

DR. CAROLINE LUCAS

Green Party  
*for the South East of England*

Commissioners Dimas and Kroes  
The European Commission  
200 Rue de la Loi  
B1049 Brussels  
Belgium

September 28<sup>th</sup> 2007

Dear Commissioners,

I contacted Commissioner Dimas in November 2005 with concerns that the awarding of a contract to Onyx Aurora Ltd to collect, manage and dispose of waste in East Sussex had not been subject to the appropriate levels of public consultation as required under the Public Participation Directive. I was also concerned that the contract was agreed ahead of adoption of the Waste Local Plan and in effect predetermined some aspects of the Plan.

At the time Government Office South East intervened and delayed the implementation of the Waste Plan in order to carry out a full Public Inquiry and review objections by members of the public. In February 2006 the Waste Plan was given the go ahead. I have since called for two aspects of the Waste Plan to be called in and subjected to a further Planning Inquiry - the proposals to build an incinerator at Newhaven and to build a waste management plant at Hollingdean. Both requests were rejected.

It has now come to light that Brighton and Hove City councillors and East Sussex County councillors have decided to dramatically alter the terms of the contract with Veolia Environmental Services Ltd, formerly Onyx Aurora Ltd, to deliver the incinerator at Newhaven. The original contract tied the waste authority into a 25 year arrangement with Veolia, yet this has now been extended to 30 years, without any public consultation. Furthermore, in a change to the original contract, worth £1 billion, Veolia is to be awarded an extra £35 million. Councillors were apparently advised that failing to agree this increase in funding might cause the project to collapse entirely, affecting the waste authority's ability to deliver waste management across the County.

Perhaps the most alarming feature of this revised agreement between Veolia and Brighton and Hove and East Sussex County Councils is that the company has apparently been offered a blank cheque to fight any costs that arise from legal challenges to the incinerator development. According to newspaper reports, this has been promised by both Councils because they are so keen to see the scheme, already two years behind schedule, reach completion.

My concerns about the Waste Local Plan and the plans to build an incinerator at Newhaven have deepened considerably in light of this latest news and I would urge the Commission to carry out an immediate investigation into this matter. Specifically:

- Whether the decision to extend the contract with Veolia Environmental Services Ltd to build and run Newhaven incinerator from 25-30 years is legitimate under the Public Participation Directive or if it breaches other Aarhus commitments.
- Whether the failure to make the details of the new financial arrangement between the Councils involved and Veolia is a breach of Directive 80/723/EEC on the transparency of financial relations between Member States and public undertakings.

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- Whether the agreement to cover any legal costs on behalf of Veolia puts the Councils in question in breach of Commission notice on the application of Articles 87 and 88 of the EC Treaty to state aid in the form of guarantee.
- Whether the entire renegotiated package is contrary to the Community guidelines on state aid for rescuing and restructuring firms in difficulty.

In trust you will both give these questions your immediate attention and look forward to hearing back from you.

Yours sincerely,

A handwritten signature in black ink that reads "Caroline Lucas". The signature is written in a cursive, flowing style.

Caroline Lucas - Green Party MEP for South East England.