caused health problems for local residents – in spite of it being three years since the incidents.

Welsh civil engineering firm Walters UK consigned the material to Grundon's Bishops Cleeve landfill in Gloucestershire and Hills Waste and Minerals' Purton landfill near Swindon in September 2004 – failing to fully alert either to the odour problem. However, the Agency told the company it had "properly discharged" its duty of care responsibilities.

The incidents concerned soil from the Castlegate former landfill site in Caerphilly, South Wales. Walters, the largest privately-owned civil engineering business in Wales, was developing the site for housing.

The soil was contaminated with chlorinated phenols, which have a strong 'TCP' odour even at small quantities. Caerphilly residents had complained to the local authority about the smell.

The company first sent the waste to Biffa's Trecatti landfill near Merthyr Tydfil. Biffa accepted it, but stopped taking it after the odour problem became clear.

On 21 September, the waste was sent to Grundon's Bishops Cleeve site where the odour became evident after the material was tipped. Grundon's staff covered the waste with uncontaminated soil, as required by its permit, but this did not immediately dampen the smell.

Some 20 local residents complained to the Agency about it, some suffering from headaches, dizziness and sore throats (ENDS Report 357, p 17).

Walters sent the waste to Hills' site in Purton six days later (ENDS Report 359, p 22). The site received 17 loads – over 300 tonnes – between 8am and 12:30pm.

After the first load was tipped, the odour again became a problem. Hills' staff covered the material with uncontaminated soil and odorisers, but, again, that was not enough to stop residents in nearby Bentham contacting the Agency and reporting health problems.

Hills tried to contact Walters to get them to stop further loads arriving at the site, but "this proved difficult", according to an Environment Agency statement on the incident.

Over the course of the next two-and-a-half years, ENDS repeatedly asked the Agency about the status of the investigation, and was told it was "ongoing".

In May, Dave Thursfield, managing director of Walters Group, told ENDS the matter had "fizzled out" and that the Agency "had taken no action." As a result, ENDS made a request under the Freedom of Information Act for all documents – including warning letters – related to the incident.

The Agency supplied several documents related to Hills – largely correspondence with members of the

public. However, it said it would not be possible to release anything else because "there is a strong possibility that Hills and Grundon may legally challenge the action we took." The letter did not mention Walters.

Following a request for a review of this decision, ENDS was supplied with warning letters issued to Hills and Walters. "Our reasons for refusing to supply information on the Hills site were not in fact sufficiently strong to justify withholding of that information," the Agency said.

The warning letter to Walters, dated 6 August 2006, make for awkward reading for the Agency. "We are aware that you were advised that you had properly discharged your duty of care responsibilities" it says. "However, after further consideration we believe that Walters UK has committed an offence in that the company failed to meet its duty of care responsibilities as a producer of waste."

Walters "failed to provide an adequate written description of the waste" to the landfills, it says. "In particular, special problems (e.g. the potential for emissions) should have been identified and problems previously encountered with the waste (e.g. local resident complaints) highlighted."

Walters had committed offences under section 34 of the Environmental Protection Act 1990. However, the Agency says no criminal proceedings would be taken against the company.

When asked why it had come to this decision, the Agency said Walters had actually "gone a long way" to meeting its duty of care requirements. A fax to Hills included "analysis of the waste and... detailed the fact that the waste was odorous," it said, appearing to contradict the warning letter.

"There would be little benefit taking legal action where the level of compliance is high, even if there has not been full compliance," the Agency said.

In its warning letter to Hills' - dated 2 August 2006 - the Agency says the company breached three conditions of its PPC permit: failing to take "all appropriate measures" to prevent odour, failing to notify the Agency "without delay" of the problem, and failing to notify the Agency of the rejection of incoming waste.

In a further statement, the Agency said Hills should not have continued to accept the waste once the problem was revealed and had insufficient cover material at the tipping face to deal with the problem. It also did not have plant necessary to move enough cover on-site to manage the odour.

All breaches of a permit are offences under section 32 of the Pollution Prevention and Control (England and Wales) Regulations, but, again, the Agency has decided not to prosecute. "In coming to our enforcement decision we have taken into account the fact that Walters... failed to supply you with an adequate description of the waste," Hills enforcement letter says.

Hills disputes all allegations made in the warning letter. In a statement, it said: "We don't understand why the Agency issued us with a warning letter and we strongly dispute its contents. Our own internal control procedures immediately identified difficulties with this particular waste stream when it arrived on site, which had not been brought to our attention at the pre-acceptance stage. As a

result steps were taken by the company to prevent further deliveries to site.

“The Environment Agency appears to have identified failings of others for the incident.”

Enforcement action has also been taken against Grundon, but the Agency will not state its nature. It is currently reviewing that action. Hills will decide whether to challenge its warning letter after Grundon’s case has been resolved.

Walters Group was asked for a comment on its warning letter, but did not reply. ■